



POLICY FOR DEALING WITH ALLEGATIONS OF SEXUAL ABUSE, SEXUAL ASSAULT AND RAPE (INCLUDING HISTORICAL ALLEGATIONS).

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1. INTRODUCTION

Swansea Bay University Health Board (SBU Health Board or Health Board within this document) recognises every staff member has a duty to safeguard and promote the welfare of children, young people and adults at risk.

This document will ensure that **ALL** staff are clear about their statutory duties and about what action they must take when an allegation of Sexual Abuse, Sexual Assault or Rape is made.

All allegations of Sexual Abuse, Sexual Assault or Rape must be taken seriously and actioned in a timely manner.

2. POLICY STATEMENT

This policy sets out the operational requirements for ensuring that staff within the Health Board understand their responsibility in relation to safeguarding when an allegation of Sexual Abuse, Sexual Assault and Rape is made. This policy also includes any historical allegations of Sexual Abuse, Sexual Assault and Rape.

3. SCOPE

This Policy applies to **ALL** staff employed by or working within the Health Board, regardless of whether or not their employment brings them into direct contact with adults or children at risk. The principles set out in this Policy will also apply to other individuals and groups, including bank staff and agency workers, students, contractors, honorary contract holders, volunteers and trainees.

In every incident of alleged Sexual Abuse, Sexual Assault or Rape of a Child or Adult at Risk staff must comply with the Wales Safeguarding Procedures, 2019.

The Wales Safeguarding Procedures can be downloaded digitally via any device. A desktop version is available via www.safeguarding.wales.

4. AIM

The aim of this Policy is to ensure that all staff who work within the Health Board understand and are aware of their responsibilities in relation to any allegation of Sexual Abuse, Sexual Assault or Rape of an Adult or Child.

The Health Board has a duty to comply with legislative policy and this document should be read in conjunction with:

- Social Services & Well-being (Wales) Act 2014
- Wales Safeguarding Procedures 2019
- Children Act 1989 and 2004
- Policy for the Management of Allegations of Abuse of Children or Adults by Practitioners and Those in Positions of Trust (Professional Abuse/Concerns Policy) 2020
- Domestic Violence and Abuse Policy, Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 (2022)
- Social Services and Well-being (Wales) Act 2014, Working Together to Safeguard People: Volume 5 – Handling Individual Cases to Protect Children at Risk

- Social Services and Well-being (Wales) Act 2014 Working Together to Safeguard People: Volume 6 – Handling Individual Cases to protect Adults at Risk

5. OBJECTIVES

The aim of the policy is achieved by:

- Ensuring the response to allegations of Sexual Abuse, Sexual Assault or Rape is consistent across the Health Board.
- Ensuring that **ALL** allegations are taken seriously and responded to in line with the Wales Safeguarding Procedures, 2019.

6. DEFINITIONS

Sexual Abuse - A child is defined as any person under the age of 18. Child sexual abuse involves forcing or inciting a child to take part in sexual activity, whether or not the child is aware of what is happening and not necessarily involving a high level of violence.

This may involve physical contact including rape or oral sex, or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or exploiting or grooming a child in preparation for abuse (including via the internet) or prostitution. Child sexual abuse can be committed by both men and women, or other children (Crown Prosecution Service, 2022).

Sexual Assault - The overall definition of sexual or indecent assault is an act of physical, psychological and emotional violation in the form of a sexual act, inflicted on someone without their consent. It can involve forcing or manipulating someone to witness or participate in any sexual acts (Metropolitan Police, 2022).

Rape - The Sexual Offences Act 2003 defines rape in its first section, which reads: “(1) A person (A) commits an offence if— (a) he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis, (b) B does not consent to the penetration.”

Legally, a person without a penis cannot commit rape, but a female may be guilty of rape if they assist a male perpetrator in an attack (Crown Prosecution Service, 2022).

Assault by penetration is where a person intentionally penetrates the vagina or anus of another person with any part of their body or an object without that person’s consent. The penetration has to be sexual (Sexual Offences Act, 2003).

Children aged 13yrs CANNOT legally give consent. Any sexual activity with a child under 13 should always result in a Child Protection report in compliance with the Wales Safeguarding Procedures (2019).

**Violence against Women, Domestic Abuse and Sexual Violence (VAWDASV)-
The Violence against Women Domestic Abuse and Sexual Violence (Wales) Act 2015**
definitions are:

Gender Based Violence–

- a) Violence, threats of violence or harassment arising directly or indirectly from values, beliefs or customs relating to gender or sexual orientation;
- b) Female genital mutilation (FGM);
- c) Forcing a person (whether by physical force or coercion by threats or other psychological means) to enter into a religious or civil ceremony of marriage (whether or not legally binding);

Domestic Abuse is abuse where the victim of it is or has been associated with the abuser. Sexual Violence includes sexual exploitation, sexual harassment, or threats of violence of a sexual nature.

The Health Board Domestic Violence and Abuse Policy, Violence against Women, **Domestic Abuse and Sexual Violence (Wales) Act 2015** (2022) aims to support victims of violence against women, domestic abuse and sexual violence. The Policy is designed to promote the safety of victims of domestic and sexual violence who are receiving services provided by the Health Board and explains the processes and procedures that staff will use to identify and respond to Violence against Women, Domestic Abuse and Sexual Violence.

The Domestic Abuse Policy is available on the Health Board Safeguarding & Public Protection intranet pages. [Safeguarding Adults and Children \(sharepoint.com\)](#)

7. ALLEGATIONS OF A HISTORICAL NATURE

Allegations of Sexual Abuse are sometimes made by adults and children many years after the abuse has occurred. There can be many reasons for this, including control, fear of reprisals, shame and fear of not being believed. An abuser being investigated for similar crimes may trigger a person to come forward and disclose similar allegations. In addition, it may be that a person is aware of the abuser continuing to have contact with children and young people.

7.1 As soon as it is apparent that an individual is disclosing details of alleged childhood Sexual Abuse, the member of staff must record in the health care record what is said by the person and the responses made by that staff member.

7.2 Staff should not assume that the abuse has previously been disclosed and investigated, or discount the possibility of a child currently being at risk.

The nature of any previous investigations and criminal proceedings should be discussed with the individual making the disclosure.

7.3 If possible, the alleged perpetrator's recent or current whereabouts should be determined and whether they have any contact with children. This will include gathering information such as the alleged perpetrator's full name, address, date of

birth, place of work, responsibility for children and whether the abuse had previously been investigated. Individuals must also be made aware that insufficient disclosure of information may result in no action being taken against the perpetrator which could leave children at risk of harm.

- 7.4 The possibility that any child(ren) are currently at risk should be discussed with the individual. The results of all the discussions must be recorded, dated and signed in accordance with **SBU Record Keeping and Documenting Guidance**.

The Corporate Safeguarding Team should be contacted in all cases of disclosure of historical sexual abuse.

- 7.5 It is not appropriate for staff to 'investigate' the allegations or ask probing questions as this is the role of the police and other statutory agencies.

- 7.6 The individual making the disclosure should be asked whether they want to make a complaint that may lead to a police investigation and to a criminal prosecution. If the individual does not wish to make a formal complaint to the police for investigation and possible prosecution, they must be informed that the information will still be shared with Local Authority Children's Services to establish if there is any knowledge regarding the alleged perpetrator's current contact with children.

Local Authority Children's Services should be informed about allegations at the earliest opportunity, due to the possibility of other children being at risk of abuse.

An Integrated Reporting form must be completed electronically and sent to the relevant Local Authority. This reporting form should also be sent electronically to SBU.safeguarding@wales.nhs.uk

8. THE DUTY TO REPORT

- 8.1 All allegations must be discussed with the Corporate Safeguarding Team and reported to the Nurse in Charge or Line manager.
- 8.2 In the case of an allegation of Rape, Police should immediately be informed unless the individual making the allegations does not want to make a formal complaint in this case see (8.3). It is essential that any potential evidence is preserved for the purposes of a criminal investigation and possible court case. If an incident is reported as Rape then a lesser offence could be overlooked therefore it is essential that all available information is provided.
- 8.3 If the individual **DOES NOT** wish to make a formal complaint to the Police for investigation and possible prosecution, they must be informed that the information will still be shared with Local Authority Children's Services to establish if there is any knowledge regarding the alleged perpetrator's current contact with children.
- 8.4 The alleged victim may wish to report the incident themselves to the police and in this case should be supported throughout the process. In the case of an alleged incident that results in a criminal court case it is important for staff to be made aware that they could be called to court as a witness in the case.

- 8.5** All incidents must be recorded in the patient's records ensuring that time, date and signature is recorded and any injuries and actions recorded. All records must be stored as per Health Board Policy.
- 8.6** From April 2016 the **Social Services & Well-being (Wales) Act 2014** introduced the statutory duty for all who work for the Health Board to report to the Local Authority any concerns that a Child or an Adult is at Risk. All employees must take positive and decisive action when witnessing incidents, experiencing concerns or receiving information alleging sexual abuse, assault or rape of an adult or child. Employees can obtain advice and support about concerns they may have from their line manager or the Corporate Safeguarding Team.
- 8.7** It is not the duty of Health Board staff to investigate any allegations of sexual abuse, assault or rape this is the responsibility of Police and Local Authority. The Crown Prosecution Service has ultimate responsibility for deciding whether to proceed with a prosecution on the basis of the evidence available.

9. ALLEGATIONS MADE BY CHILDREN AND YOUNG PEOPLE

Section 3 of the Social Services and Well-being (Wales) Act 2014 states that a child is a person who is aged under 18yrs.

In every incident of alleged Sexual Abuse, Assault or Rape of a child ALL staff must comply with the Wales Safeguarding Procedures, 2019 (details found on SBU Health Board Safeguarding intranet page).

<http://howis.wales.nhs.uk/sites3/page.cfm?orgid=743&pid=29445>

10. ALLEGATIONS MADE AGAINST A STAFF MEMBER OR BY A STAFF MEMBER

If an allegation is made against a member of Health Board staff, in or out of work, staff are instructed:

- **DO NOT** dismiss the concerns
- **DO** escalate the concerns immediately
- Please discuss the concerns with the Health Board Corporate Safeguarding Team or if not available a senior member of the Workforce and OD Team.

The Health Board will act in accordance with the **'Policy for the Management of Allegations of Abuse of Children or Adults by Practitioners and those in Positions of Trust (Professional Abuse/Concerns Policy)'**.

If an allegation is made by a member of staff against another member of staff then the same applies.

11. EVIDENCE RELATING TO A SUSPECTED OFFENCE

It is important to note that if any alleged offence that has been reported to the Police and has been alleged to have taken place on HB premises the need to swiftly secure any potential evidence is paramount; e.g. where there has been physical contact the complainant should be asked not to wash until examined. If the alleged perpetrator is a patient then he/she must be advised not to wash until Police arrive on site to advise further. The 'scene' of the alleged incident must also be protected until Police arrive.

12. POLICE INVESTIGATION

A member of staff may be asked to sit in on the initial Police interview with a patient complainant. In this case the role of staff is to support the patient through the initial Police interview process. It may be necessary to appoint a chaperone to ensure that the patient's privacy and dignity is maintained at all times throughout any physical examinations.

13. PATIENTS WHO LACK CAPACITY

All patients have the right to the provision of a safe and secure environment whilst they are cared for by the Health Board. Staff should be alert to all situations where patients may be exposed to risk and care plans should demonstrate this by way of robust risk management plans for the duration of their stay in Hospital/Community setting managed by the Health Board.

When a patient is deemed to lack the mental capacity to give consent to reporting an incident to the Police, the decision to report should be done in their 'best interests'. It may be necessary to consider the appointment of an advocate in order to ensure that the patient's views are heard and their rights upheld. Practitioners should always respect the adult's personal wishes and autonomy, however in some circumstances these wishes may be over-ridden including:

- If there is a high risk to the health and/or the safety of the individual;
- A crime is suspected or may have been committed against the adult;
- If there is a concern about an allegation against an employee or volunteer within the organisation.

ALL allegations must be treated seriously and all allegations must be reported to the Corporate Safeguarding Team and the Police (see section 7,8,9 and 10) in line with '**Wales Safeguarding Procedures, 2019**'.

All allegations will need to be incident reported via the Health Board's DATIX system and an Adult/Child at Risk report/referral submitted to the relevant Local Authority.

14. RESOURCES

In England and Wales – The Sexual Assault Referral Centres (SARCs) offer specialist medical and forensic services for anyone who has been raped or sexually assaulted. They are designed to be comfortable and multi-functional, providing private space for interviews and forensic examinations, and some may also offer sexual health and counselling services. To find your nearest Sexual Assault Referral Centre (SARC) in Mid, West and South Wales, visit www.newpathways.org.uk/contact-us.

Out Of Hours Access Arrangements: SARCs are available 24/7. If you decide to go to the police, they will contact us to organise for you to come to our SARC. However, if you do not want to go to the police, you can refer yourself to our SARC. During office hours, 9.00am to 5.00pm, Monday to Thursday, and 9.00am to 4.30pm on Fridays, you call 01685 379310, or call one of our local offices.

Out of hours, you can call out of hours support on 07423 437020.

New Pathways Rape Crisis & Sexual Abuse Support Services – Swansea

New Pathways offers a range of counselling, advocacy and support services for children and adults who have been sexually abused/assaulted. Victims of human trafficking can refer to this service. Anyone can refer to them, regardless of how long ago an assault happened, or whether you choose to report to the Police.

Beech Tree Centre, Unit 3

Langdon Road

Swansea Waterfront

Swansea

SA1 8QY

Tel: 01792 966660

Disabled Access: Yes

Email: enquires@newpathways.org.uk

Website: www.newpathways.org.uk

- Rape Crisis (for women) – www.rapecrisis.org.uk
- Victim Support - information for women and men – www.victimsupport.org.uk
- If you are a member of the LGBT+ community and have experienced an sexual assault, abuse or violence, **Galop** runs a specialist helpline:-
Tel: 0800 999 5428 Email: help@galop.org.uk. **Website:** www.galop.co.uk

15. REFERENCES

- Social Services and Well-Being (Wales) Act 2014
- Wales Safeguarding Procedures 2019
- Children’s Act 2004
- Policy for the Management of Allegations of Abuse of Children or Adults in Positions of Trust (Professional Abuse/ Concerns Policy) 2020.
- Crown Prosecution Service (2022)
- Metropolitan Police (2022)

Swansea Bay University Health Board

Authorisation Form for Publication onto COIN

PLEASE ENSURE THAT ALL QUESTIONS ARE ANSWERED – IF NOT APPLICABLE PLEASE PUT N/A

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