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Sexual Misconduct Procedure (Interim)

Introduction and Aim

Cardiff and Vale University Health Board (the Health Board) has a responsibility for creating an inclusive and supportive working environment for everyone who works here. This includes taking a stance that sexual misconduct and victimisation are wrong; it is never justified or acceptable, and it has no place at work or anywhere else in society. Sexual harassment is unlawful under the Equality Act 2010 and Worker Protection (Amendment of Equality Act 2010) Act 2023 and we will treat such matters very seriously. The new [Worker Protection \(Amendment of Equality Act 2010\) Act 2023](#) also creates a duty on employers to take reasonable steps to prevent sexual harassment in the workplace.

This Procedure is aligned to the Health Board's Equity, Inclusion and Human Rights Policy and is part of our commitment to creating a workplace that respects and values differences, that promotes dignity and combats prejudice, discrimination and harassment. It is also part of our commitment to ensuring the health, safety and wellbeing of all our workforce.

The Health Board acknowledges that anyone can be a victim of sexual misconduct. However, it often occurs where there is a power imbalance and people in certain groups may be more vulnerable than others. For example, evidence shows that more women experience sexual misconduct than men and that black, ethnic minority, disabled and LGBTQ+ people experience sexual harassment and abuse at a disproportionate rate. Intersectional harassment occurs when the harassment relates to one or more protected characteristic.

Objectives

This Procedure:

- describes what sexual misconduct is and how to report it
- outlines our approach to tackling sexual misconduct and dealing with perpetrators
- adopts and signposts to processes in other NHS Wales Policies
- provides a summary of support available to employees

Scope

The Health Board has a duty of care to protect employees from, and prevent incidents of, sexual misconduct from individuals within the physical or digital workplace. Our organisation expects all employees, contractors, secondees, agency workers, volunteers, students, interns, and casual and/or bank/temporary workers to comply with this Procedure.

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Employees who are seconded or deployed to another organisation will be supported by the Health Board to report sexual misconduct in accordance with this Procedure or a similar one provided by the host organisation.

The Health Board also has a duty of care to protect individuals employed by other organisations and third parties, such as suppliers or visitors, from sexual misconduct from any individual in the workplace.

Sexual misconduct can take place at any time and any place. It can happen at any location, including the workplace or workplace events, for example, at learning events, while travelling with colleagues to an event or in other spaces that may be both physical and virtual including at functions and social events. Incidents might take place on Health Board premises or elsewhere, such as virtual or physical environments that may not always be a designated workplace. Incidents which occur within these environments fall within the scope of this Procedure.

The Health Board expects any third-party organisation that deploys employees or representatives to work in or with the Health Board or NHS Wales to engage with any investigation relating to sexual misconduct and take appropriate action and/or provide appropriate support as a result of findings in relation to the employee or representative.

If employees are subject to sexual misconduct from individuals not employed by the Health Board, this will be taken no less seriously. In these circumstances the Health Board will:

- not tolerate any conduct – on its premises or within any environment – that may be defined as sexual misconduct
- report any allegation to their employer or representative organisation without delay, and take appropriate steps to ensure the safety of those involved. This should be reported in the same way as if the alleged perpetrator was a Health Board employee
- following the receipt of allegations of sexual misconduct, take action, which may involve taking management action and/or commencing an investigation. Individuals may be asked to leave Health Board premises immediately and their return may not be appropriate until the outcome of any investigation is known. This process will be co-ordinated by the Health Board's People and Culture team.

If the Health Board becomes aware that an employee is, or may be, perpetrating sexual misconduct, appropriate action will be taken. This may include an investigation under the organisation's Disciplinary Policy, or the Upholding Professional Standards in Wales Procedure if the allegations are against a doctor or dentist. This includes scenarios where the victim is not an employee.

Equality and Health Impact Assessment

An Equality and Health Impact Assessment has not been completed as this Procedure is aligned to the Equality and Inclusion Policy and is covered by the EHIA developed for that Policy and its accompanying procedures.

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Documents to read alongside this Procedure	NHS Wales Disciplinary Policy and Procedure Upholding Professional Standards in Wales Procedure Equity, Inclusion and Human Rights Policy Procedure for NHS Staff to Raise Concerns Managing Safeguarding Allegations Procedure Social Media Policy Information Governance Policy Speaking Up Safely Framework
Accountable Executive or Clinical Board Director	Executive Director of People and Culture
Author(s)	Head of People Assurance and Experience / Trade Union Representative
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Summary of reviews/amendments			
Version Number	Date Review Approved	Date Published	Summary of Amendments
1	29.01.2025	29.01.2025	New interim Procedure to be implemented until All Wales Policy is published
2			

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1	PRINCIPLES										
1.1	<p>Cardiff and Vale UHB will:</p> <ul style="list-style-type: none"> • Actively work towards the eradication of sexual misconduct in the workplace • Promote a culture that cultivates openness and psychological safety and does not tolerate inappropriate behaviour • Take an intersectional approach to the sexual safety of our staff, recognising certain groups will experience sexual harassment and abuse at a disproportionate rate • Provide appropriate support for colleagues who experience unwanted, inappropriate and/or harmful sexual behaviours • Clearly communicate expected standards of behaviour • Treat all concerns of a sexual nature seriously, treating them with confidentiality and ensuring timely action is taken • Ensure appropriate training is in place • Ensure appropriate reporting mechanisms are in place • Capture and share data on prevalence and staff experience transparently 										
2	VALUES AND BEHAVIOURS										
	<p>At Cardiff and Vale University Health Board our values and example behaviours are:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="background-color: #e6f2ff;">We care about the people we serve and the people we work with</td> <td>Treat people as you would like to be treated and always with compassion</td> </tr> <tr> <td style="background-color: #e6f2ff;">We trust and respect one another</td> <td>Look for feedback from others on how you are doing and strive for better ways of doing things</td> </tr> <tr> <td style="background-color: #e6f2ff;">We take personal responsibility</td> <td>Be enthusiastic and take responsibility for what you do.</td> </tr> <tr> <td style="background-color: #e6f2ff;">We treat people with kindness</td> <td>Thank people, celebrate success and when things go wrong ask ‘what can I learn’?</td> </tr> <tr> <td style="background-color: #e6f2ff;">We act with integrity</td> <td>Never let structures get in the way of doing the right thing.</td> </tr> </table> <p>Our values guide the way we work and the way we behave with others. Employees are expected to behave in accordance with our values at all times, demonstrating commitment to the delivery of high quality services to patients.</p>	We care about the people we serve and the people we work with	Treat people as you would like to be treated and always with compassion	We trust and respect one another	Look for feedback from others on how you are doing and strive for better ways of doing things	We take personal responsibility	Be enthusiastic and take responsibility for what you do.	We treat people with kindness	Thank people, celebrate success and when things go wrong ask ‘what can I learn’?	We act with integrity	Never let structures get in the way of doing the right thing .
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3	DEFINITIONS										
3.1	<p>Definitions of people and roles that may be involved in a sexual misconduct report include:</p> <ul style="list-style-type: none"> • Victim – the person experiencing sexual harassment. 										

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	<ul style="list-style-type: none"> complainant – a person who has raised a concern of sexual misconduct. This could be an individual who has alleged they have experienced sexual misconduct, or a line manager/colleague who is reporting on their behalf. alleged perpetrator – an individual about whom a sexual misconduct report has been raised witness – a person who has witnessed an alleged instance of sexual misconduct and/or can give relevant evidence that may form part of an investigation, where indicated Investigating Officer – a suitably trained professional who conducts an investigation into the alleged sexual misconduct subject matter expert – a professional working in a relevant field (e.g. of sexual assault/safety) who can provide insight relevant to key questions encountered during an investigation
3.2	What sexual misconduct means
3.2.1	Sexual misconduct is uninvited, unwelcome or non-consensual behaviour of a sexual nature. It is behaviour that can reasonably be interpreted and/or perceived by an individual as sexual and which offends, embarrasses, harms, humiliates, or intimidates an individual or a group. Sexual misconduct can involve elements of harassment, violence and abuse and can be physical, verbal, or visual and via different mediums, such as through an email or a phone message.
3.2.2	Some forms of sexual misconduct may also constitute criminal offences under a range of legislation including but not limited to the Sexual Offences Act 2003 and the Protection from Harassment Act 1997. Potential criminal offences include sexual assault, rape, stalking, or disclosing private sexual images to cause distress (revenge pornography). This list is not exhaustive.
3.2.3	<p>Commonly accepted definitions and examples of sexual misconduct are listed below. For the purposes of this Procedure, all of the below constitute sexual misconduct (this list is not exhaustive):</p> <p>Sexual violence/sexual assault</p> <ul style="list-style-type: none"> sexual violence/sexual assault encompasses acts ranging from verbal harassment to forced penetration and an array of types of coercion from social pressure and intimidation to physical force or other sexual offences, such as groping and/or forced kissing, which may be criminal offences <p>Sexual harassment</p> <ul style="list-style-type: none"> sexual harassment is defined in the Equality Act 2010, section 26(2) and (3). It includes conduct by person A of a sexual nature that has the effect of violating person B's dignity or creating an intimidating, hostile, degrading or offensive

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	<p>environment for B, even if A did not intend this. Whether conduct constitutes sexual harassment will depend on both B’s perception and whether it is reasonable for B to have perceived A’s conduct in that way. It may also be sexual harassment by A, if A treats B less favourably because B did not submit to A’s sexual advances.</p> <ul style="list-style-type: none"> • Some examples of sexual harassment include (this list is not exhaustive): <ul style="list-style-type: none"> ○ gesturing or making sexual remarks about someone’s body, clothing or appearance ○ asking questions about someone’s sex life ○ telling sexually offensive jokes ○ stalking ○ voyeurism ○ making sexual comments or jokes about someone’s sexual orientation or gender identity ○ displaying or sharing pornographic or sexual images, or other sexual content ○ touching someone against their will • Someone may be sexually harassed even if the conduct was not directed at them but because of the environment it creates for them. It also includes treating someone less favourably because they have submitted to or rejected sexual harassment in the past.
3.2.4	<p>What some people might consider as joking, ‘banter’ or part of their workplace culture is still sexual misconduct if:</p> <ul style="list-style-type: none"> • the behaviour is of a sexual nature • it is uninvited and/or is unwanted • it violates someone’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them
3.2.5	<p>Anyone can be the subject of sexual misconduct, regardless of their sex, gender identity, or sexual orientation, and it can be carried out by an individual of any background or identity. A single incident is enough to constitute sexual misconduct. Someone may be subjected to sexual misconduct even if the conduct was not directed at them but because of the environment it creates for them. It also includes treating someone less favourably because they have submitted to or rejected sexual advances in the past.</p>
3.2.6	<p>It is never up to the employer or a third party to determine if an experience that has taken place in a work context is sexual misconduct or not. If an individual feels that they have been subjected to or impacted by sexual harassment, their feelings are valid, and they are protected by The Equality Act 2010.</p>

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3.2.7	<p>Within the workplace employers have a responsibility to protect all employees from sexual harassment. The Equality & Human Rights Commission states that employers are liable for acts of harassment:</p> <ul style="list-style-type: none"> • Committed by one worker against another of their workers • Committed by one of their workers against a job applicant or former worker • Committed by an agent acting on their behalf against one of their workers, and • Where there has been a failure to deal with harassment of one of their workers by a third party, or by another worker outside of employment
3.2.8	<p>If you are unsure what constitutes sexual misconduct, but you feel you have experienced or witnessed something you think may be in the scope of this Procedure, we encourage you to report it as potential sexual misconduct.</p>
4	INITIAL RESPONSE TO A DISCLOSURE OF SEXUAL MISCONDUCT
4.1	<p>A person who has experienced or witnessed sexual misconduct may choose to tell anyone in the workplace about their experience – a line manager, colleague, or person in a position of trust. This is referred to as a ‘disclosure’. It is important that the initial response to a disclosure is appropriate and sensitive. All employees need to be aware of these requirements. Please see the information below on how to handle a disclosure sensitively. Colleagues may choose to formally report an instance of sexual misconduct without having previously disclosed it and the same steps should be followed in these cases.</p>
4.2	<p>In the event of a disclosure of sexual misconduct the following steps should be followed (see also the flowchart in Appendix 2)</p> <p>The employee who receives the disclosure should:</p> <ol style="list-style-type: none"> 1. Ensure the employee is safe: <ul style="list-style-type: none"> • if they are unsafe or you cannot be assured they are safe and you believe their life may be in danger, take steps to immediately call the police (if not already informed) and seek immediate advice from the Head of People Services or an appropriate deputy • where there are any safeguarding concerns (for example if there is a concern that someone is being coerced or controlled or where there are mental capacity concerns), you or the Head of People Services or an appropriate deputy may contact the Health Board Safeguarding team to request an urgent conversation about staff safeguarding • if they are unsafe or you believe they are unsafe, once you have taken the steps outlined above, you must inform the Head of People Services or an appropriate deputy at the earliest opportunity to ensure support is provided as

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	<p>soon as possible. If out of hours, the SMOC (senior manager on call) should be notified.</p> <ul style="list-style-type: none"> • consider any action that you or another appropriate person could take to help ensure the immediate safety of the victim. This might mean putting lone worker measures in place, or, if the instance occurred in a Health Board premises, asking the employee if they would prefer to work in a different area on a temporary basis (bearing in mind that it is not normal practice to move a victim as a first step, unless they have requested this as set out in section 7.6) • if the alleged perpetrator is a visitor and remains on site, you may need to contact security <p>2. Signpost colleagues to this Procedure and:</p> <ul style="list-style-type: none"> • refer them to the support described in Appendix 1 • encourage them to consider reporting their concern as set out in section 5, if it has not already been reported • make a note as soon as you are able to of any details of the disclosure in as much detail as possible, ensuring confidentiality is maintained. The complainant should be notified that you will make a note of the disclosure including the date and time the disclosure was made, who it was made to, what was disclosed (as much information as possible) and what immediate actions were taken • If someone discloses an incident of sexual misconduct but does not wish to make a formal report or have action taken, their wishes should be respected as much as possible. However, it is important to understand that we have a duty of care and are committed to ensuring the safety and wellbeing of all individuals. In situations where there are safeguarding concerns, potential risks to others, or legal obligations, further steps may need to be taken and you should seek advice from the Head of People Services or the Head of Safeguarding. It may be necessary to involve wider agencies such as local authority colleagues or police if deemed appropriate.
5	REPORTING SEXUAL MISCONDUCT
5.1	<p>The Health Board strongly encourages all employees to report any instances of sexual misconduct as early as possible. However, there may be times when a victim does not want to or feels unable to make a report soon after an alleged incident(s) of sexual misconduct. The barriers to early reporting are understood and acknowledged and a delayed decision to make a report will be respected and not treated with suspicion. There is no time limit for reports of sexual misconduct to be received.</p>

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5.2	<p>There are 2 routes through which sexual misconduct may be reported to commence processes under this Procedure:</p> <ul style="list-style-type: none"> • People Services – a victim or witness may contact the Head of People Services or an appropriate Deputy, or they may ask the person they have disclosed to, for example their line manager, to do this for them • Work in Confidence (Speaking Up Safely) –a victim or witness may report sexual harassment if using the Work in Confidence platform which includes the option for anonymous reporting. <p>Reports may also be made to a line manager or senior colleague; however, to instigate a formal report one of the two routes above will need to be completed. A line manager or senior colleague can action these on someone else’s behalf.</p> <p>These routes can be utilised by the individual who has experienced sexual harassment, a witness(s), Trade Union colleagues or someone who has had sexual harassment disclosed to them.</p> <p>All reports will be taken seriously (including those that are made anonymously), regardless of the route taken. Please see section 7 for how sexual misconduct reports are managed.</p>
5.3	<p>Individuals are able and encouraged to report an incident anonymously through the Work in Confidence platform if they do not feel comfortable providing a full report. However, it is preferable for individuals making a report to identify themselves, as this makes it more likely that reports can be fully and fairly investigated and/or resolved, and contributes to creating an open and trusting culture. It also means the colleague reporting the sexual misconduct can be kept informed, where appropriate, as to the progress of their report. However, it is recognised this is not always possible. If a report is made anonymously, the steps in this Procedure must be followed as closely as possible based on the information provided in the disclosure.</p>
5.4	<p>Where the Executive Team or Clinical Board Senior Management Team become aware of multiple concerns or complaints of inappropriate behaviour in an area, which may not have been formally reported but give rise to sufficient cause for concern, they may choose to conduct an investigation to understand the alleged behaviours in more detail and to determine if support and interventions are needed. This is intended to ensure the effective resolution of concerns raised and prevent future inappropriate behaviours where identified by the investigation. Undertaking this type of investigation should only be done in consultation with the People and Culture team and will involve agreed terms of reference with the relevant department. If the findings indicate, this may lead to a disciplinary process under the relevant Policy.</p>
5.5	<p>Employees may experience sexual misconduct from colleagues, patients / service users, members of the public or third parties. Any instance of work-related sexual misconduct</p>

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	<p>should be reported in line with this Procedure regardless of who the alleged perpetrator is.</p> <p>Individuals who experience sexual misconduct from patients / service users or other third parties are encouraged to report it as inappropriate behaviour via Datix. Line managers can offer support in the completion of the Datix form. The individual will then be contacted by the Violence Prevention and Case Management Team who can offer post-incident support, advice on preventive measures and signposting to other services. They can also support employees through the criminal justice process if the incident is reported to the police.</p> <p>If an incident occurs but is not reported on Datix, the team can be contacted by the individual, the individual's manager, or a witness. The service offered is victim led and the steps to be taken will be decided with the individual.</p> <p>The Care of Adult Patients Who are Violent or Aggressive Procedure and the Violent Warning Markers Procedure will be used to determine what, if any, internal action is taken against the patient.</p>
6	REPORTING SEXUAL MISCONDUCT AS A WITNESS
6.1	<p>Reporting sexual misconduct is vital to ensure that the Health Board can protect its employees and meet its duty to prevent sexual harassment in the workplace. If you witness what you think may be sexual misconduct in the workplace you are strongly encouraged to report it using one of the avenues described in section 3.2. Before you report it, you may wish to offer support to the individual targeted or affected by the behaviour you have witnessed and/or let them know that you think that behaviour is unacceptable. You may also wish to tell the individual that you are going to report it so they are aware of your intention, but you do not need their permission. Whether they consent or not, you should name the person who has subjected the individual to the behaviour.</p> <p>Witnesses of sexual misconduct can report it anonymously using the Work in Confidence Platform or by contacting People Services, however reporting using identifiable routes is always encouraged.</p>
7	MANAGING REPORTS OF SEXUAL MISCONDUCT
7.1	<p>The Health Board will ensure that any allegations of potential sexual misconduct are managed swiftly and in line with the appropriate organisational policies and procedures. Experiencing sexual misconduct is extremely distressing and can be life changing. It is also</p>

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	distressing and a serious matter for an employee to be accused of sexual misconduct. The Health Board will not make a judgement prior to a fair and thorough investigation.
7.2	Sexual misconduct cases will sometimes only be evidenced by the complainant's word against that of the alleged perpetrator. This should not prevent the complainant from speaking up. The Health Board commits to treat all complaints seriously and fairly.
7.3	Investigators of allegations of sexual misconduct will take particular care about the relevance and intrusiveness of questions required to investigate these matters. This includes taking great care when asking questions of a personal nature. Investigators will be independent of the situation being investigated and will have received specialised training in how to conduct Sexual Misconduct Investigations. Greater flexibility may be applied to the victim's right to be accompanied to meetings related to investigating the complaint, particularly by a friend or family member (in a supportive capacity), in addition to the usual right to be accompanied by a trade union representative or work colleague.
7.4	<p>The Head of People Services will undertake an immediate review of the information received, linking in with the following people as appropriate:</p> <ul style="list-style-type: none"> • the individual (or team) with whom the report has been raised • individual(s) with appropriate subject matter expertise • senior members of the People and Culture team who have undertaken specialist sexual misconduct training • safeguarding colleagues who will advise on involving external agencies • any other relevant individual deemed able to provide advice as necessary
7.5	<p>Following this review, it will be determined if:</p> <ul style="list-style-type: none"> • it should be reported to the police and/or other relevant agencies, including the alleged perpetrator's employers if they are not an employee of the Health Board • further fact finding is required in the form of an initial assessment as outlined in the Disciplinary Policy and Upholding Professional Standards in Wales Procedure (UPSW). If so, the relevant Policy will then be followed.
7.6	<p>Formal investigations will be conducted in accordance with the Disciplinary Policy/UPSW (depending which is relevant to the situation). There will be additional considerations and adjustments when the investigation is regarding sexual misconduct. These considerations and adjustments listed below apply to all investigations under the relevant policy:</p> <ul style="list-style-type: none"> • a trained and independent investigator will be appointed • the People and Culture team or the commissioning manager may appoint a subject matter expert(s) to support the investigating officer and/or case manager

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	<ul style="list-style-type: none"> • greater flexibility will be applied to the victim's right to be accompanied to any meetings and/or interviews, particularly by a friend or family member (in a supportive capacity), in addition to the usual right to be accompanied by a trade union representative or workplace colleague • where victims and alleged perpetrators work together a risk assessment will be undertaken, and it may be necessary to discuss temporary changes to working arrangements. It is not normal practice to move a victim unless they have requested this and the Health Board will seek to move alleged perpetrators wherever possible. Any redeployment will be for the minimum necessary duration and will be reviewed regularly. <p>The victim or individual who has reported sexual misconduct and the alleged perpetrator will be updated sensitively and independently of each other by the Disciplining Officer/Case Manager throughout any formal process.</p> <p>Any adjustments should be and reviewed regularly.</p>
7.7	<p>If someone makes a report of sexual misconduct but does not wish for further action to be taken, their wishes should be respected as much as possible. However, it is important to understand that we have a duty of care and are committed to ensuring the safety and wellbeing of all individuals. In situations where there are safeguarding concerns, potential risks to others, or legal obligations, further steps may need to be taken. This may involve wider agencies such as local authority colleagues or police if deemed appropriate.</p>
8	VICTIMISATION (INCLUDING WHEN NO FURTHER ACTION IS TAKEN)
	<p>The Health Board does not tolerate harassment or victimisation of anyone reporting sexual harassment and will not tolerate any attempt to persuade or force an employee to not raise their concerns. 'Victimisation' is when someone is treated less favourably as a result of being involved with a discrimination or harassment complaint and is unlawful under the Equality Act.</p> <p>The Health Board will uphold its duty of care to ensure colleagues are fully supported when reporting sexual harassment, whether their complaint is upheld or not.</p> <p>Any retaliation and victimisation of an individual raising a report or acting as a witness should be reported to a line manager or People Services and will be addressed. This may result in action being taken under the Disciplinary Policy or Upholding Professional Standards in Wales Procedure (UPSW) if the allegations are against a doctor or dentist.</p>

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9	ACTIONS AFTER AN INVESTIGATION
9.1	The outcomes will follow the relevant NHS Wales or Health Board Policy.
9.2	The Health Board recognises that in some cases it may be appropriate to signpost perpetrators to specialist support services if they genuinely want to change their behaviour – this should be agreed on a case-by-case basis.
9.3	If non-employees who fall within the scope of this Procedure are found to be in breach of this Procedure after an investigation, their contract or other terms of engagement may be terminated immediately.
9.4	If a secondee into the Health Board is in breach of this Procedure, the secondment may be immediately terminated. The Health Board will share details of the reason for termination with their employing organisation and will cooperate fully in an investigation of allegations that they may wish to conduct.
9.5	To provide assurance the matter has been addressed appropriately, the Health Board may share some aspects of an investigation and/or their outcomes with the complainant. This will be considered on a case-by-case basis and advice should be sought from People Services. Any sharing of information must be compliant with relevant data protection laws and align to the Health Board’s Information Governance Policy.
9.6	Employees who raise a report of sexual misconduct in good faith (whether founded or not) will always be supported.
10	SUPPORT
10.1	Managing and supporting disclosures and reports of sexual misconduct is challenging for all parties involved. The Health Board will offer additional support to the victim, alleged perpetrator and any witnesses as well as line managers and anyone else affected by the disclosure. A range of internal and external support services are available (see Appendix 1).
10.2	Incidents of sexual misconduct can have long-term impacts on those who directly experience them as well as their friends and family. The victim may need adjustments to support them to fulfil their role and workload, especially while any investigation is ongoing. The victim should have a conversation with their line manager (or nominated person, which may include an occupational health professional) to review matters such as their current working arrangements and consider whether any additional support is needed, for example, by using the Flexible Working or Special Leave Policies.

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10.3	Where concerns regarding attendance and/or capability of the victim may be connected to a sexual misconduct incident, adjustments to the attendance and/or capability process will be considered by the individual's line manager with advice from People Services. Any adjustments should be recorded and reviewed regularly, documented and shared with the relevant parties such as the individual and/or their line manager and their trade union representative.
10.4	If sickness absence is caused by sexual misconduct at work, and where occupational sick pay reduces to half or nil pay, colleagues may be entitled to receive Injury Allowance. This tops up the individual's income (including certain welfare benefits) to 85% of their usual pay during the absence for up to 12 months. Additional information is available in the Health Board's Industrial Injury Procedure. The victim will be supported with their application by the People Services team.
10.5	It is recognised that when receiving a disclosure or complaint of sexual misconduct, it may be distressing or triggering for the individual who receives it. Please see appendix 1 for the support available.
11	REPORTING TO STATUTORY REGULATORS
9.1	<p>The Health Board reserves the right and may be obliged to report an employee holding a professional registration of any description to their relevant statutory regulator (for example, the Nursing and Midwifery Council, the General Medical Council, The Health and Care Professions Council, the Law Society) in accordance with their relevant professional codes of conduct.</p> <p>When making a referral this will be done in line with the Disciplinary Policy or Upholding Professional Standards in Wales policy (whichever is relevant).</p>
12	POLICE INVOLVEMENT
12.1	A disclosure of sexual misconduct may allege a criminal act. In such a case, the Head of People Services will be responsible for ensuring that any allegations received that may be criminal in nature are referred to the police. Where possible a conversation with the victim on their wish for police involvement should precede any referral. If you believe there is a danger to life, you should call the police.
12.2	The People Services team routinely works with the Safeguarding team using our Managing Safeguarding Allegations Procedure to review each case on a case-by-case basis and consider the need of escalation to relevant authorities, including the police, and referrals are made where there is concern that the allegations may constitute a criminal act. The Health Board will refer matters to the wider authorities such as the Local Authority where appropriate

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12.3	Where an internal investigation is taking place, the Safeguarding Team will consult with the police at agreed intervals about the investigation processes to ensure any criminal investigation/process is not prejudiced.
12.4	<p>Victims can report sexual misconduct to the police directly. They may express a wish that they do not want to prosecute, or they wish to report and think about prosecution later. These are matters that must be discussed with the police directly.</p> <p>Victims can also attend Ynys Saff (the Sexual Assault Referral Centre). The service allows evidence to be collected should the victim wish to make a police report at a later date, as well as providing support and advice. More information about Ynys Saff is given in Appendix 1.</p>
13	CONFIDENTIALITY
13.1	<p>Confidentiality covered by this Policy/Procedure will be maintained wherever possible and as far as reasonably practical, subject to legal and statutory safeguarding obligations, duties to protect other people. Therefore, complete confidentiality cannot be guaranteed in every situation.</p> <p>Details of investigations and complaints must only be disclosed on a 'need to know' basis. As well as statutory requirements, the 'need to know' may encompass sharing of anonymised information for defined purposes such as supervision, formal support, correct process or best practice. Unauthorised disclosure of confidential information may result in disciplinary action, as may any concerns about attempts to influence or intimidate a witness.</p>
13.2	
13.2	Data will be collated centrally by the People Services Team and only shared on a need-to-know basis to inform the investigations and preventative actions. Some anonymised data will be shared with the Board via the People and Culture Committee to facilitate oversight of this Procedure, such as the number of cases, outcomes and overall summary data. This will not include personally identifiable data and will provide assurance and enable the Health Board to ensure that allegations relating to sexual misconduct are being managed appropriately and to address any issues identified.
13.3	Confidentiality obligations apply to anyone who is involved including the alleged perpetrator, the victim, witnesses and line managers. The matter should not be discussed with anyone else other than on a 'need to know' basis and will normally be limited to the investigating officer, the line manager, People and Culture colleagues directly involved, and where represented, Trade Union representatives. This does not mean that support should not or could not be sought by anyone who is involved, acknowledging that talking

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	<p>about the event may help some people or be essential to their wellbeing. However, this must be done adhering to the confidentiality obligations set out in this section.</p> <p>Nothing in this Procedure will prevent an individual reporting sexual misconduct to the police, professional regulators (such as the GMC or NMC), or any other statutory body. Making a report does not constitute a breach of confidentiality.</p>
13.4	<p>Both victims and alleged perpetrators:</p> <ul style="list-style-type: none"> • Are free to seek professional support (e.g. from their doctor, the services in Appendix A., and similar) • Can talk to immediate family, on the condition that the people they discuss the situation with agree to maintain confidentiality and that they do not name anyone involved • Cannot discuss it with members of Health Board staff other than the investigating officer, People and Culture colleagues directly involved, with their line manager necessary, and where represented, with Trade Union representatives.
14	ROLES AND RESPONSIBILITIES
	<p>The Health Board is committed to improving organisational culture at every level to prevent workplace misconduct. We will do this by creating a culture that encourages and supports colleagues to openly discuss and report sexual misconduct without fear of retaliation or victimisation. We will protect employees from sexual misconduct and we will take steps to prevent it.</p> <p>The roles and responsibilities required to achieve this are outlined in Appendix 3.</p>

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Appendix 1: Support available if you are affected by sexual misconduct, harassment, abuse, or violence

Managing and supporting disclosures and reports of sexual misconduct is challenging for all parties involved. The Health Board will offer additional support to the victim, alleged perpetrator and any witnesses as well as line managers and anyone else affected by the disclosure. A range of internal and external support services will be offered / discussed with you and are outlined below:

INTERNAL SUPPORT

Self-Referral to the UHB's Employee Wellbeing Services (EWS)

A self-referral to the organisation's Employee Wellbeing Service will be discussed with you by your People Services representative, and/or signposted via correspondence acknowledging the concern.

Following completion, and submission of the Self-Referral, a member of the EWS team will contact you for an initial discussion to ensure you receive the most appropriate support (the Resource Appointment).

Once the Resource Appointment has taken place the next steps will be agreed with you. This could be (but is not limited to):

- Access to counselling services via EWS (Please note these can be available for the duration of the process based upon requirement/need.)
- Signposting to external counselling services (e.g. Canopi)
- Referral to Specialist Services, e.g. Traumatic Stress Service [Staff support for Trauma \(sharepoint.com\)](#)
- Guided self-help / CBT / Online Resources

Further detail about the services provided by the Employee Wellbeing Service can be found here : [Cardiff and Vale Employee Wellbeing Service - Home \(sharepoint.com\)](#)

The Safeguarding Team

The UHB has a Health Independent Domestic Violence Advisor (IDVA) within the Safeguarding Team who can support staff who disclose sexual harassment. Managers can use the IDVA for guidance on risk assessing, having difficult conversations and providing ongoing support.

Seeking Health IDVA support is voluntary. Employees can self-refer by calling **02920 748 748** Monday – Friday, 9-5pm or they can be referred by their managers

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/ colleagues, with the employee's consent, via the Ask & Act Domestic Abuse Referral

Further detail about the services provided can be found here:

[Domestic Abuse, Sexual Violence & FGM \(sharepoint.com\)](#)

Ynys Saff Sexual Assault Referral Centre

Ynys Saff is a client led service offering victims of a sexual assault support, advice, and assistance. The service has specially trained doctors, nurses and support workers. You can speak to them regardless of whether or not you wish to make a report of sexual assault to the police, and regardless of how long ago the incident was.

If the assault happened less than 7 days ago you are encouraged to speak to Ynys Saff so that options such as a forensic examination can be discussed. This would enable evidence to be gathered in case you wish to make a report to the police in the future. Ynys Saff can also help address health needs arising from the assault (such as emergency contraception, risk assessment for HIV, etc.).

If the assault occurred outside of the window where forensic examinations are possible (broadly 7 days, but can be shorter depending on the assault), then the New Pathways team at Ynys Saff can provide support. Employees can self-refer to this service.

Ynys Saff (SARC) can be contacted via 02920 335795.

More information on the service can be found here: [Ynys Saff Sexual Assault Referral Centre, Cardiff & Vale University Health Board \(wales.nhs.uk\)](#)

Trade Union Support

Trade Union Partners provide a range of support services that you may find useful to access at this time. Please speak to your Trade Union representative for specific information.

[Trade Unions \(sharepoint.com\)](#)

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EXTERNAL SUPPORT

[Help after rape and sexual assault](#): the nhs.uk website provides helpful information about where to find support if you have experienced sexual assault and/or violence.

[Sexual assault referral centres \(SARCs\)](#): offer medical, practical and emotional support to anyone who has been raped, sexually assaulted or abused. SARCs have specially trained doctors, nurses and support workers.

[ACAS](#): helpline for anyone experiencing workplace-related issues including sexual harassment.

[Sexual harassment at work advice – Rights of Women](#) – Rights of Women have free legal advice lines for women who have experienced domestic abuse, sexual violence and sexual harassment at work.

[24/7 Rape and Sexual Abuse Support Line \(247sexualabusesupport.org.uk\)](#): this 24/7 helpline can provide immediate support if you have experienced sexual misconduct.

The [HM Government website](#) provides a [list of support services](#) for anyone who has experienced sexual violence and abuse. Call 0808 500 2222. They can also arrange access to an independent sexual violence advisor, as well as referrals to mental health support and voluntary sector sexual violence support services. If you're struggling and need someone to talk to, you can also contact: [Samaritans](#), [LGBT Foundation](#)

[Galop](#) supports LGBT+ people who have experienced abuse and violence.

[Rape Crisis England and Wales](#): this 24/7 helpline can provide immediate support if you have experienced sexual assault. Further information is available on their [rape crisis advice page 'supporting a survivor'](#).

[The Survivors Trust](#) has 120 member organisations based in the UK and Ireland which provide specialist support for women, men and children who have survived rape, sexual violence or childhood sexual abuse. The Survivors Trust also has a free, confidential national helpline 0808 801 0818 or text: 07860 022 956 and a separate survivor resources website at <https://tstresources.org/>

[SurvivorsUK](#) supports male and non-binary survivors of sexual violence, providing counselling, practical help and community on your healing journey.

[Victim Support](#) provides independent, free and confidential advice to victims of crime.

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[Citizens Advice](#) provide information about your legal rights in the workplace if you are experiencing sexual harassment.

[Equality and Human Rights Commission](#): technical guidance on sexual harassment and other forms of harassment at work.

[Equality Advisory and Support Service](#): helpline to advise on issues related to equality and human rights

[Information Commissioner's Office](#): for information and advice on data protection.

[Law Works](#): to find free advice, representation, and online resources.

[Protect](#): free, confidential whistleblowing advice.

[Recruitment and Employment Confederation](#): for information on recruitment practices and standards, including agency workers' rights.

[TUC](#) represents affiliated trade unions. The TUC website provides guidance on workplace issues for workers and union representatives and has a trade union finder tool for those considering joining a trade union.

[Surviving in Scrubs](#) provide support, share survivor stories and campaign to end sexism, harassment, and sexual assault in the healthcare workforce.

[General Medical Council: what to do if you think you have been subject to sexual misconduct by a doctor](#): a resource for patients and colleagues.

[Health and Care Professions Council](#) : sexual safety hub provides help and guidance about making a report to that organisation.

[A list of support services on the Government's website](#): for victims of sexual violence and abuse.

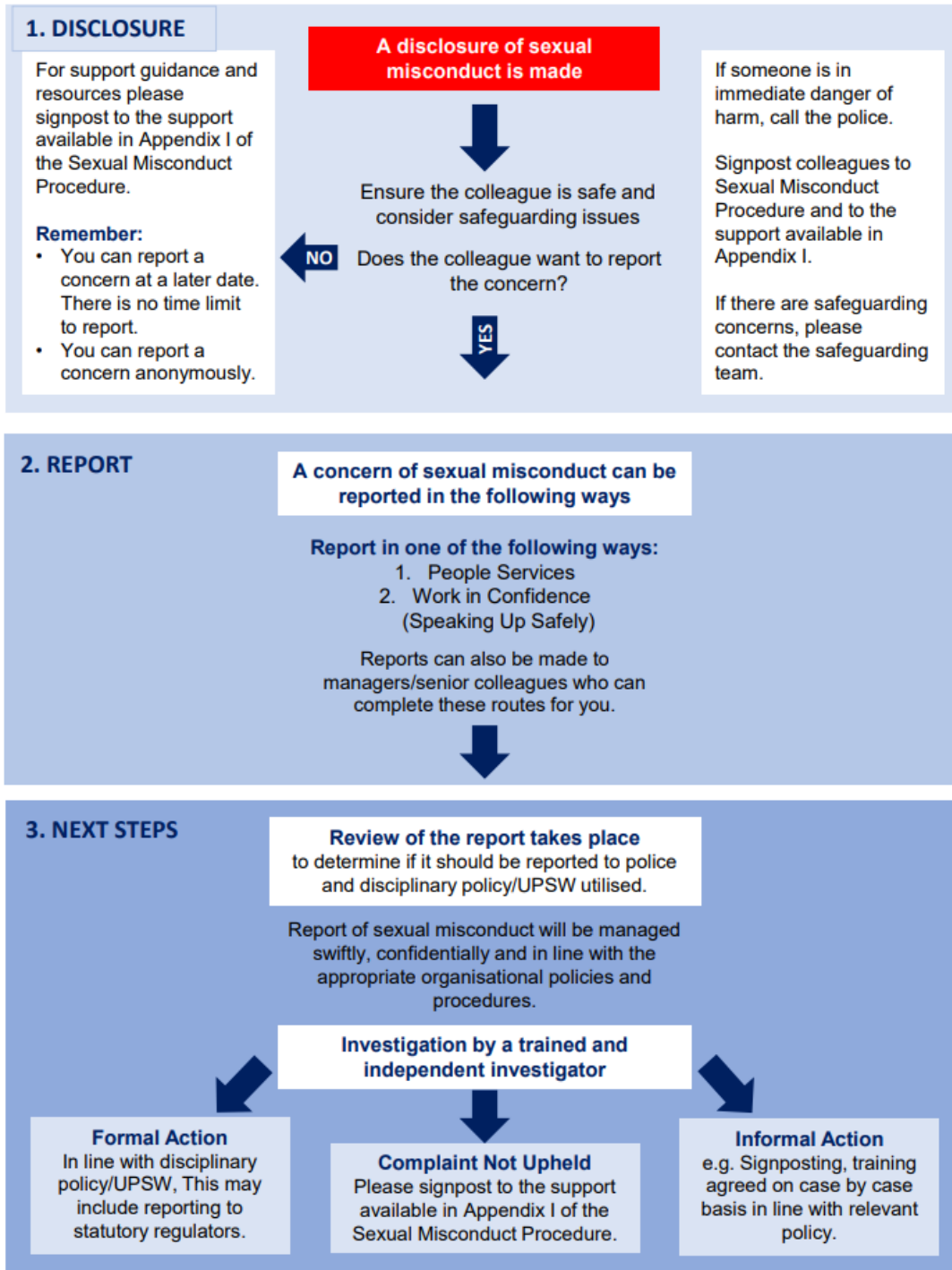
[Getting help for domestic violence and abuse](#) – nhs.uk provides practical advice and help to recognise the signs and where to get help.

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Appendix 2

CARDIFF & VALE UHB SEXUAL MISCONDUCT PROCEDURE

Flowchart for reporting an incident of sexual misconduct



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Appendix 3 - ROLES AND RESPONSIBILITIES

To support cultural development **the Health Board** will take the following actions:

- Ensure the Executive Team regularly reviews data relating to sexual misconduct and that lessons are learnt and changes in practice are made to improve sexual safety in the workplace
- Ensure all colleagues are aware of issues relating to sexual misconduct, the Sexual Misconduct Procedure and how to deal with disclosures appropriately
- Actively work to prevent sexual misconduct in the workplace
- Encourage managers to ask about an individual employee's working relationships and environment within their line manager/employee relationship 1:1 meetings / VBAs
- A member of the Executive Team has responsibility for sexual safety. At the time of publication this is the Chief Operating Officer and Executive Director of People and Culture jointly

To support our commitment to a safe workplace and culture **all employees** should:

- Ensure they understand what sexual harassment is
- Be aware of how their behaviour can affect others and modelling appropriate behaviour
- Challenge inappropriate behaviour, if it can be done safely, and report it
- Promote a culture that fosters openness and transparency and does not tolerate unwanted, harmful and/or inappropriate sexual behaviours, upholding the Health Board's values and behaviours
- Report incidents of sexual misconduct when witnessed, and/or support those who have experienced sexual misconduct in reporting it
- Co-operate fully in any investigation undertaken
- Maintain confidentiality as far as possible unless there is a safeguarding concern that needs to be reported
- Ensure they have completed all appropriate Statutory and Mandatory training modules, including Violence Against Women, Domestic Abuse and Sexual Violence and Treat Me Fairly
- Familiarise themselves with and adhere to the principles set out in this Procedure

In addition to their responsibilities as employees (listed above), **line managers** should:

- Provide appropriate support and/or signpost support to those who disclose sexual misconduct

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- Undertake training to ensure they understand what sexual harassment is and their role in eliminating this in the workplace
- Ensure their employees have completed all appropriate Statutory and Mandatory training modules, including Violence Against Women, Domestic Abuse and Sexual Violence and Treat Me Fairly
- Report any incident to People Services colleagues in line with this Procedure
- Be proactive in putting into place any reasonable adjustments including completion of a risk assessment and any mitigating actions if necessary
- Be available to support the investigation if appropriate
- Be responsible for creating a culture where employees feel safe to work and raise concerns and feel listened to
- Maintain confidentiality as far as possible unless there is a safeguarding concern that needs to be reported
- Provide support to an alleged perpetrator and/or signpost them to support
- Be a role model for promoting equal and professional behaviours in the workplace
- Be aware there may be a need to report an instance of sexual misconduct, bearing in mind confidentiality and the wishes of the victim should it need to be discussed anonymously with the Head of People Services and/or Head of Safeguarding.
- Ensure that a person is not victimised for making or being involved in a complaint of sexual harassment

In addition to their responsibilities as employees (listed above), the **People and Culture team** will:

- Undertake training to ensure they understand what sexual harassment is and their role in eliminating this in the workplace
- Ensure that there are clear processes in place for responding to complaints of sexual harassment or assault and clearly communicate them
- The Head of People Services or a nominated deputy will act as key contact for individuals who raise complaints of sexual harassment
- Provide specialist advice at all stages of a complaint being raised for the victim, complainant, line manager, alleged perpetrator and in the event of a formal investigation, the case manager, the investigating officer and disciplinary panel hearing
- Offer guidance to employees and managers on the interpretation of this Procedure and any accompanying guidance
- Ensure information and training to support the effective implementation of this Procedure are readily accessible
- Monitor and evaluate the effectiveness of this Procedure
- The Head of People Services will work closely with the Head of Safeguarding for Children and Adults and other agencies as appropriate

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- Maintain confidentiality as far as possible unless there is a safeguarding concern that needs to be reported
- Signpost colleagues to the appropriate support

In addition to their responsibilities as employees (listed above), **Trade Unions Representatives** should:

- Undertake training to ensure they understand what sexual harassment is and their role in eliminating this in the workplace
- Signpost to this Procedure, explain the procedures for reporting and the potential routes and outcomes, and assist with the reporting process where appropriate
- Explain the options for support both internally and externally during and after the process
- Provide support to their members through informal and formal processes .
- Work with the Health Board to promote and deliver training and awareness programs that prevent sexual harassment in the workplace.
- Work proactively with management to monitor and address workplace culture issues that may contribute to a hostile environment.
- When representing members who are accused of sexual harassment, Trade Unions are expected neither to condone or defend such actions; nor ignore or refuse outright to hear or assist a member accused of such actions. Representatives must be careful not to presume guilt or innocence, or ignore the obligation to advise the member and ensure a fair hearing.

In addition to their responsibilities as employees and managers (listed above), **individuals in a leadership position** (often noted as 'position of power') should:

- Undertake training to ensure they understand what sexual harassment is and their role in eliminating this in the workplace
- Be aware of the potential power imbalance that can increase the vulnerability of some employees
- Never take advantage of their position to leverage staff for sexual favours
- Ensure no colleague is subjected to inappropriate behaviours including jokes and banter
- Be aware of the vulnerabilities of women and minority groups who may be at greater risk of sexual harassment. This includes individuals with protected characteristics such as but not limited to gender, race, sexuality, trans status, religion and disability which may increase the risk of experiencing sexual harassment

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- Identify potential risk factors and take prompt, reasonable action to minimise those risks

In addition to their responsibilities as employees, managers and people in positions of leadership (listed above), **Executive Team members** will:

- conduct regular reviews of internal data and ensure appropriate actions are taken in areas of concern
- influence organisational culture and set organisational priorities relating to sexual safety
- support the development of the leadership community to support the operation of this Procedure

Safeguarding team

The Head of Safeguarding for Children and Adults provides strategic leadership and operational advice and support within the UHB. The team have a key role in supporting the organisation in implementing, embedding and monitoring legislation and guidance related to safeguarding.

The Head of Safeguarding for Children and Adults must be made aware of all allegations of sexual harassment by an employee and, if appropriate, a decision will be made in line with the Safeguarding Allegation/Concerns About Practitioners and Those in Positions of Trust Procedure about what steps will be taken.

If appropriate, the Head of Safeguarding for Children and Adults will act as the primary link with partner agencies including Local Authorities and the police.

In all cases where a child under 18 discloses a sexual assault, or staff hear about a sexual assault of someone under 18, a safeguarding referral must be made.