The **professional** *association and trade union for hospital doctors, wherever you are in your career*

HCSA
The hospital doctors' union

Sexual Safety in the Workplace

Anna Beattie

Consultant Radiologist, Vice Chair Senior Staff Committee, Vice President Elect HCSA

ACKNOWLEDGEMENTS

HCSA – the hospital doctors' union:

- Support, learning and advice
- Join using the QR code

Isslia Roberts – HCSA National Officer

Sensitive content warning

- This webinar is intended to be educational and to raise awareness however, it is important we consider how sensitive topics of this nature may impact others. Sexual harassment may be a difficult and sensitive topic for some
- Our webinar may contain information and/or invite discussion that some members may find traumatic and distressing

Content and Objectives

1. Definition, legal information and context for health professionals. *Dr Anna Beattie*
2. Impact of sexual safety concerns in the workplace. *Dr Priyanka Singhal*

Q&A/DISCUSSION

3. Principles of allyship in promoting sexual safety. *Dr Anna Beattie*
   - Practical bystander intervention

Overview

WHAT: Legal
- Sexual Harassment
- Sexual Offences

HOW: Employment
- Practical consideration
- Individual/collectively

WHY: Importance

What is Sexual Harassment?

What the law says

A engages in unwanted conduct of a sexual nature, and

(b) the conduct has the purpose or effect of —

(i) violating **B**'s dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for **B**.

Section 26 of the Equality Act 2010

Different Types of Sexual Harassment

The Equality Act 2010 defines two types of sexual harassment:

1. **Unwanted conduct of a sexual nature**
2. **Harassment because of your rejection or submission to the conduct**

Being treated "less favourably" because of your reaction to the harassment, irrespective of accepting or rejecting

Example: *Your manager repeatedly asks you out for a drink, you decline and a few weeks later you are subjected to a performance review without good cause. If the reason you have been subjected to a performance review is because of your reaction to unwelcome advances and your rejection of the invitation for "drinks", then it's another incident of harassment.*

Unwanted Conduct of a Sexual Nature

Legislation in practice:

- Verbal or non-verbal conduct

- Personal questions or comments eg about your sexual history
- Unwelcome sexual advances
- Jokes or “banter”
- Displaying/showing pornographic images or sending materials of a sexual nature
- Unwelcome gifts

- Physical conduct and unwelcome touching (sexual assault)

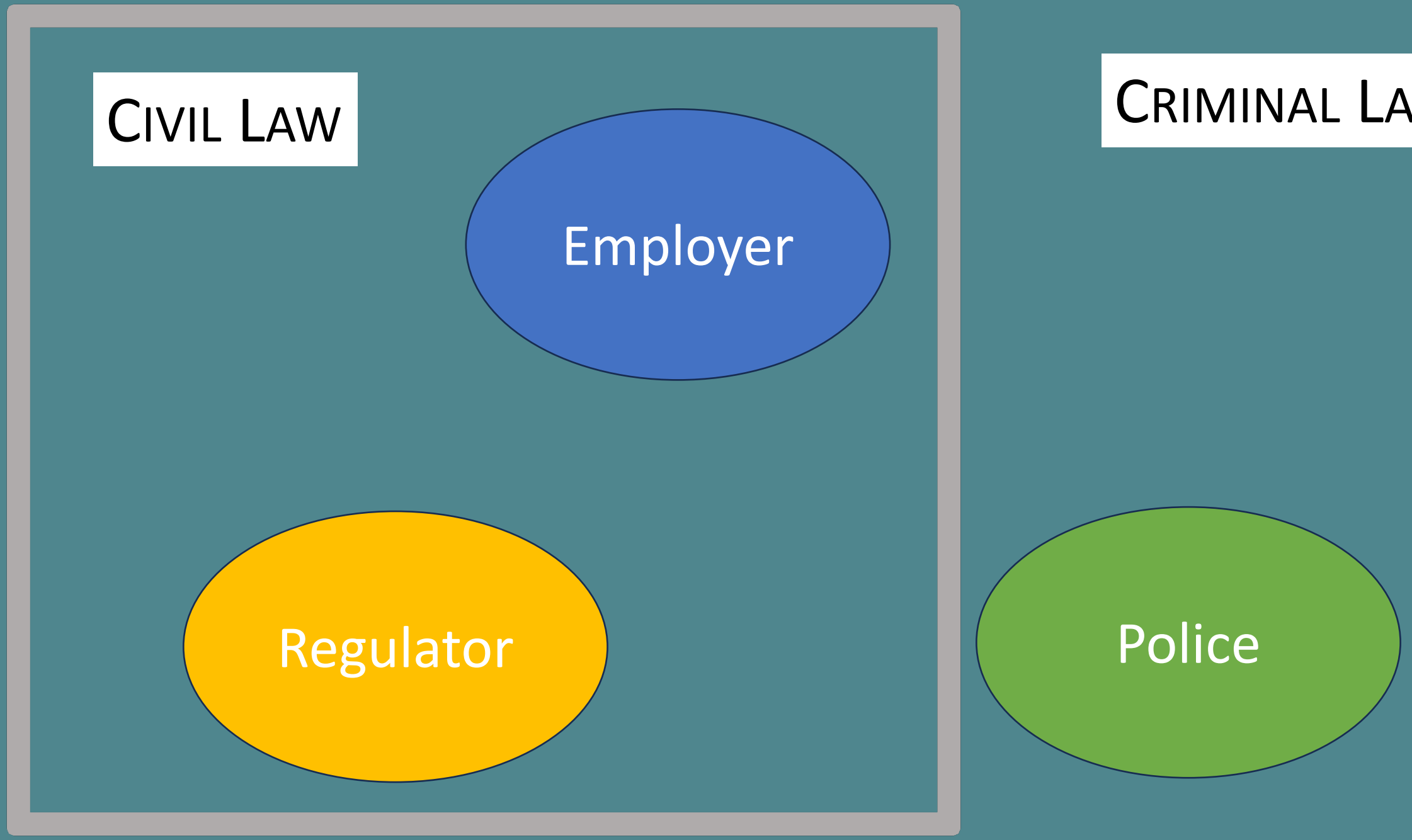
Sexual harassment can be a one-off incident or a repeated pattern of behaviour

Criminal Law

Sexual offences

There are a range of crimes that can be considered as sexual offences, including non-consensual crimes such as rape or sexual assault, crimes against children including child sexual abuse or grooming, and crimes that exploit others for a sexual purpose, whether in person or online.

- Standard of proof
  - Beyond Reasonable Doubt v Balance of Probability
- Police/CPS may be involved – power to investigate
- Safeguarding


Civil Law
Employer
Regulator
Criminal Law
Police

Sexual Harassment

- #MeToo 2017. Empowers more people (women) to report their experiences.
- Equality and Human Rights Commission **2018**. 'Turning the Tables: Ending sexual harassment at work'. Lack of consistent effective action by too many employers.
- Medscape's **2019** Sexual Harassment of UK Doctors Report.
  - **3%** experienced, **4%** witnessed in past 3 years.
  - Most common forms: infringement on body space and unwanted physical contact.
  - **71%** of cases the perpetrator was male.
- Unison **2019** It's Never OK
  - 8% in past year: 31% frequent, 12% daily or weekly
  - 55% isolated themselves, 35% adverse effect on mental health and 40% considered leaving

Health Care reports, regulations and law

- **August 2021:** Sexual Assault in Surgery: A Painful Truth
- **September 2023**: RCS Breaking the Silence Report
- **2023**: Surviving Healthcare. Surviving in Scrubs
- **September 2023**: Sexual Safety In Healthcare Charter NHSE
- **January 2024**: GMC New Professional Standards
- **October 2024**: preventative duty under the Worker Protection (Amendment of Equality Act 2010)
- **October 2024**: HSSIB. Sexual Safety. The implications for Patient Safety
- **September 2025**: RCS Protecting or Enabling

NHSE - 2023

As signatories to this charter, we commit to a zero-tolerance approach to any unwanted, inappropriate and/or harmful sexual behaviours towards our workforce. We commit to the following principles and actions to achieve this:

1. We will actively work to eradicate sexual harassment and abuse in the workplace.
2. We will promote a culture that fosters openness and transparency, and does not tolerate unwanted, harmful and/or inappropriate sexual behaviours.
3. We will take an intersectional approach to the sexual safety of our workforce, recognising certain groups will experience sexual harassment and abuse at a disproportionate rate.
4. We will provide appropriate support for those in our workforce who experience unwanted, inappropriate and/or harmful sexual behaviours.
5. We will clearly communicate standards of behaviour. This includes expected action for those who witness inappropriate, unwanted and/or harmful sexual behaviour.
6. We will ensure appropriate, specific, and clear policies are in place. They will include appropriate and timely action against alleged perpetrators.
7. We will ensure appropriate, specific, and clear training is in place.
8. We will ensure appropriate reporting mechanisms are in place for those experiencing these behaviours.
9. We will take all reports seriously and appropriate and timely action will be taken in all cases.
10. We will capture and share data on prevalence and staff experience transparently.

[NHS England » Sexual safety in healthcare – organisational charter]

NHSE - Framework

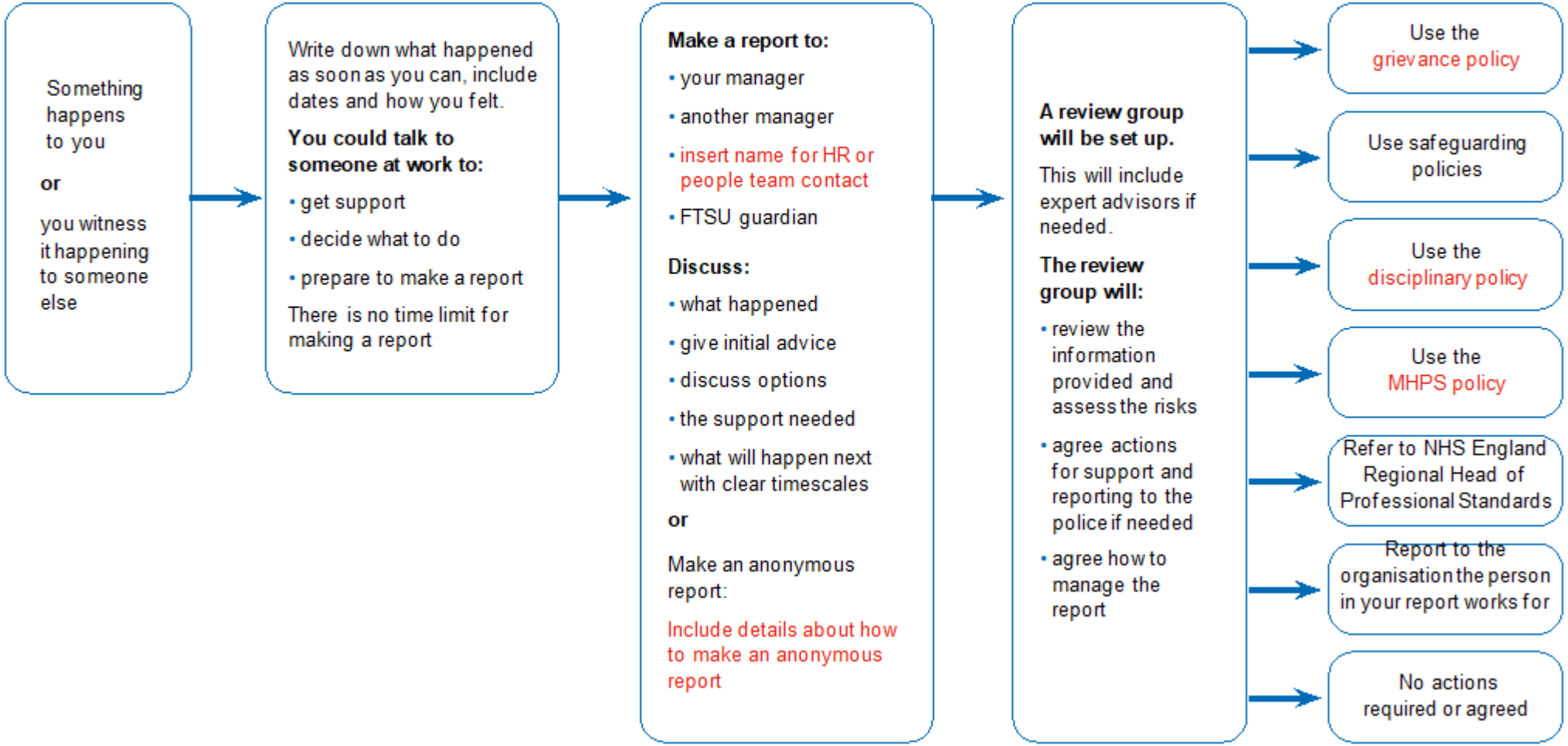
To support implementation of the charter, NHS England will be providing for local adoption or adaptation:

- policies on both sexual misconduct and domestic abuse developed by an expert advisory group including trade union representation
- training materials, including on how to respond appropriately to disclosures of sexual misconduct or abuse
- improved support offers for staff
- a toolkit signposting to sources of further support following a disclosure

NHS England » Sexual safety charter assurance framework

Appendix 1: Flowchart

This flowchart summarises the steps set out in this policy for reporting and determining how to handle cases of sexual misconduct.



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Good Medical Practice 2024

Colleagues, culture and safety

Culture is determined by the shared values and behaviours of a group of people. Everyone has the right to work and train in an environment which is fair, free from discrimination, and where they're respected and valued as an individual.

- Treating colleagues with kindness, courtesy and respect
- Contributing to a positive working and training environment

- Acting with honesty and integrity
- Maintaining professional boundaries
- Communicating as a medical professional
- Managing conflicts of interest
- Cooperating with legal and regulatory requirements

Trust and professionalism

Patients must be able to trust medical professionals with their lives and health, and medical professionals must be able to trust each other and other healthcare professionals.

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The Preventative Duty 2024

- Employers have a *legal duty to take steps* to stop sexual harassment at work - proactive about prevention and how they deal with complaints
- **EHRC** will monitor *compliance* and have *enforcement* powers

- ‘Reasonable steps’ will be an objective test
- Only applies to sexual harassment

The Preventative Duty – In practice

- Developing and communicating a "robust" **anti-harassment policy**
- Considering a standalone sexual harassment policy
- **Risk assessments** to identify where sexual harassment may occur and **identifying steps to address risks**
- Warning signs in the workplace and '**proactively aware**' through surveys (NHS staff survey) and exit interviews
- Monitoring and evaluating effect

Compliance

- EHRC
  - Investigate an employer for failure to comply
  - Issue notice confirming a breach and requiring employers to undertake an action plan and/or entering into a formal, legally binding agreement.

- Tribunals now consider if the preventative duty has been satisfied and can increase compensation by up to 25% for any failure to comply.

*Employees cannot raise a standalone claim for a breach of this duty.

East of England Ambulance Service Trust in legal agreement to tackle sexual harassment

JOE GIDDENS

The Equality and Human Rights Commission said "no one should feel unsafe or threatened at work"

28 April 2021

An NHS trust has become the first in the UK to be forced to tackle its "high levels" of sexual harassment.

Risk Assessment

Size and nature of the employer and any risks eg types of third parties workers

- Lack of job security - deter staff from raising concerns/more vulnerable (trainees)
- Gender imbalance (management structures vs staff)
- Previous concerns being dismissed
- Lack of diversity in the workforce, especially at a senior level
- Travel to different work locations
- Minimal supervision on certain shifts (lone/night working and out-of-hours work)
- Events that raise tensions locally or nationally

Males Power

*Consider reasonable steps to mitigate risks and implement protection

Is your employer responsible for the harassment?

- Employers must ***protect*** staff from sexual harassment and take ***steps to prevent*** it happening.
- You can only take legal action about sexual harassment if you are a 'worker' protected by the Equality Act 2010 (includes bank workers, contractors and self-employed people/locum arrangement)
- ***Work-related*** - protected from sexual harassment at 'work'. This includes:
  - Work-related events or business trips – like an away day/training day.
  - Social events organised by them – like a work-related dinner.

* Employers have a duty of care to protect your health and safety at work.

Time limit for legal action

Employment Tribunal - 3 months less 1 day from the date of the harassing incident/comment/action.

For example, if the incident occurred on the 18th June 2024 the legal time limit would be 17th September 2024.

Sexual harassment can occur over a period of time, and it can be possible to show 'continuing' harassment. This is particularly relevant where a time limit has passed and you may be able to take legal action from the date of the most recent or 'in time' incident.

Victimisation – the Law

- ‘Suffering a detriment' because you've done or intend to do a 'protected act'.
- A 'protected act' means taking action related to discrimination law. This includes:
  - making a complaint of discrimination or harassment
  - supporting someone else's complaint
  - gathering information that might lead to a complaint
  - acting as a witness in a complaint
  - saying something or giving evidence that does not support someone else's complaint
- 'Detriment' means someone experiences one or both of the following:
  - being treated worse than before
  - having their situation made worse

Discrimination and the Equality Act 2010 - Discrimination at work - Acas

WHAT **SHOULD** HAPPEN

- You should be *supported* and any *complaint taken seriously*
- Conversations should be conducted in *private* and *accompanied to meetings* should you wish (Legal right for formal grievance hearing; colleague or trade union)
- Any investigation or grievance process should be handled in a *fair and sensitive* manner in line with stated policy (Acas code of practice on disciplinary and grievance procedures)
- You should be offered *counselling and/or mental health* support (OHS/Practitioner Health)
- *Confidentiality* should be maintained: strictly need to know basis.
- You should be informed about the *complaint investigation* or *outcome*

WHAT SHOULD **NOT** HAPPEN

- Employer should not ***refuse to investigate*** your complaint even if beyond the ET deadline
- You should not be ***pressured, coerced or compelled*** to make a decision or do anything that makes you uncomfortable
- You should not be subjected to any ***detriment*** for raising a complaint eg pressured into mediation or transferred without your agreement.
- There should not be any ***delay*** to an investigation or disciplinary procedure while waiting for any criminal outcome.
- Employers cannot use a ***NDA*** or "confidentiality" clause to stop someone reporting sexual harassment and/or to prevent someone whistleblowing or ***reporting a crime***.

*In some situations, the employer may be compelled to inform the police if they fear a wider health and safety issue

WHAT **YOU** SHOULD DO

- Seek ***advice*** without delay – contact trade union for support and advice
- Review relevant ***policies*** – these may differ if different employers
- ***Document*** events as soon as possible
- Where appropriate keep a record logging any incidents or comments – include dates, times and full names of potential witnesses

CONTACT TRADE UNION – INDEPENDENT SUPPORT AND ADVICE

Options

- Raise concerns eg line manager/FTSU
  - Informal
  - Formal
  - Anonymous
- ACAS: mediation, arbitration, early conciliation
- Legal action
- Report to the Police
- Report to the GMC

CONTACT TRADE UNION IF YOU HAVE ANY CONCERNS ABOUT THESE STEPS –INDEPENDENT SUPPORT AND ADVICE

GMC – Advice to Responsible Officers

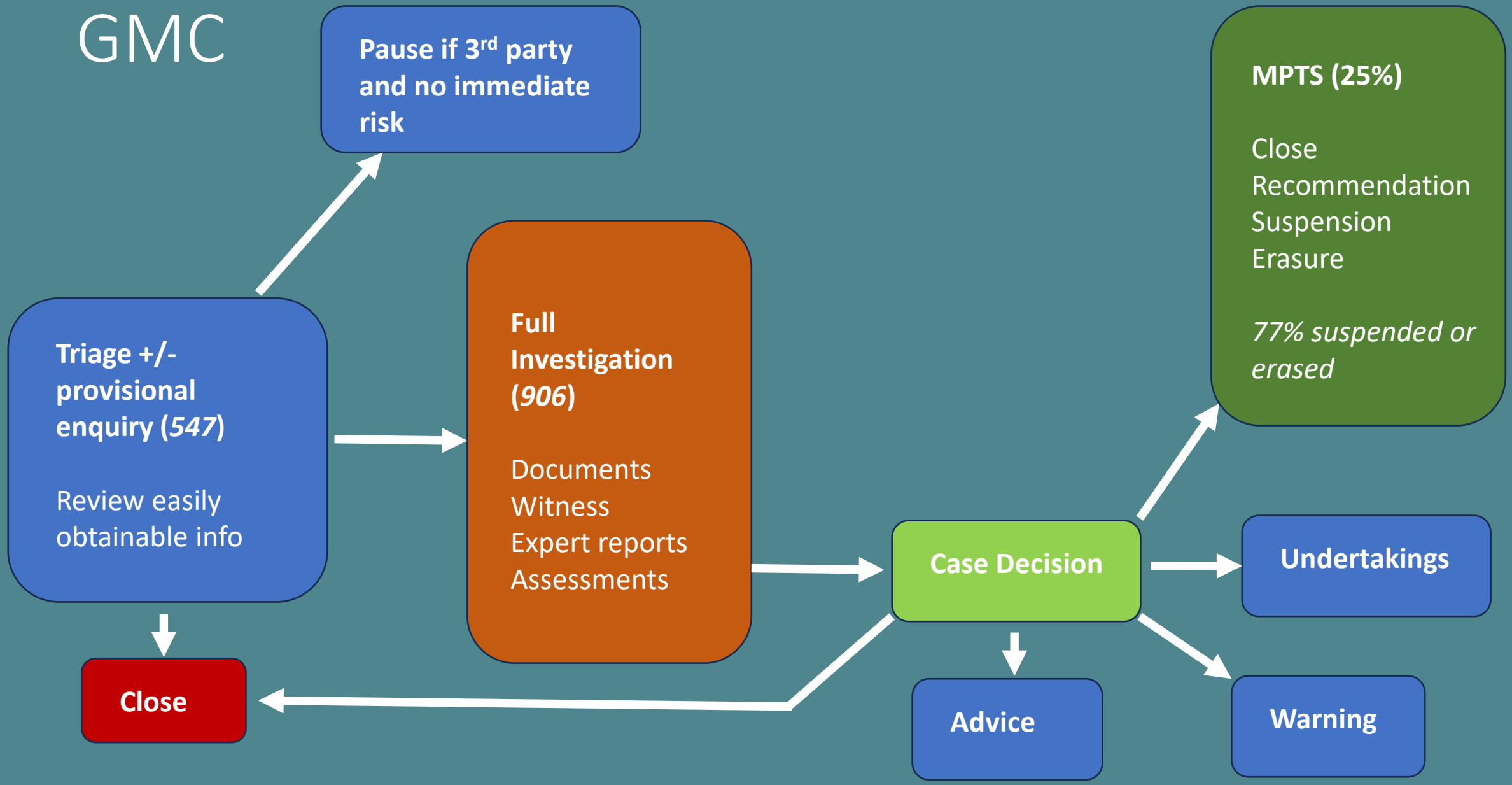
- Patients have a right to receive healthcare without fear of abuse
- Doctors, medical students and other health care professionals and employees have rights, enshrined in law, to a workplace free of discrimination, bullying and sexual harassment.

The severity and nature of the misconduct in individual cases will determine the reactive responses that you might take and advice you may wish to seek from expert organisations to help you respond.

Taking a firm and consistent stand on issues of sexual misconduct is also an important part of ROs' fitness to practise role. To ensure that potential harm to patients and colleagues is minimised, it is important that you identify any concern about a doctor's practice as early as possible and take appropriate and timely action where necessary.

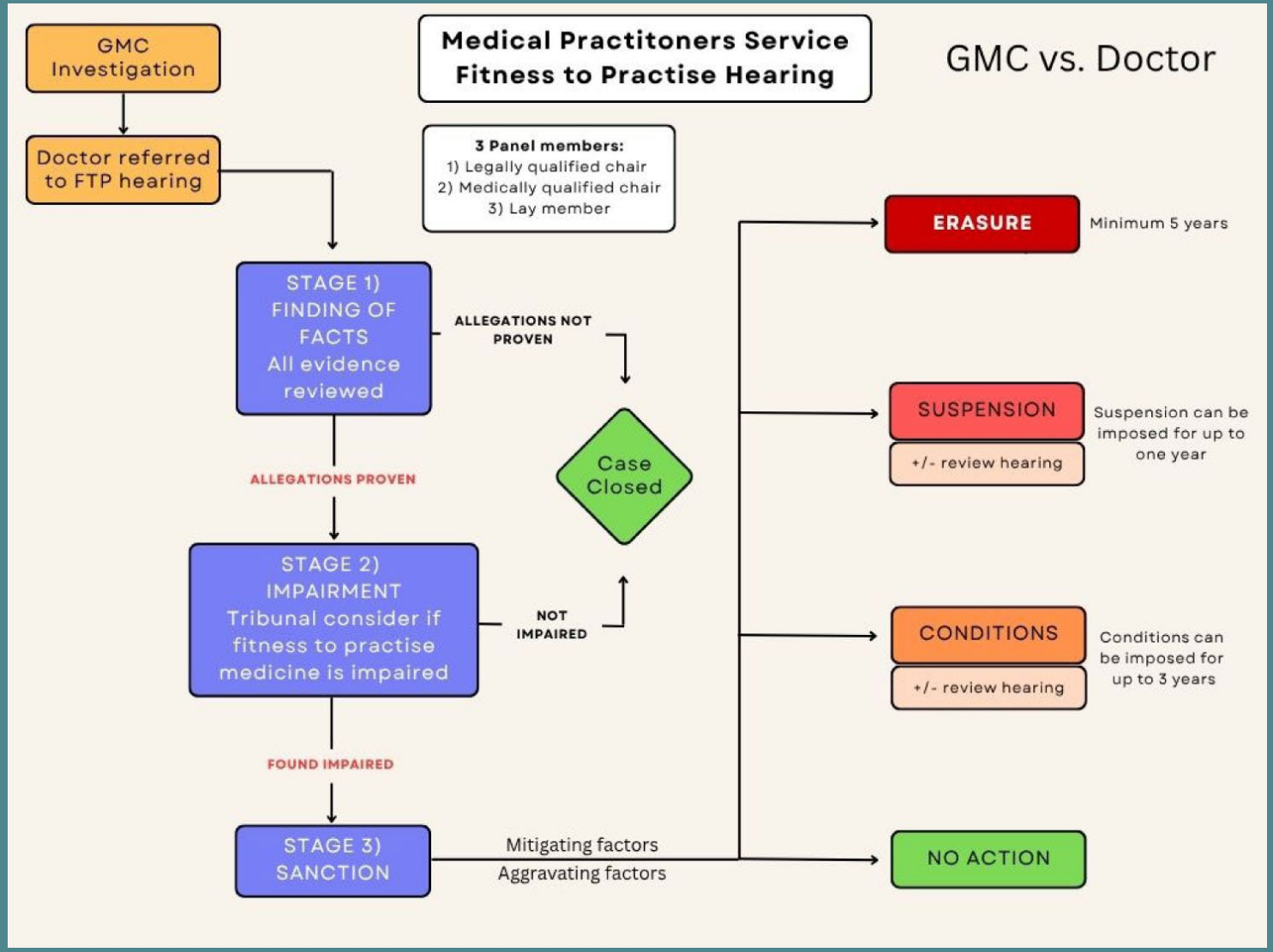
This is especially important as serious sexual misconduct, including rape, is usually preceded by a period of inappropriate comments or touching. Instances of sexual misconduct are also seldom isolated; perpetrators often offend repeatedly, and some abuse can last several years. Taking swift and early action can help prevent the misconduct from escalating. It can also help avoid this behaviour from developing into victimisation, bullying, and exclusion of the victims/survivors from the team in which they work, all of which have significant impacts on individuals and can also impact negatively on patient safety and team cultures.

GMC


Pause if 3rd party and no immediate risk
Triage +/- provisional enquiry (547)
Review easily obtainable info
Full Investigation (906)
Documents
Witness
Expert reports
Assessments
Case Decision
MPTS (25%)
Close
Recommendation
Suspension
Erasure
77% suspended or erased
Undertakings
Close
Advice
Warning

GMC

- MPTS – August 2023 -24
- 46 cases proven sexual misconduct
- Same sanction as GMC recommended in 35
- 11 cases less severe ie suspension not erasure



PROFESSIONAL STANDARDS AUTHORITY 2017

Bad apples? Bad barrels? Or bad cellars? Antecedents and processes of professional misconduct in UK Health and Social Care: Insights into sexual misconduct and dishonesty

antecedents-and-processes-of-professional-misconduct-in-uk-health-and-social-care.pdf

RELEVANCE

HSSIB considered the evidence gathered during stakeholder discussions and relevant literature against **HSSIB's investigation criteria** and found there was not sufficient evidence to make an assessment. Stakeholders felt there was potentially a link between sexual safety and patient safety; however, they had limited data or information to evidence this link.

HSSIB considered the issue of bullying and harassment more broadly and found there was a range of international research which indicated that threats to worker safety through bullying and harassment was associated with poor clinical outcomes (Walker et al, 2018).

HSSIB makes the following safety observation

Safety observation O/2024/039:

Health and care organisations can improve patient safety by capturing the impacts, events and circumstances where sexual safety incidents have affected the provision of safe care. This would help organisations to understand and assess the risks posed to patient safety.

IMPORTANCE

The Impact of Incivility

This impact has a direct impact on the recipient, and this has been measured in the office place by Christine Porath[2]. She found:

- 61% reduction in cognitive ability

There were also many other impacts:

- 80% lose time worrying about the rudeness
- 78% reduced their commitment to work
- 63% lose time avoiding the offender
- 48% reduced their time at work
- 38% reduce the quality of their work
- 25% took it out on others, including customers
- 12% leave

[The Civility Message | Civility Saves Lives]

SLIDO

Case Studies

1. Dr Rogers puts his hands on Dr Sanjay's hips to move them aside in a narrow corridor to get past

2. Dr Wong asks Dr Howard to go for a drink after their shift. Dr Howard declines and Dr Wong does not ask again.

- **Do you think these could amount to sexual harassment taking into account the definition?**

Case Studies

1. Dr Rogers puts his hands on Dr Sanjay's hips to move them aside in a narrow corridor to get past

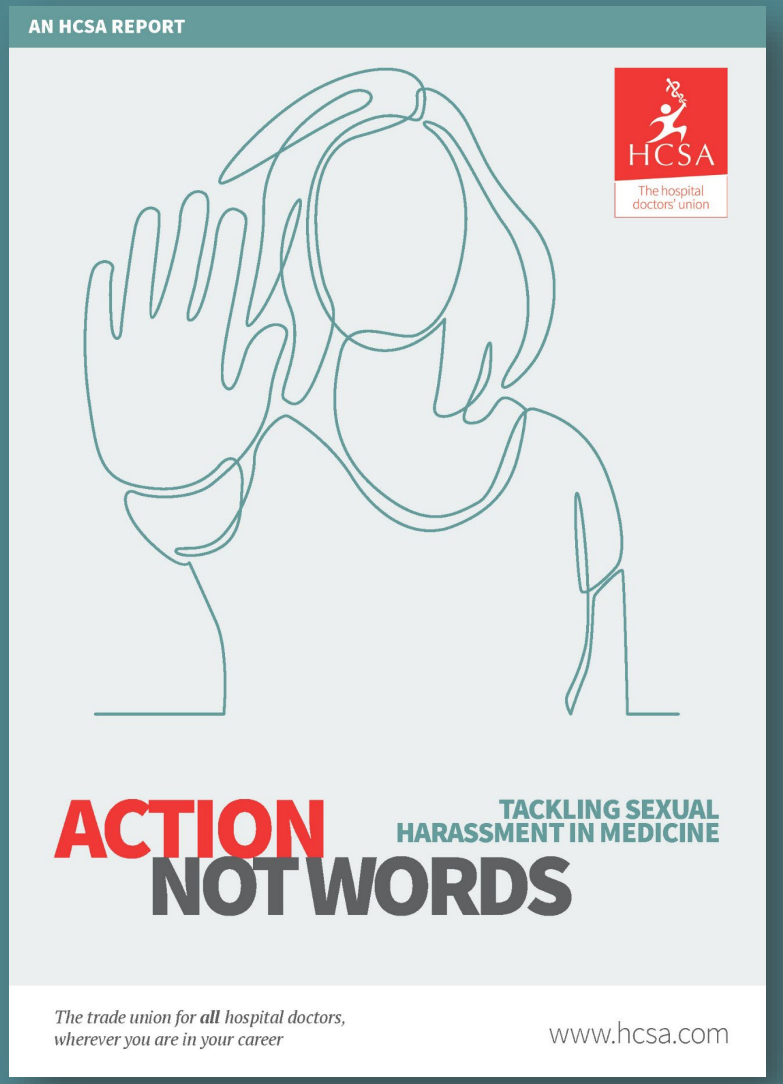
2. Dr Wong asks Dr Howard to go for a drink after their shift. Dr Howard declines and Dr Wong does not ask again.

- **Would your answer to 2 be different if Dr Wong asked Dr Howard more than once to go out for drinks?**

In Medicine

HCSA REPORT ON SEXUAL HARASSMENT

- 70.5% had witnessed or experienced sexual harassment in the workplace during their medical career
- The figure rises to 78.4% for women doctors
- 10% said they had experienced sexual harassment perpetrated by a manager, and 29% by a third party
- Of those who did report sexual harassment, 75% felt their employer could have done more.



Victim Statement

SURVIVOR STATEMENT

"Being repeatedly seriously sexually assaulted at work was traumatic, but the trauma caused by years of investigations and processes was arguably worse. The assaults were like the workplace equivalent of domestic abuse; increasingly feeling unsafe and later able to recognise how the perpetrator subtly and cleverly exploited my emotions and vulnerability. I was all too aware of the "risks" in reporting, knowing victims are often further victimised and re-traumatised. It was impossible to see a good outcome once the assaults had occurred. Some said I was brave for reporting, but I was broken and felt forced to choose the least bad option.

The toll taken by processes was far worse than my worst-case scenario. 4 months of internal Trust investigations, 16 months of police investigations and many months of GMC investigations. Erstwhile a target for further harassment and intimidation. I repeatedly relived the trauma and had my own professionalism and honesty questioned. By claiming these unwitnessed assaults were consensual created a "he said – she said" scenario leaving me feeling I was on trial. I felt silenced to protect the integrity of investigations. It was a long, lonely, and isolating journey.

I have been diagnosed and treated for PTSD, but psychological support was never offered and repeatedly denied. Without my own knowledge, resources and personal support, the outcome could have been very different. I realise now how important it is to address sexual misconduct early. It deeply saddens me how many of us missed the opportunity to address the perpetrator's inappropriate comments and behaviours which ultimately caused so much harm to so many, including indirectly on patients.

Everyone is entitled to feel safe at work, yet hearing and reading the stories of others confirms that this is not the case for far too many and the effects ripple more widely. Whilst realistically it may not be possible to completely eradicate these behaviours, cultures and processes can be improved and victims supported and empowered. Organisations can promote good professional behaviours and psychologically safe workspaces. The threshold for action has to be set earlier than where most policies kick in, as soon as behaviours fall below an acceptable standard. We need to work collectively to provide environments which promote safety for everyone, to enable the best possible care to be delivered."

I had worked with a male colleague for a number of years. He had always been touchy-feely and make risqué jokes. Just who he was.

One day things started to change; the behaviours became increasingly inappropriate and sexual. They continued after I had told him they were unwelcome. He made sexually aggressive comments as well as groping me. I increasingly didn't feel safe at work. It was ***insidious and relentless****; I changed my clothes, I tried to hide. The best analogy is one of domestic abuse in the workplace. I knew him and we had mutual friends and colleagues. I had trusted him. But had my judgement been misplaced? I felt* ***violated, manipulated****. My mental health deteriorated… how could I resolve this, would it go to the Police, the GMC, would I be believed? A good outcome was not possible. I knew how divisive this would be in the department and the toll these processes could take on myself and my family. I couldn't imagine the working environment if both of us continued to work in the same department after I had formally lodged such a serious complaint.* ***I felt sick with fear****… I couldn't do this any longer, my position had become completely untenable and resignation, whilst I contemplated it, was not viable or just. I had no choice but to formally escalate. Nothing prepared me for the reality. Victims often become further victimised by processes. In order to adhere to the GMC code of conduct and seek justice, I have become a* ***whistleblower****. It's been a horrible journey and I have learned some hard lessons.*

I have been incredibly fortunate that I have had the resources to risk escalation… I have intelligence and tenacity, the financial security and a fantastic network of support. But I know this is not universally available. I hope we can raise awareness of these unacceptable behaviours, hope we empower people with the knowledge and resources to address them. We need to ensure workplaces adopt a zero-tolerance culture with policies, processes and the legal framework to support and protect not deter victims.

Sexual harassment and assault comes at a cost. It is everyone's problem. *Victims and witnesses need to speak up with a collective voice to improve things for everyone but particularly the most vulnerable.*

Dr Priyanka Singhal

Part 2

Bystander and Allyship

Everyone’s Problem

- Apples, cellars, barrels

Witnessing Sexual Harassment

- We all have a role to safeguard against sexual harassment
- You can support someone by reporting what you saw or heard, being a witness in any investigation, making a statement or by making a sexual harassment complaint as a witness.
- If you witness a colleague experiencing or being subjected to sexual harassment, you can support them. If you are an employee, you must not be subject to a detriment from your employer for supporting or complaining as a witness – this could be victimisation.

Civility Saves Lives

[The Civility Message | Civility Saves Lives]

5Ds of Bystander Training

Time – direct or distract v delay

Delegate

Document

[Home Page - Right To Be]

RCS Turning the Tide April 2025

- Anonymous reporting
- Roadmap for implementation
- MPTS
- NHS organisation data
- PSA – review regulators
- Medical Indemnity Support
- All Medical Schools Sign the Charter

Eight priority actions to strengthen support for targets and enhance reporting of sexual misconduct in the NHS

1. NHS England/Department of Health and Social Care (DHSC) should establish a national anonymous reporting mechanism for sexual misconduct.
2. NHS England/DHSC should publish a roadmap by July 2025, outlining how NHS trust organisations will implement the **National Sexual Misconduct Policy Framework**.
3. The Medical Practitioners Tribunal Service (MPTS) should:
   A. update its decision making methodology and sanctions bandings for sexual misconduct cases by October 2025 to ensure they are fit for purpose and applied consistently;
   B. conduct a review of the appropriateness, influence and evidentiary weight of character references and testimonials in the decision making process for sexual misconduct cases;
   C. improve trauma-informed education and training for all staff involved in fitness-to-practice cases. Training should include: understanding vulnerability dynamics, abuse of power and breaches of trust; specific guidance on what constitutes acceptable evidence of insight; and remediation;
   D. urgently review and reform its approach to supporting targets of sexual misconduct during tribunal hearings by October 2025. Targets should be provided access to case preparation resources, guidance on compiling robust evidence and testimonies, legal support and psychological support.
4. NHS trust organisations, health boards, the independent sector, education bodies and professional regulators should collect and publish annual data on sexual misconduct cases.
5. The Professional Standards Authority (PSA) should conduct a review of how professional regulators manage sexual misconduct cases.
6. Medical indemnity providers and trade unions should set out how they will better support targets of sexual misconduct by October 2025.
7. The **Independent Review into the Care Quality Commission** should include specific metrics to address sexual misconduct.
8. All UK medical schools should sign the **NHS England Sexual Safety in Healthcare Organisational Charter** by September 2025.

HCSA RECOMMENDATIONS

Equalities and sexual harassment training in medical schools, with reviews throughout a doctor's career	Distinct grievance processes and policies for sexual harassment cases	Extending the limit on bringing a sexual harassment claim to Employment Tribunal from three to six months	A workplace mentor support system for those who report sexual harassment
Clear and wide promotion of employer sexual harassment policies	Safe reporting pathways, with multiple reporting routes available	Regular employee surveys to measure the prevalence of sexual harassment	Accurate record-keeping to identify repeat offenders
A cultural shift to challenge all inappropriate behaviour	Tailored risk assessments for more vulnerable staff, including lone workers, younger workers and those on placements	The Health and Safety Executive's RIDDOR reporting system to include sexual harassment	Amending the law to offer employees greater protection from third-party sexual harassment.

HCSA LAUNCHES FIRST-OF-ITS-KIND WOMEN FOCUSED SUPPORT ON INTERNATIONAL WOMEN'S DAY

Friday 8 March 2024

Announced on International Women's Day, the new service will see members supported by women HCSA national officers trained to provide specialised advice and support on matters such as pregnancy and maternity discrimination, menopause, and sexual harassment.

Formally launching Women Focused Support, **HCSA Executive member Dr Claudia Paoloni said**:

"This is a service provided by women for women.

"HCSA's enhanced support service will seek to reduce any embarrassment, discomfort or unease and help to proactively address barriers faced by women in medicine.

"We hope to build confidence, empower women and provide enhanced support to challenge discrimination, sexual harassment and breaches of policies."

Acknowledgements

HCSA – the hospital doctors' union:

Isslia Roberts – HCSA National Officer

Allies

WHAT CAN THE RCR DO?

anna.beattie@nhs.net

Trade Union
Organisation Policies
NHSE Sexual Safety Chart
Rights of Women