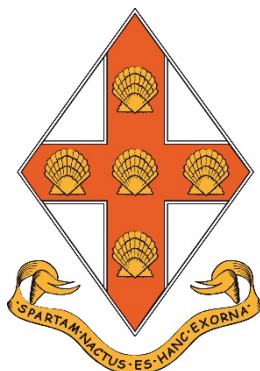


Midleton College



Sexual Violence & Sexual Harassment Policy

Version 1.4, Apr 2023

Sexual Violence and Sexual Harassment Policy

Midleton College is committed to providing a safe and respectful environment where the whole community is able to learn and thrive free from sexual violence and sexual harassment. The school takes any incidents of sexual violence or sexual harassment very seriously and is committed to handling all reports sensitively, effectively and in a timely manner.

We are clear that sexual violence and sexual harassment are not acceptable, will never be tolerated and are not an inevitable part of growing up. We will always challenge behaviour or language that seeks to normalise sexual harassment or violence in school. Sanctions will be applied in accordance with our Code of Behaviour Policy.

The Equal Status Acts 2000 to 2004 prohibit harassment on the discriminatory grounds and sexual harassment. The "Schools and the Equal Status Acts" document published by the The Equality Authority explicitly states "*Principals, teachers and others in positions of responsibility in a school may not harass or sexually harass students at the school or anyone who has applied for admission. They must not permit students – or anybody else who has the right to be in the school, such as parents – to harass or sexually harass other students. This protection for students also applies to visiting students*".

In the absence of a national Department of Education Sexual Violence and Sexual Harassment Policy for Post-Primary schools, this policy has been developed in line with the HEA's Framework for Consent plan (*'Safe, Respectful, Supportive and Positive: Ending Sexual Violence and Harassment in Irish Higher Education Institutions,' 2019*) and should be considered alongside the school's Child Safeguarding Policy and relevant published government guidance.

What is meant by sexual violence and sexual harassment?

- Sexual violence and sexual harassment can occur between two children of any sex. Additionally, sexual violence and sexual harassment can occur through a group of children sexually assaulting or sexually harassing a single child or group of children.
- Children who are victims of sexual violence and sexual harassment will likely find the experience distressing. This is very likely to do severe harm to their emotional and psychological well-being, including their ability to function normally within the school environment. Midleton College will aim

to support these students to access their education and get the correct specialist support, working in partnership, where appropriate or necessary, with Tusla and Garda Siochana.

What is sexual harassment?

When referring to sexual harassment we mean 'unwanted conduct of a sexual nature' that can occur online and offline. It is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature. Sexual harassment is likely to: violate a child's dignity, and/or make them feel intimidated, degraded or humiliated and/or create a hostile, offensive or sexualised environment.

Whilst not intended to be an exhaustive list, sexual harassment can include:

- sexual comments, such as telling sexual stories making lewd comments, making sexual remarks about clothes and appearance, and calling someone sexualised names
- sexual "jokes" or taunting
- requests for sexually explicit material
- sexual gestures
- physical behaviour, such as deliberately brushing against someone or interfering with someone's clothes
- displaying pictures, photos or drawings of a sexual nature
- online sexual harassment, which might include non-consensual sharing of sexual images and videos and sharing sexual images and videos (both often referred to as 'youth-produced' sexual imagery /nudes /sexting), inappropriate sexual comments on social media, exploitation, coercion and threats
- online sexual harassment may be standalone or part of a wider pattern of sexual harassment and/or sexual violence

Sexual harassment is conduct which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading or offensive environment for the person. Sexual harassment creates an atmosphere that, if not challenged, can normalise inappropriate behaviours and provide an environment that may lead to sexual violence.

What is the definition of sexual violence?

Sexual violence is any sexual act which takes place without freely given consent (see below) or where someone forces or manipulates someone else into unwanted sexual activity.

For the purpose of this policy, when referring to sexual violence we are referring to sexual offences under the Criminal Law (Rape) 1981 Act, the Criminal Law (Rape) (Amendment) Act 1990 and the Criminal Law (Sexual Offences) Act 2017.

Rape/ Assault by Penetration: A person is subjected without consent to an act that involves penetration of the anus or mouth by the penis or penetration of the vagina by any object held or manipulated by another person.

Sexual Assault: Sexual assault is an act of physical assault that has a sexual aspect or motivation. This includes (but is not limited to) groping, touching, forcibly kissing someone or any non-consensual sexual activity that does not involve penetration.

What is consent?

Consent is the freely given verbal or non-verbal communication of a feeling of willingness to engage in sexual activity.

In the Republic of Ireland *no* child under 15 can give consent to sexual activity, and between the ages of 15 and 17 a child can only be said to have given consent under certain very limited circumstances. The legal age for consent is 17, when a person is regarded as legally competent to give consent.

There is no consent if:

The victim has been threatened or has shown fear of force

The victim is unconscious or asleep

The victim is under the influence of drugs or alcohol thereby incapable of consenting

The victim is suffering from a physical disability that prevents communication of consent etc

The victim is mistaken about the act or about the identity of the other person

The only indication of consent came from a third person

Furthermore:

Failure to resist is not consent

Consent, once given, may be withdrawn at any time before or during the act.

Consent to one form of sexual contact does not mean consent to any or another sexual act.

Disabilities and Special Educational Needs (SEN)

Children with Disabilities and Special Educational Needs (SEN) are three times more likely to be abused than their peers. Additional barriers can sometimes exist when recognising abuse in Disability and SEN children.

These can include:

- assumptions that indicators of possible abuse such as behaviour, mood and injury relate to the child's disability without further exploration
- the potential for children with Disabilities and SEN being disproportionately impacted by behaviours such as bullying and harassment, without outwardly showing any signs
- communication barriers and difficulties overcoming these barriers.

Students with special educational needs (SEN) or disabilities may face unique challenges when they are alleged victims of sexual harassment or sexual violence. It is crucial to ensure that these students receive appropriate support and accommodations throughout the reporting, investigation, and resolution process. The school must ensure that reporting options are accessible to students with SEN or disabilities. Ensure clear, accessible, and age-appropriate communication with the alleged victim. This may involve using plain language, visual aids, or alternative communication methods, depending on the student's individual needs. It is important to verify the student's understanding of the situation, their rights, and the available support resources. Involve relevant support personnel, such as special education teachers, at an early stage. The school also recognises that students with SEN or disabilities may experience additional emotional challenges when faced with sexual harassment or sexual violence.

Protected Characteristics

Our school is committed to fostering a safe, inclusive, and respectful environment for all students, regardless of their background, identity, or personal characteristics. In addition to the provisions already outlined in this Sexual Harassment and Sexual Violence Policy, it is important to acknowledge that certain protected characteristics may put some students at greater risk of being targeted. These

characteristics include, but are not limited to, sexual orientation, gender identity, race, ethnicity, religion, and disability status.

Children who are lesbian, gay, bi, or trans (LGBTQ+) - or who are perceived as such - can be targeted by their peers. This may also extend to students from a same-sex family. Regardless of whether or not a child identifies as LGBTQ+, any kinds of harassment or violence using such characteristics as a pretext is unacceptable and may be regarded as an aggravating factor.

This policy also seeks to ensure the safety and inclusion of students who come from diverse family backgrounds, including those with same-sex parents. It is important that all students feel respected, supported, and valued, regardless of their family structure.

To ensure the safety and well-being of all students, including those with protected characteristics, the school will promote an inclusive curriculum that promotes understanding and respect for all students, including those with diverse backgrounds and identities. We are committed to fostering a community where everyone is treated with dignity and respect, and where harassment and violence based on protected characteristics are not tolerated.

Harmful Sexual Behaviour

Children's sexual behaviour exists on a wide continuum, from the perceived normal and developmentally expected to inappropriate, problematic, abusive and violent. Problematic, abusive and violent sexual behaviour is developmentally inappropriate and may cause developmental damage. A useful umbrella term is "harmful sexual behaviour". The term has been widely adopted in child safeguarding and is used in this policy. Harmful sexual behaviour can occur online and/or offline and can also occur simultaneously between the two. Harmful sexual behaviour should be considered within the context of safeguarding a child. ¹

Procedures

How do we respond to reports of sexual violence and sexual harassment?

We are committed to providing a supportive environment that is free from sexual harassment and sexual violence. To ensure this, we have established procedures for students to report instances of sexual harassment or sexual violence and for how staff respond to such reports.

If a student feels safe and comfortable, they may attempt to address the situation directly by expressing their discomfort to the alleged perpetrator and asking them to stop the unwanted behaviour. However, if a student does not feel safe or comfortable doing so, they should seek support from a trusted adult.

Students are encouraged to report any instance of sexual harassment or sexual violence to a teacher, the Guidance Counsellor, school management, parent or a trusted adult. Reports can be made verbally or in writing. School staff members are trained to handle these reports and will take appropriate action, including notifying the Designated Liaison Person.

¹ It would be useful to consider the The Brook Sexual Behaviours Traffic Light Tool and the Designated Safeguarding Lead (DSL) to assist staff in making informed, objective decisions regarding harmful sexual behaviours.

The school will make every effort to protect the privacy of all parties involved in a report of sexual harassment or sexual violence. Information will only be shared with individuals or agencies who have a legitimate need to know.

We urge students to report any instances of sexual harassment or sexual violence they experience or witness. Our school is committed to fostering a safe and respectful environment for all students, and we will work together to address and prevent these harmful behaviours.

How do we respond to reports of sexual violence and sexual harassment?

Reports of sexual violence and sexual harassment are likely to be complex and, therefore, require difficult professional decisions to be made, often quickly and under pressure. There is currently no specific guidance from the Department of Education providing detailed advice with regard to Post-Primary Schools, and therefore all decisions in Middleton College will be made on a case-by-case basis with reference to the Child Protection Procedures for Primary and Post-Primary Schools (2017); which are followed at all times. The Designated Liaison Person (DLP) will take the leading role and will use their professional judgement, supported by other agencies, such as Tusla and Garda Síochána as required.

Some situations are clear from the current statutes in Ireland:

- No child under the age of 15 is considered capable of giving consent to sexual activity.
- Between the ages of 15 and 17 consent may only be regarded as having been given in certain very limited circumstances
- The legal age of consent is 17
- Sexual intercourse without consent is rape
- Rape, assault by penetration and sexual assault are defined as criminal offences under Irish law
- Creating and sharing sexual photos and videos of under 18s is illegal (often referred to as 'sexting') as are nude images or youth-produced sexual imagery, (as defined above); this includes children making and sharing sexual images and videos of themselves.

If a child is a victim of sexual violence or reasonable grounds exist to suspect that a child has been, is being, or is at risk of being sexually abused a referral will be made to Tusla. We will usually inform parents that we are making a referral to Tusla. However, this too is on a case-by-case basis. It may be that we have assessed the situation and believe that a referral is needed without parental knowledge in order to safeguard the student(s) involved.

We will work closely with Garda Síochána as rape, assault by penetration and sexual assaults are crimes. Where there is a report of a rape, assault by penetration or sexual assault, as well as reporting to Tusla, it should be passed to Garda Síochána who will advise and log according to their own guidelines.

Responding to reports of sexual violence and sexual harassment online

We are aware that incidents of sexual violence and sexual harassment that occur online (either in isolation or in connection to offline incidents) can be complex. There is potential for the incident(s) to take place across a number of social media platforms and services. There is also the potential for the impact of the incident to extend further than our local community (for example, for images or content to be shared around neighbouring schools) and for a victim (or alleged perpetrator) to become

marginalised and excluded by both online and offline communities. Additionally, there is the potential for repeat victimisation in the future if abusive content continues to exist somewhere online. We will act in accordance with our Anti-Bullying Policy if we are made aware that our students are using online platforms which may jeopardise the safety of other members of our school community. The incident may be reported to Tusla and/or the Garda Síochána as appropriate.

The immediate response to a report – managing the disclosure

We will always do our utmost to ensure that victims are reassured that they are being taken seriously and that they will be supported and kept safe. In some cases, the victim may not make a direct report or disclosure. For example, a friend may make a report or a member of our school may overhear a conversation that suggests a child has been harmed. This discussion will be handled sensitively and with the support of children's social care if required.

Confidentiality

- Staff taking a disclosure can never promise complete confidentiality as it is very likely that it will be in the best interests of the victim to seek advice and guidance from others in order to provide support and engage appropriate agencies. However, it will be vital to follow the rules relating to anonymity and to the wishes of the victim, as set out below.
- We do not consider ourselves to be experts in this area and it is vital that appropriate support is publicised to students and their parents, or organised by us for them.
- The victim may ask us not to tell anyone about the sexual violence or sexual harassment. There are no easy or definitive answers when a victim makes this request. If the victim does not give consent to share information, staff may still lawfully share it, if it can be justified to be in the public / individual's interest; for example, to protect children from harm and to promote the welfare of children.

Ultimately, the DLP will have to balance the victim's wishes against their duty to protect the victim and other children within the school setting. If we do decide to make a referral to Tusla and/or a report to Garda Síochána against the victim's wishes, this will be handled extremely carefully, the reasons will in most cases be explained to the victim and appropriate specialist support offered.

Our priorities will always be, *in this order*:

1. The best interests of the victim; followed by
2. The broader interests of our community

In both cases these will be guided by experts in this area and by best practice. Nonetheless, it is also vital to abide by the principle of the presumption of innocence.

Anonymity

Where we are aware that an allegation of sexual violence or sexual harassment is progressing through the criminal justice system, we will be mindful of anonymity, witness support and the criminal process in general so that we can offer support and act appropriately. In addition, we will endeavour to do all we can to reasonably protect the anonymity of any children involved in any report of sexual violence or sexual harassment. We will carefully consider which staff in our school should know about the report and any support that will be in place for the children involved.

Risk Assessment

When there has been a report of sexual violence, the DLP will make an immediate risk and needs assessment. Where there has been a report of sexual harassment, the need for a risk assessment should be considered on a case-by-case basis. The risk and needs assessment should consider:

- the victim
- the alleged perpetrator
- the other children (and, if relevant, staff) at school.

The risk assessments will be recorded and will be kept under regular review, reflecting any changes in circumstances. At all times, we will actively consider the risks posed to all our students and put adequate measures in place to protect them and keep them safe during school hours. The DLP will continue to liaise with Tusla and specialist services as required. Where there has been a report of sexual violence, it is likely that professional risk assessments by social workers and or sexual violence specialists will be required. Any such professional assessments will be used to inform our approach to supporting and protecting the student(s) and updating our own risk assessment.

Action following a report of sexual violence and/or sexual harassment

We will carefully consider any report of sexual violence and/or sexual harassment. Important considerations will include:

- The wishes of the alleged victim in terms of how they want to proceed. This is especially important in the context of sexual violence and sexual harassment. Victims should be given as much control as is reasonably possible over decisions regarding how any investigation will be progressed and any support that they will be offered.
- The nature of the alleged incident(s).
- The ages of the students involved.²
- The developmental stages of the students involved.³
- Any power imbalance between the students (for example, is the alleged perpetrator significantly older?).
- If the alleged incident is a one off or a sustained pattern of abuse (where this may be known).
- Whether there are any ongoing risks.
- Other related issues and wider context.

Where incidents and/or behaviours are associated with factors outside the school or occur between children outside the school, we will consider contextual safeguarding. This simply means assessments of children in such cases should consider whether wider environmental factors are present in a child's life that is a threat to their safety and/or welfare.

Options to manage the report

We will consider every report on a case-by-case basis. When to inform the alleged perpetrator will be a decision that will be carefully considered. Where a report is going to be made to Tusla and/or Garda Síochána, then, as a general rule, we will speak to the relevant agency and discuss next steps and how the alleged perpetrator will be informed of the allegations.

There are four likely scenarios we will need to consider when managing any reports of sexual violence and/or sexual harassment.

1. Manage internally

In some cases of sexual harassment (for example, one-off incidents) the school may take the view that the students concerned are not in need of Early Intervention (see below) or statutory intervention and that it would be appropriate to handle the incident internally, perhaps through utilising our Code of Behaviour and Anti-Bullying Policies and by providing pastoral support.

2. Early Intervention

In line with the above, we may decide that the children involved do not require statutory interventions but may benefit from Early Intervention, for example through the Prevention, Partnership and Family Support Programme⁴. Early Intervention can be particularly useful to address non-violent harmful sexual behaviour and may prevent escalation of sexual violence.

² See the Traffic Light Tool

³ Again, see the Traffic Light Tool

⁴ <https://www.tusla.ie/services/family-community-support/prevention-partnership-and-family-support-programme/>

3. Referral to Tusla

Where a child has been harmed, is at risk of harm or is in immediate danger, a likely course of action will be that we make a referral to Tusla.

4. Reporting to the Garda Siochana

- Where a report of rape, assault by penetration or sexual assault is made, the starting point is this should be passed on to Garda Siochana.
- Reporting to Garda Siochana will generally be in parallel with referrals to Tusla
- At this stage, schools will generally inform parents unless there are compelling reasons not to do so (for example, if informing a parent is likely to put a child at additional risk). In circumstances where parents have not been informed, it will be especially important that the school supports the child in any decision they take. This should be in conjunction with the support of Tusla.
- Where a report has been made to Garda Siochana, the school will consult with Garda Siochana and agree what information can be disclosed to staff and others; in particular, the alleged perpetrator and their parents. We will also discuss the best way to protect the victim and their anonymity.

Ongoing Considerations: victim blaming

In instances where a case of sexual harassment or sexual violence becomes public knowledge, either partially or entirely, our school is committed to ensuring a supportive and sensitive response that focuses on the needs of the survivor. One crucial aspect of this approach is actively addressing and preventing victim blaming.

Victim blaming refers to the act of holding the survivor responsible for the sexual misconduct they have experienced, rather than placing the blame on the individual who committed the assault. This can manifest in various forms, both implicit and explicit. For example, questioning a survivor about their clothing, behaviour, or level of intoxication before the incident may be construed as victim blaming.

The Relationship & Sexual education curriculum will emphasise the importance of avoiding victim blaming and supporting survivors. These classes will encourage students to challenge victim blaming attitudes and promote a culture of empathy and understanding. They will also include information on what constitutes victim blaming, its harmful effects, and the school's commitment to supporting survivors without judgment.

The school will ensure that any instances of victim blaming are addressed promptly and effectively. This may involve intervening in conversations, providing education or resources, or implementing disciplinary measures as appropriate. The priority should always be to create a safe and supportive environment for the survivor.

Ongoing Considerations: victim and alleged perpetrator sharing classes

We will consider the scenario where the victim and alleged perpetrator are sharing classes and sharing space at school. This will inevitably involve complex and difficult professional decisions, including considering our duty to safeguard children and our duty to educate them. It is important each report is considered on a case-by-case basis and risk assessments are updated as appropriate.

Where there is a criminal investigation, for the duration of the investigation, as much as is possible, the victim and alleged perpetrator should not share classes. We will consider how best to keep the victim and alleged perpetrator a reasonable distance apart on school premises. This is in the best interests of both students and should not be perceived to be a judgement on the guilt of the alleged perpetrator; close liaison with Garda Siochana is essential.

Where a criminal investigation into sexual assault leads to a conviction or caution, we will consider any suitable sanctions in light of our Code of Behaviour Policy.

Where the perpetrator is going to remain at school, the principle would be to continue keeping the victim and perpetrator in separate classes and continue to consider the most appropriate way to manage potential contact. The nature of the conviction or caution and wishes of the victim will be especially important in determining how to proceed in such cases.

The fact that another body is investigating or has investigated an incident does not in itself prevent Middleton College from imposing a sanction in accordance with the school's Code of Behaviour Policy, using the balance of probabilities to draw objective and appropriate conclusions.

Reports of sexual assault and sexual harassment will, in some cases, not lead to a report to Garda Siochana (for a variety of reasons). In some cases, rape, assault by penetration, sexual assault or harassment is reported to Garda Siochana and the case is not progressed or is reported to Garda Siochana and ultimately results in a not-guilty verdict. The process will have affected both victim and alleged perpetrator and these results do not necessarily mean the offence did not happen or that the victim lied. Appropriate support should be provided to both as required, and consideration will be given when considering the sharing of classes and potential contact as required on a case-by-case basis.

All of the above should be considered with the needs and wishes of the victim at the heart of the process and any arrangements will be kept under review.

Safeguarding other children

Consideration should be given to supporting children who have witnessed sexual violence, especially rape and assault by penetration. Witnessing such an event is likely to be traumatic and support may be required. We will signpost agencies and support services available where needed. Following any report of sexual violence or sexual harassment, it is likely that some children will take 'sides'. The school will do all we can to ensure both the victim and alleged perpetrator, and any witnesses, are not subject to any bullying or harassment. Social media is very likely to play a central role in the consequences from any incident or alleged incident. There is the potential for contact between victim and alleged perpetrator and a very high likelihood that friends from either side could well harass the victim or alleged perpetrator online. Any evidence we have of students using social media inappropriately will be managed and sanctioned according to our Code of Behaviour and Anti-Bullying Policies.

What we do in school to educate our students against harmful sexual behaviours

We have a planned programme of evidence-based content delivered through the RSE curriculum, the Wellbeing initiative and assemblies to promote respect and understanding. Our programme is developed to be age and stage of development appropriate, and tackles issues, such as:

- healthy and respectful relationships, including information on consent
- bystander awareness and intervention

- what respectful behaviour looks like
- gender roles, stereotyping, equality
- body confidence and self-esteem
- prejudiced behaviour
- that sexual violence and sexual harassment is always wrong
- victim blaming
- challenging the use of inappropriate and derogatory terms e.g. slut shaming
- challenging cultures and patterns of sexual harassment
- how to report sexual harassment and violence.

What we do in school to educate staff and against the wider school community

The school recognises that the prevention of sexual violence and harassment is a whole school community endeavour. It will undertake a number of initiatives to support staff and the wider community in this area, such as:

- staff, parent & Board of Management training in receiving reports of sexual violence and in consent
- engaging with parents to provide resources to help them support their children on understanding and preventing sexual harassment
- develop and strengthen partnerships with external agencies such as: Garda Siochana, Tusla, Sexual Assault Treatment Unit.

Support Services

If students wish to access external supports, some agencies are listed below:

Cork Sexual Violence Centre 1800 496 496

Cork Sexual Assault Treatment Unit (SATU) 021 492 6297, 021 492 6100 (out of hours)

Midleton Garda 021 462 1550

The National LGBT Helpline 1890 929539

Monitoring and Review of this Policy

This policy will be clearly communicated to all members of the school community. The implementation of this policy will be monitored by the Principal and the Deputy Principal. In addition, the Board of Management will be provided with relevant anonymous information regarding sexual harassment and sexual violence to enable it to carry out its oversight function. This policy will be reviewed by the Board of Management on a regular basis, at least biennially