

1. Introduction

The School is committed to a working and learning environment where people can achieve their full potential free of all types of harassment. The School recognises sexual harassment and sexual violence are prevalent in all areas of society, including education, and can take many forms. The nature of sexual harassment can be difficult to recognise and, gone undetected, can result in a culture that tolerates such behaviour. This can lead to individuals feeling isolated and unsafe. The School recognises the importance of raising specific awareness of sexual harassment and sexual violence to promote a fully inclusive culture in order to enable issues to be tackled appropriately if they occur, resulting in a better environment for all.

The School's Equality and Diversity Policy details the School's commitment to treating all people with dignity and respect and ensuring that no person is treated less favourably as a result of any of the protected characteristics under the Equality Act 2010, including gender (and gender identity).

2. Policy Aims

This policy explains the steps the School will take to provide a safe environment free from sexual harassment and violence. The School recognises the need to challenge any tacit or explicit acceptance of sexual harassment or sexual violence to prevent escalation. The School also undertakes to improve the understanding of sexual harassment across the School's community to prevent it occurring, as well as providing a supportive culture, which encourages reporting of incidents and ensures that they are dealt with sensitively and appropriately. It is recognised that it can be distressing for all those affected by a sexual harassment disclosure; this policy aims to ensure that all parties are treated with dignity and respect and provided with appropriate support.

In addition to addressing individual complaints of sexual harassment and sexual violence, the School will take steps to understand the nature and extent of sexual harassment and sexual violence experienced by members of the School community on its premises that goes unreported.

3. Scope

This policy applies to all staff at Expanse Learning Wigan School (Hereafter referred to as the School). The School recognises that all people, including men in heterosexual and same gender relationships and transgender and non-binary people, can experience sexual harassment and/or sexual violence. This policy applies to all members of the School community regardless of gender or sexuality.

The School will not tolerate any form of sexual harassment or sexual violence within its community or against its students. This may go beyond the physical premises and normal business hours of the School, such as conduct at events and trips abroad or on social media.

This policy applies to the School community and specifically relates to sexual harassment or sexual violence perpetrated by:

- a student against a student, member of staff, visitor, contractor or governor;
- a member of staff against a student, member of staff, visitor, contractor or governor; and
- a governor against a student, member of staff, visitor, contractor or governor.

The School also commits to tackling sexual harassment or sexual violence by, or against, any other party who is contracted to abide by this policy, such as visiting fellows, and will take action deemed appropriate in the circumstances.

Whilst issues relating to sexual harassment and/or sexual violence may arise as a result of a power differential, they are not necessarily confined to the behaviour of any particular group of staff to another, e.g. senior staff towards more junior staff, or, indeed, staff towards students. It can take place between persons at the same level or involve staff or students behaving inappropriately towards more senior members of the School.

4. Definitions

For the purposes of this Policy, the following definitions apply:

Sexual harassment is defined as unwanted behaviour of a sexual nature which has the purpose or effect of violating an individual's dignity; making an individual feel intimidated, degraded or humiliated and/or creating a hostile or offensive environment.

Sexual harassment also occurs if an individual treats a person less favourably because that person has rejected or submitted to unwanted conduct of a sexual nature or that is related to gender identity or sex, and which has had the purpose or effect described in this section. In this scenario, the person who treats someone less favourably might not be the person who engaged in the unwanted conduct.

Sexual violence is any sexual act or attempt to obtain a sexual act by violence or coercion which takes place without consent.

Actions or behaviour which may constitute sexual harassment or sexual violence include, but are not limited to, the following:

- sexual comments or jokes,
- touching,
- sexual assault including groping,
- unwelcome sexual advances,
- displaying or showing material of a pornographic or sexual nature,
- making requests for sexual favours,
- stalking in person or online,
- rape.
- Online harassment may take the form of intimidating, offensive, or graphic posts on social media sites or chat rooms, or sexually explicit communications by email, text, or instant messaging.

Consent is providing permission for something to happen or agreement to do something with a full understanding of the facts and without coercion. In cases of sexual activity, consent cannot be presumed but must be explicitly given, verbally or non-verbally. Consent cannot be deemed to have been given if it is provided under pressure or in situations where someone is not capable of providing it. Consent can be withdrawn at any time.

The School community includes all salaried and non-salaried members of staff, students and governors of the School. The School will take steps to ensure other relevant parties comply with the required standards of behaviour in this policy by way of contract.

Safe Contacts are members of the School staff who have received advanced anti-sexual violence and harassment training and can provide a primary point of contact, information and support for individuals disclosing sexual violence or sexual harassment.

5. Policy Principles

Preventing Sexual Harassment and Sexual Violence

The School will take steps to eliminate sexual harassment and sexual violence and other unlawful discrimination. The School will actively promote equality in order to provide a collegiate, lawful and harmonious working and learning environment.

The School will endeavour to raise awareness of sexual harassment and sexual violence among staff and students. This will be achieved by providing workshops covering the issue of consent for staff and students.

Updated contact details for 'Safe Contacts' will be published annually on the School website and in relevant student and staff handbooks. There will be an ongoing programme of training for new and existing Safe Contacts. Neither

students nor staff are restricted to making disclosures to these members of staff and the School commits to carrying out briefings to raise awareness and support staff and students who are affected by a disclosure.

6. Reporting Sexual Harassment and/or Sexual Violence

The School provides guidance for students and staff on how to report sexual harassment or sexual violence and the support that is available both internally and externally. This guidance will be updated annually and can be found within the Employee Portal.

The School provides detailed guidance for staff on how to handle disclosures of sexual harassment or sexual violence and this guidance will be updated annually. This guidance can be found at within the Employee Portal.

The School will listen to, and take seriously, all disclosures of sexual harassment and sexual violence without making any judgements regarding the circumstances. The School will work with staff and students to provide them with information about their options and the support available to them, both internally within the School and, where appropriate, externally to statutory services.

The School will respect the sensitivity of complaints of sexual harassment or sexual violence, and their consequences, and will treat any complaint with the utmost confidentiality and in line with the wishes of the individual. Unless there is a safeguarding risk, complaints will not normally be taken further than the complainant wishes, thereby allowing for both informal and formal resolution.

All those affected by the disclosure, including the person accused and the person to whom the disclosure was made, may access support through the School's Care Team.

7. Action against Sexual Harassment and Sexual Violence

The School will conduct confidential and impartial investigations in response to allegations of sexual harassment and/or sexual violence made against students or staff as appropriate under the School's relevant staff or student procedure (see Related Policies and Procedures section below).

Where historical allegations are brought by a member of the School, these will be taken seriously and, where possible, reasonable attempts will be made to obtain relevant information to determine the appropriate response. Investigations will at all times comply with the General Data Protection Regulation 2018. Where an allegation of sexual harassment and/or sexual violence is upheld, this will normally result in disciplinary action up to and including dismissal or expulsion in more serious cases. Disciplinary action may also be taken if allegations of sexual harassment or sexual violence are found to be malicious or vexatious.

Where appropriate, following an allegation of sexual harassment and/or sexual violence, the School may be required, or decide, to take steps in relation to the alleged perpetrator, in order to prevent contact between the two parties pending the conclusion of the ongoing investigation(s). Actions taken will be proportionate and will constitute a neutral act. Such actions may include a change in working location, class or suspension. Where it is considered that it may be necessary, suspension will be carried out in line with the relevant disciplinary procedure.

The School may also use their own separate procedures to investigate and take appropriate action to resolve the same allegation of sexual harassment or sexual violence (i.e. the School considering a student's status at the School)

The School will also take appropriate steps to deal with behaviour, intentional or unintentional, that results in a breach of this policy.

It should be noted that a member of the School is personally liable for their actions, which in some instances could lead to criminal or civil action in the Courts under the Protection from Harassment Act 1997, Equality Act 2010 or other relevant legislation, such as the Crime and Disorder Act 1998.

Where a complaint is being investigated as a criminal act, the School will normally defer its own internal investigations pending the conclusion of the criminal case. However, where appropriate, the School reserves the right to conclude its own investigations regardless of the criminal proceedings and without delay. In these cases, caution will be exercised to prevent any internal investigations from compromising the criminal proceedings. Internal investigations will be judged on the balance of probability, as opposed to the criminal standard of 'beyond reasonable doubt'. As such, it is possible that different conclusions may be reached in the separate proceedings.

8. Monitoring sexual harassment or sexual violence within the School

The School will record and compile anonymous information about the number, nature and outcome of reported sexual harassment or sexual violence incidents and investigations and the time it took to reach resolution each year. The Safeguarding Team will be responsible for carrying out the monitoring and will report into the relevant stakeholders.

9. Legislation

The Equality Act 2010 applies to nine protected characteristics, including sex, sexual orientation and gender reassignment. It provides individuals with legal protection against harassment.

The Human Rights Act 1998 (HRA): underpins all equality legislation that relates to employers in the public sector, and those for whom they provide services. Article 3, in particular, includes serious physical assault, defining it as inhuman treatment. Article 8 sets out your right to control who sees and touches your body.

The General Data Protection Regulation 2016 (GDPR) sets out six legal principles for the processing of data and rules around consent. It ensures that personal data must be secured in line with the Regulation and provides right of access to that data, It does not cover cases of lawful interception and individuals should note that it may be necessary to provide data to the police if required to do so during a criminal investigation.

The Protection from Harassment Act 1997 prohibits harassment whatever the cause, with Section 2A specifically referring to stalking. The Act gives both civil and criminal remedies.

The Sexual Offences Act 2003 covers all physical forms of sexual abuse, specifically non-consensual sexual activity.

The Crime and Disorder Act 1998 contains specific provision relating to sex offenders. It can impose a Sex Offender Order on an individual for up to five years to protect the public from harm

10. Monitoring arrangements

This policy will be reviewed every 12 months but can be revised as needed.

Impact of non-compliance for:

Staff:	Disciplinary action
Student:	Not applicable
Legislation/organisational:	Reputational damage, statutory and non-regulated compliance.
Compliance lead:	Headteacher/Director of Schools
Policy Reference:	ELWS-ORG-009
Version:	2
Agreed policy location:	Employee Portal: Documents/Policies 2018-19/Expanse Learning Wigan School/Organisational/ELWS-OPR-009(v1) – Sexual Violence and Sexual Harassment Policy
Does the policy require Governor approval?	No

Approval

<p>Prepared by Scott Roberts (Assoc. CIPD) 01/09/2019</p>  <p>Head of Corporate Services</p>	<p>Approved by Tony Brown 01/09/2019</p>  <p>CEO</p>	<p>Counter Signatory Richard King 01/09/2019</p>  <p>Director of Schools, Pre 16 Education</p>
--	--	--

Version Control

Version	Date	Revision	Review Date
1	01/09/2019	First Issue	31/08/2020
2	01/09/2020	Policy Review	31/08/2021
3			
4			
5			