Managing concerns or allegations of peer-on-peer abuse

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Introduction

The national and increasing concern over the nature and prevalence of peer-on-peer abuse led to the Government introducing its Advice on *Sexual Violence and Sexual Harassment in Schools and Colleges* in December 2017 (since updated in May 2018). It also led to Farrer & Co devising a peer-on-peer abuse toolkit (**toolkit**) in collaboration with Dr Carlene Firmin – a link to which has been included in the Government's Advice.

Reports and articles in the press published since have reinforced the concern, and how essential it is to respond to alleged incidents of peer-on-peer abuse appropriately, for example:

- a national survey of Headteachers and Safeguarding Leads across more than 300 schools in England and Scotland highlights the issues faced in addressing the problems caused by peer-on-peer abuse. The results show that online peer-on-peer abuse is a growing problem in schools; with 83% of respondents saying incidents have increased over the last 3 years;[1]

- a secondary school has reportedly paid tens of thousands of pounds in damages plus £30,000 legal fees over its handling of an allegation of rape made by one of its former pupils against her then classmate, after the girl was expected to carry on attending lessons with the boy she had accused;[2] and

- a Local Authority has reportedly awarded a five-figure compensation settlement to a family for failing to protect their six year old daughter who was sexually assaulted by fellow pupils while at her primary school. The ruling is understood to be the first time that the high court has approved a settlement relating to sexual assault involving primary school children.[3]

In light of changes made to the relevant legislation since the toolkit was published in December 2017, and driven by the need to ensure that schools (and other organisations) adopt a best practice approach to peer-on-peer abuse, Farrer & Co have collaborated with Dr Firmin, and a number of other experts in the field, to produce a revised version of the toolkit, published today.

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[1] Phippen, A., Bond, E., Tyrelll, K., Online Peer on Peer Abuse: *A national survey of Headteachers and Safeguarding Leads in England and Scotland*, 2018, https://www.mariecollinsfoundation.org.uk/assets/news_entry_featured_image/MCF-Peer-on-peer-Abuse-Research-Report-sunday-final-version.pdf

[2] The Guardian, *School pays thousands to former pupil over handling of rape claim,* 24 October 2018, https://www.theguardian.com/society/2018/oct/24/school-pays-thousands-to-former-pupil-over-handing-of-claim

[3] The Guardian, *Parents of girl, six, who was sexually abused by fellow pupils given payout,* 21 November 2018, https://www.theguardian.com/uk-news/2018/nov/21/parents-of-schoolchild-sexually-abused-by-fellow-pupils-given-payout

This article highlights several important proactive and preventative steps that schools should take to minimise the risk of peer-on-peer abuse, discusses the appropriate action that should be taken in terms of responding to and managing concerns or allegations, and ends on the importance of learning lessons.

What is peer-on-peer abuse?

Essentially, it is any form of physical, sexual, emotional and financial abuse, and coercive control exercised between children, and within children's relationships (both intimate and non-intimate), friendships and wider peer associations. Peer-on-peer abuse can take several forms in an offline and/or online context.

Proactive/preventative approach

Introduce a peer-on-peer abuse policy

Given the national and increasing concern over the nature and prevalence of peer-on-peer abuse, the starting position must be that any school that does not have a peer-on-peer abuse policy in place is, frankly, failing to address the issue.

Schools should adopt a zero-tolerance policy towards all forms of peer-on-peer abuse, and ensure that no form of any such abuse (no matter how 'low level' it may appear) is ever dismissed as a joke or banter.

The introduction of a peer-on-peer abuse policy by schools ought to be regarded as a preventative measure – to ensure that their students are safe, and in recognition of the fact that it is not acceptable to merely take a reactive approach to peer-on-peer abuse in response to alleged incidents of it.

The toolkit includes a template policy which contains a number of key areas that should be addressed when designing, introducing and implementing a peer-on-peer abuse policy. The template policy encapsulates a Contextual Safeguarding approach (defined in the toolkit) – which, in a nutshell, is an approach which takes into account the risk that children can be exposed to, and/or abuse they can experience, in extra-familial contexts.

It is vital that schools tailor their peer-on-peer abuse policy to their particular safeguarding context, the needs of their students, and the specific risks to which they are or may be exposed – both in and outside of the school community – including online.

A comprehensive consultation should be conducted on the policy, and input sought from key members of staff, as well as students and parents – for example, through a steering group. A number of questions should also be identified for consideration at the start of the policy's design - examples of which are contained in the toolkit.

Understand your specific safeguarding context

As well as conducting a comprehensive consultation, schools should also:

(1) conduct a proactive risk assessment to determine the risks to which their students are or may be exposed, and to assess and monitor those risks. The risk assessment should consider, amongst other things, the nature and level of risk of the different variants of peer-on-peer abuse within the school's environment, as well as the makeup of their student body – including specific characteristics that might affect their vulnerability to peer-on-peer abuse; and

(2) put in place action plans to address any identified risks, and keep these under regular review.

The outcome of the risk assessment should inform the school's peer-on-peer abuse policy, and feed into and inform the governors' oversight of safeguarding, and any safeguarding risk register(s) that they may choose to put in place.

We should emphasise that this **proactive** risk assessment of the general risks facing the student body is distinct from any **responsive** risk assessment(s) that may be required following a concern or allegation of peer-on-peer abuse – as discussed below.

Engage with external agencies

The response of local authorities and other external agencies to peer-on-peer abuse, and their engagement with it, can vary depending on the geographical area. It is important for schools to know what is expected on their part in advance of a potential future concern/allegation of peer-on-peer abuse. Schools should consult their Local Safeguarding Partnership's Safeguarding Policy and Procedures, and any relevant Practice Guidance issued by it, and ask for confirmation, at the outset of designing their peer-on-peer abuse policy, of what their Local Safeguarding Partnership's thresholds and responses are to peer-on-peer abuse – including whether they are able to provide advice to schools on a no-names basis in borderline cases, and ensure that their policy is aligned with that.

Schools should also actively engage with their local partners in relation to peer-on-peer abuse. The relationships that schools build with their local partners are essential to enabling them to prevent, identify early, and appropriately handle cases of peer-on-peer abuse. Peer-on-peer abuse can be a complex issue, and even more so where wider safeguarding concerns exist. It is often not for one single agency (where an alleged incident of peer-on-peer abuse cannot appropriately be managed internally by schools themselves) to try to address the issue alone – it requires effective partnership working.

Ensure ongoing proactive work and training

A peer-on-peer abuse policy should be viewed as a constant work in progress, and should be regularly reviewed to ensure that it continually identifies and addresses the level and nature of risk to which students are or may be exposed.

Attitudes that can underpin abuse behaviour should be challenged. You may think that your school would not tolerate inappropriate behaviour. The toolkit encourages you to test any such assumption, and it includes steps that schools can take to build and maintain a positive environment. Fundamental to this, is schools ensuring that they actively promote equality of gender and other characteristics, positive values and healthy relationships.

Ongoing, systematic education and training which is embedded throughout schools is also key, as is parental engagement. The toolkit contains guidance on this, and an Appendix of recommended resources.

Responding to and management of concerns or allegations

It is essential that all concerns and allegations of peer-on-peer abuse are handled sensitively, appropriately and promptly. The way in which they are responded to can have a significant impact on a school's environment.

The toolkit contains a list of factors that schools should consider, and steps they should take, when they are faced with a concern or allegation.

One point to emphasise here is that schools ought to take a safeguarding approach to all of their students who are involved in concerns about and/or allegations of peer-on-peer abuse – including those who have allegedly experienced abuse, and those who have allegedly been responsible for it, in addition to any sanctioning work that may be required

for the latter. Research has shown that many children who present with harmful behaviour towards others, in the context of peer-on-peer abuse, are themselves vulnerable and may have been victimised by peers, parents, or adults in the community prior to their abuse of, for example, peers. Examples of support and intervention services can be found in the toolkit.

Understanding the behaviour

All behaviour takes place on a spectrum. Understanding where a child's behaviour falls on that spectrum is essential to being able to respond appropriately to it.

Professor Simon Hackett has proposed a continuum model (contained within the toolkit) to demonstrate the range of **sexual** behaviours presented by children, from those that are normal, to inappropriate, to problematic, to abusive, to violent. This may be helpful when seeking to understand a student's sexual behaviour and how to respond to it.

The Brook Sexual Behaviours Traffic Light Tool can help professionals working with children to distinguish between three levels of **sexual** behaviour – green, amber and red, and to respond according to the level of concern.

As explained in the toolkit, when dealing with **other types of alleged behaviour** – e.g. emotional and/or physical abuse, schools can draw on aspects of Hackett's continuum to assess where the behaviour falls on a spectrum.

Work on a digital behaviour continuum is still underway – once it is completed details will be included in the toolkit.

Response to concerns/allegations – potential courses of action

Where a child is suffering or is likely to suffer from harm, an immediate referral must be made to children's social care (**CSC**) and, if appropriate, to the police.

Otherwise, a DSL should always use their professional judgement to (a) assess the nature and seriousness of the alleged behaviour, and (b) determine whether it is appropriate for the alleged behaviour to be dealt with internally and, if so, whether any external specialist support is required. In borderline cases, a DSL may wish to consult with CSC on a no-names basis (where possible) to determine the most appropriate response.

Where a DSL considers or suspects that the alleged behaviour in question might be abusive or violent on a spectrum, or where the needs and circumstances of the individual child/children in question might otherwise require it, they should contact CSC and/or the police immediately and, in any event, within 24 hours of becoming aware of the alleged behaviour. A DSL should discuss the concern(s) or allegation(s) with the agency and agree on a course of action – which may include:

➢ managing the concern/allegation internally with help from external specialists where appropriate and possible

➢ undertaking/contributing to an inter-agency early help assessment, with targeted early help services provided to address the assessed needs of a child/children and their family

➢ referring the child/children to CSC for a Section 17/Section 47 statutory assessment

➢ reporting alleged criminal behaviour to the police. However, there are some circumstances where it may not be appropriate to report such behaviour to the police – for example, where the exchange of youth involved sexual imagery does

not involve any aggravating factors. All concerns/allegations should be assessed on a case by case basis, and in light of the wider context

Safety plans

Various terms are used to describe the processes undertaken by schools in relation to the management of peer-on-peer abuse, and the associated documentation used. These include, for example, an 'individual risk assessment', or a 'risk and needs assessment', or a 'support plan' etc. A safety plan is proposed in the toolkit in order to provide schools with a comprehensive framework that they can draw on when identifying, assessing and mitigating risks, and considering how to support their students and other members of the school community in the context of peer-on-peer abuse.

Any safety plan that is put in place should be as clear and user friendly as possible.

The toolkit contains guidance on the factors that need to be considered in deciding whether a safety plan is appropriate, which students require a safety plan, and what it should contain and how it should be developed - to ensure that it is appropriately tailored to meet a student's needs, and to enable the school to work with others in an effort to meet those needs in the longer-term.

The school should share its safety plan(s) with CSC and the police where they are involved. The safety plan(s) should be consistent with any risk assessments or safety plans made by CSC, the police, or any other professionals working with the student(s).

Where it is decided that a safety plan is appropriate but a relevant agency is not, for whatever reason engaging, then the school should advise the agency that it intends to develop a safety plan for the student(s) concerned. The school should also consider escalating its referral if it believes that CSC and/or the police should be engaged.

Communication and information sharing

When responding to a concern or allegation of peer-on-peer abuse, schools should consider carefully, in consultation with CSC, the police and other relevant agencies (where they are involved), how to share information about the concern or allegation with the student(s) affected, their parents, staff, and other students and individuals – and in accordance with the HM Government advice on *Information Sharing* (updated in July 2018).

These factors include (but are not limited to) ensuring as far as possible that the information sharing (a) does not prejudice any investigation(s); (b) keeps individuals' personal sensitive data confidential unless it is not appropriate to do so (for example, where a school needs to share information in order to enable individuals to safeguard and support a child); (c) shares information about a child with that child's parents unless there are legitimate reasons not to do so; and (d) keeps individuals updated on developments where possible and appropriate.

Data protection and record keeping

Data protection practices relating to peer-on-peer abuse should be in line with the school's data protection policies and notices. By the same token, the school's policies and notices need to reflect and allow sufficiently for safeguarding practices.

Working Together to Safeguard Children 2018 sets out to correct common myths about the laws of privacy, data protection and confidentiality - fears that can hamper effective keeping and sharing of records. The bottom line is that, if there are legitimate safeguarding concerns about a child, then data protection law will allow schools and professionals to

record, share and retain even the most sensitive personal data as necessary to support their policies (even when it is not feasible to obtain consent).

What is important is that the records that schools do keep relating to concerns or allegations of peer-on-peer abuse are accurate, clearly describe the nature of the alleged behaviour without using euphemisms, and contain adequate information for the purpose. These records are likely to contain highly impactful, sensitive personal data about children. Schools should take care when creating them and ensure that they are accessed on a need-to-know basis only by trained and appropriate staff. Those with the responsibility for doing so must bear in mind that any records may need to be provided to the children involved and/or their parents in the future.

All notes and related communications should always be concise, factual and objective, and focused on what is necessary for the safeguarding purpose. The language used should always be appropriate and professional.

Disciplinary action

Schools may wish to consider whether disciplinary action may be appropriate for any child/children involved. However, if there are police proceedings underway, or there could be, it is critical that schools work in partnership with the police and/or CSC.

Where a matter is not of interest to the police and/or CSC, schools may still need to consider what is the most appropriate action to take to ensure positive behaviour management – examples of which are contained in the toolkit. However, these considerations should be balanced against any police investigations, the child's/children's own potential unmet needs, and any action or intervention planned regarding safeguarding concerns. Before deciding on appropriate action, schools should always consider their duty to safeguard all children in their care from harm; the underlying reasons for a child's behaviour; any unmet needs, or harm or abuse suffered by the child; the risk that the child may pose to other children; and the severity of the peer-on-peer abuse and causes of it.

Learning lessons

The response by schools to concerns or allegations of peer-on-peer abuse should also be part of their ongoing proactive work to embed best practice, and in taking a whole-school community Contextual Safeguarding approach (defined in the toolkit) to such abuse. As such, the response by schools can become part of their wider prevention work.

This response may involve schools working with their local authority to undertake, for example, a Contextual Safeguarding school assessment which would fit into a systems approach to Contextual Safeguarding. It could also include schools asking themselves a series of questions about the context in which an incident of peer-on-peer abuse occurred, the local community in which the school is based, and the wider physical and online environment – examples of which are contained in the toolkit.

Answers to these questions can then be developed into an action plan that is reviewed on a regular basis by the school's leadership and DSL.

Conclusion

It is of paramount importance that we all continue to keep the issue of peer-on-peer abuse high on the safeguarding agenda, taking a proactive and preventative approach to it. It is also essential to ensure that all alleged incidents of peer-on-peer abuse are handled sensitively, appropriately and promptly. Upskilling staff, pupils and parents is the critical way forward.