



Background Research – UK

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SEXUAL HARASSMENT IN SCHOOLS- THE UK CONTEXT

The issue of sexual harassment was raised first in the 1980s, linked to wider attempts to address sexism in schools, which spanned the curriculum and behaviours in schools (Duncan, 1999; Halson, 1992; Herbert, 1999; Spender and Sarah, 1980). Initially sexual harassment was understood as a gendered issue, but was later eclipsed by a focus on bullying, promoted by children's charities and several high profile organisations such as Kidscape, which developed and promoted interventions. The term 'sexual bullying' emerged as a way to reclaim a gendered focus. A number of feminists entered education studies, establishing the journal *Gender and Education* and within the academic field there are a number of key texts which explore gender in schools (Fulton, 1992; Jones and Mahoney, 1989; Paechter, 1998; Weiner and Arnot, 1990), and a smaller but strong literature on school based masculinities (Mac on Ghail, 1992; Skelton, 2001). There was more focus in the last two decades on the harassment of lesbian and gay young people (now widened to include trans) at school, through the work of Stonewall¹ which undertook a number of national surveys.

Much ground was lost as gender as an equalities issue was overshadowed in equal opportunities politics in the 1990s.

Until the last two decades policy covered all of the UK, albeit implemented differently across the four nations (England, Northern Ireland, Scotland, Wales). The Scottish parliament was established in 1998 and devolved administrations followed in Wales and Northern Ireland. The powers of these administrations have increased over time, although unevenly. The material on recent developments covered in this paper are primarily from England and Wales.

SEXUAL HARASSMENT AS A PUBLIC ISSUE

Until the last five years sexual harassment has not been a major organising focus, within the VAWG sector, education or employment. Bullying became the preferred focus for schools and employers, with an often decidedly gender neutral focus. This hiatus was interrupted occasionally through high profile discrimination cases, often of women in high earning sectors.

This changed through the activism of young women and the work of the End Violence Against Women (EVAW) coalition, which coincided with the growing awareness of misogyny in online spaces. The Everyday Sexism campaign provided an online platform for women to write what they encounter going about their lives: a significant number of posts came from

¹ http://www.stonewall.org.uk/sites/default/files/The_School_Report_2012_.pdf

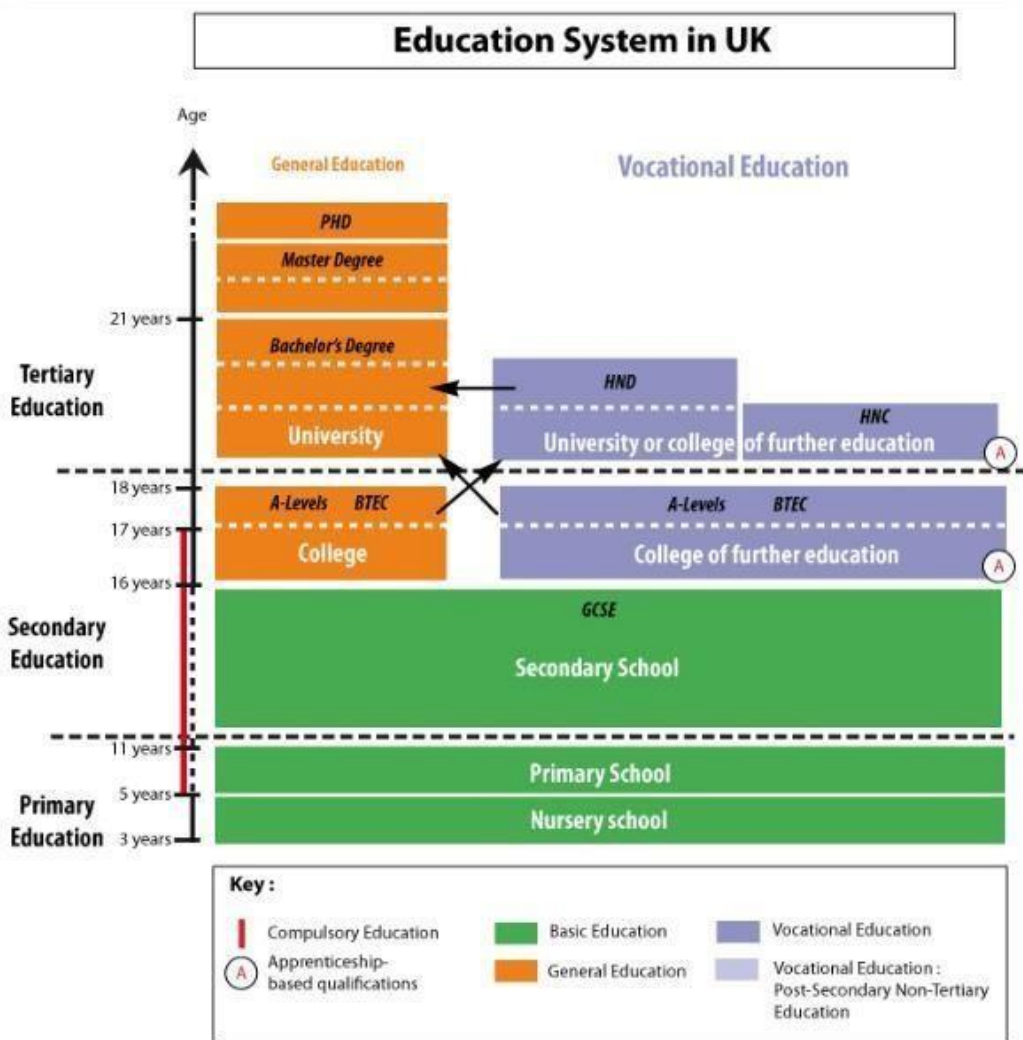


young women about sexual harassment in schools. EVAW launched the Schools Safe4girls campaign in 2012, linked to research and a legal briefing (see later sections). This activism reawakened the issue, resulting in an enquiry by the government Women and Equalities Committee in 2016 (see later). Sexual harassment in schools is, therefore, back on the public agenda in the UK. It happens on journeys to school, in playgrounds, changing rooms and classrooms. Increasing it may be enabled by social media, and spill out of school time.

THE SCHOOL SYSTEM

There are five stages of education: early years (under 5's, nursery and pre-school provision); primary (5-11); secondary (12-16); Further Education (sixth form colleges 16-18, colleges offering vocational courses) and Higher Education (universities). Education is a 'devolved' matter meaning that there are somewhat different policies and forms of organisation in the four nations of England, Northern Ireland, Scotland and Wales. Being in education is compulsory until 16, although home schooling is possible.

3





Traditionally there was a distinction between state schools (public) and private schools (now called independent), the former was free to all, the latter involved payment of fees. Faith schools (primarily Christian, but including Jewish, Islamic, Sikh and Hindu) are in both public and private sectors and across the primary (37%) and secondary (19%) provision. Until the mid-1960s secondary schools were further demarcated by grammar (selective on passing an exam) and secondary modern (for all pupils who did not pass the exam at age 11). This system was replaced by ‘comprehensive’ schools, which by the 1980s provided secondary education for most who did not attend private schools, albeit that some areas retained a few grammar schools. Local government had the responsibility to provide state schools in their area. State schools are required to follow what is termed the national curriculum, but independent schools are exempt from this.

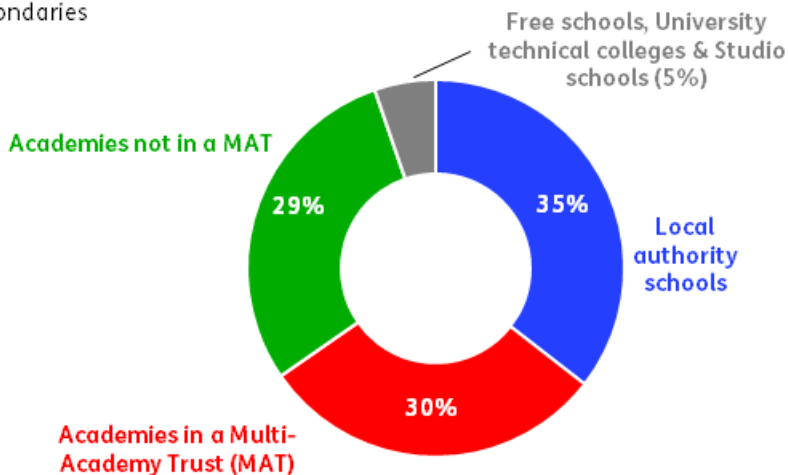
Recent changes to education policy, linked to neo-liberal privatisation agendas have changed this picture dramatically, promoted through the intention to improve educational attainment, so that there are now a range of types of schools in England: academies and free schools are the newest forms. Academies, are publicly funded directly from central government, independent schools are accorded freedom to ‘innovate and raise standards’: these freedoms include being removed from control of local government, setting their own pay and conditions for staff and working outside the national curriculum. Begun in 2000, more recent legislation gives all schools the opportunity to become an Academy. These changes mean that schools have grouped into Multi-Academy Trusts. Only a third (35%) of schools are now under local government control.





Types of secondary school in England

Open secondary schools and middle schools deemed to be secondaries



Source: Department for Education EduBase (March 2016)



These changes mean that there are no easy straightforward routes into schools for researchers, since those decisions will be made by each school at a local level.

There is an Inspectorate – Ofsted, the Office for Standards in Education, Children’s Services and Skills - inspecting and regulating schools, and other services that care for children and young people. Whilst Ofsted has undertaken several inspections focused on sexual exploitation of children, and on bullying, it has yet to focus on sexual harassment.

LAW AND POLICY

In terms of law, sexual harassment in employment was dealt with under the Sex Discrimination Act (1975), and it was possible to take cases from the 1970s. In terms of criminal law there is a Protection from Harassment Act (1997), which was introduced to deal with stalking, and is often used with respect to post separation abuse in the context of domestic violence. There are no specific legal provisions, therefore, governing sexual harassment in schools outside requirements to deal with bullying.

The Department (ministry) for Education and Skills (DfES) issued guidance on bullying - *Safe to Learn*² states that:

Specific types of bullying include: bullying related to race, religion or culture; bullying related to special educational needs (SEN) or disabilities; bullying related to

² <http://www.anti-bullyingalliance.org.uk/media/7486/safe-to-learn.pdf>





appearance or health conditions; bullying related to sexual orientation; bullying of young carers or looked-after children or otherwise related to home circumstances; sexist or sexual bullying (p6-7).

Head teachers are required to develop anti-bullying policies, but these have not always addressed sexual harassment explicitly, perhaps because it is not emphasised in the guidance itself.

Specific advice issued by the DfES³ states that all schools should:

- regularly make clear to pupils, parents and staff, that bullying, harassment and oppressive behaviour in any form is totally unacceptable and will not be tolerated;
- ensure that bullying, harassment and oppressive behaviour is punished;
- use the DfES Anti-Bullying Charter to involve pupils in creating systems to support each other.

The 'Framework for the inspection of schools in England: September 2005' required Ofsted Inspectors to explore bullying and harassment with pupils and also address issues of discrimination. This requirement is carried over into the most recent guidance⁴, a text analysis shows that sexual harassment is not mentioned, although there are 12 references to bullying, which is linked to all equalities issues. There is no consistent policy or practice at the school level.

The lack of specification has led to lawyers reading sexual harassment 'into' or through other legislation, particularly the Equalities Act, 2006 and 2010 and human rights law. Under both schools have a duty to provide education which is free of sex discrimination.

EVAW commissioned a legal briefing (Whitfield, Green and Krys, 2016) *"All day, every day" Legal obligations on schools to prevent and respond to sexual harassment and violence against girls* which sets out the legal responsibilities of schools to address sexual harassment.

The Equality Act 2010 prohibits discrimination (direct and indirect), harassment and victimisation in education on the grounds of certain protected characteristics including sex. Under section 85, the responsible body of the school must not discriminate against pupils:

- *in the way it provides education for them;*

³

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444862/Preventing_and_tackling_bullying_advice.pdf

⁴ <https://www.gov.uk/government/publications/school-inspection-handbook-from-september-2015>



- *in the way it affords them access to a benefit, facility or service;*
- *by not providing education, access to a benefit, facility or service to them;*
- *by excluding them or by subjecting them to any other detriment (p6).*

Detriment has wide interpretation and it is argued that sexual harassment could fall into this framing. There is no defence for direct discrimination and the briefing argues that failing to investigate sexual harassment, which affects girls disproportionately, could be direct discrimination. Similarly not addressing sexual harassment could be indirect discrimination, since it could be argued that it puts girls at a disadvantage when compared to boys in a way which schools cannot justify as a means to achieve a legitimate end.

7

The Human Rights Act 1998 (HRA) made it unlawful for a public authority – which would include schools and their governing bodies - to act in a way that is incompatible with a number of the rights in the European Convention on Human Rights, including:

- Article 3 – the right to freedom from inhuman and degrading treatment
- Article 8 – the right to respect for private and family life
- Article 14 – the prohibition of discrimination in relation to the enjoyment of the rights and freedoms in the Convention
- Article 2 of the first protocol – the right to education.

Article 8 makes it a duty of state bodies to protect an individual's physical and psychological integrity, and case law makes clear that this includes physical and sexual assault. The state must take practical and effective measures to protect someone's private life. Unchecked sexual harassment in schools could mean that the school's governing body is liable for a breach of Article 8, similarly if a child's education was interfered with due to sexual harassment that was not addressed there could be a breach of Article 2 of the first protocol.

The UN Committee on the Rights of the Child has also clarified the UN Convention on the Right of the Child:

... gender discrimination can be reinforced by practices such as a curriculum which is inconsistent with the principles of gender equality, by arrangements that limit the benefits girls can obtain from the educational opportunities offered, and by unsafe or unfriendly environments which discourage girls' participation (CRC/GC/2001/1).

The EVAW briefing argues that schools have a legal duty to address sexual harassment, and that to fail to do so would place them at risk of having legal cases taken against them under either the Equality Act or the Human Rights Act.





SEXUAL HARASSMENT IN SCHOOLS RESEARCH

There has been a significant amount of research into sexism and sexual harassment in schools in the UK, beginning with Jackie Halson's (1992) ethnographic study. She argues that sexual harassment is a situated, mundane masculine power practice that reproduces gender as a hierarchy and in which schools are implicated.

Jessica Ringrose and Emma Renold (2010), eighteen years later, maintain that bullying discourse is unhelpful, since it simplifies and individualises the complex hierarchies of gender, race, class and sexuality which underpin harassment. They too discuss harassment as everyday gender performances, which is one of the reasons it goes unchecked.

In a later study for a major children's charity - NSPCC - Emma Renold (2013)⁵ interviewed 125 10-12 year old girls and boys about their concepts of gender and sexuality. All talked about the pressure of gender norms, but these were felt most acutely and as a limitation by girls. Children reported having few, if any, tools to deal with the situations they faced and that their own individual efforts felt futile. Girls were acutely aware of double standards and the reputational risk that accompanied being called a 'slag'. They also noted the contradiction between the messages of 'just be yourself' and 'be like everyone else'. These children also made a plea to be able to talk about how the issues of gender and sexuality affected them in their lives now, rather than being seen as something about their futures.

A survey by the teachers union NUT (Neill, 2006), found that 11% of teachers had themselves been sexually harassed in school, 8% in the last 12 months. Unsurprisingly younger female staff were the most likely to report sexual harassment and this was most common in pupil referral units or special schools – contexts where young people who have behaviour issues are located.

Further data comes from a Freedom of Information⁶ request which revealed from police data that 5,500 sexual offences were reported to the police as having taken place in UK schools over a three-year period to July 2015, including 600 rapes.

EVAW commissioned a survey by YouGov in 2010⁷ it found:

- Almost one in three (29%) 16-18 year-old girls had experienced 'groping' or other unwanted sexual touching at school;

⁵ <https://www.nspcc.org.uk/globalassets/documents/research-reports/boys-girls-speak-out-report.pdf>

⁶ <http://www.parliament.uk/business/committees/committees-az/commons-select/women-and-equalities-committee/inquiries/parliament-2015/inquiry1/>

⁷ <http://www.endviolenceagainstawomen.org.uk/2010-poll-on-sexualharassment-in-schools>



- 71% of 16-18-year-olds said they heard sexual name-calling such as “slut” or “slag” towards girls at school daily or a few times per week;
- 24% of 16-18-year-olds said that their teachers had never said unwanted sexual touching, sharing of sexual pictures or sexual name calling is unacceptable;
- 40% of 16-18-year-olds said they didn't receive lessons or information on sexual consent, or didn't know whether they did.

GirlGuiding’s annual survey of thousands of their members in 2014/15 found that 59% of girls had experienced some form of sexual harassment in school or college⁸.

9

POLICY

As noted earlier, schools are required to have anti-bullying and equal opportunities policies, but these may not specify sexual harassment. Given that the majority of secondary schools can now set their own policies of these issues, since they are self-governing, there is no consistency or national policy on these issues.

The National Union of Teachers (NUT) published a policy document on preventing sexual harassment in schools⁹. It offers a descriptive definition of sexual harassment and sexual bullying (note the use of both concepts).

Sexual language and sexual bullying can include explicit sexual remarks, display of sexual material, sexual gestures, unwanted physical attention, comments about sexual reputation or performance or inappropriate touching. (p4)

The document also notes that teachers may be sexually harassed by other staff and by students.

There is recognition that this is linked to wider sexism.

Sexism is behaviour, language or prejudice which expresses institutionalised, systematic and comprehensive discrimination. It is based on a stereotypical view of masculine and feminine roles. Sexism limits the options of women and girls and can lead to discrimination or less favourable treatment (p5)

Research recognises that these are practices which police femininity and masculinity, including how boys use sexual talk to assert and reproduce masculinity (Mac on Gail, 1994).

⁸ <https://www.girlguiding.org.uk/social-action-advocacy-andcampaigns/research/girls-attitudes-survey/>

⁹ <http://www.teachers.org.uk/files/Policy-Prevent-sexual-harass-bullying.pdf>





New research and campaigns in the last few years led the Women and Equalities Select Committee to undertake an inquiry into sexual violence in schools in 2016¹⁰. The summary stresses the following drawing on a range of sources:

- almost a third (29%) of 16-18 year old girls say they have experienced unwanted sexual touching at school
- nearly three-quarters (71%) of all 16-18 year-old boys and girls say they hear terms such as "slut" or "slag" used towards girls at schools on a regular basis
- 59% of girls and young women aged 13-21 said in 2014 that they had faced some form of sexual harassment at school or college in the past year
- 600 rapes in schools were reported to police between 2012 and 2015 – that averages out as a rape in a UK school every day of the school year.

The chair of the committee Maria Miller MP commented:

Our inquiry has revealed a concerning picture. We have heard girls talk about sexual bullying and abuse as an expected part of their everyday life; with teachers accepting sexual harassment as "just banter"; and parents struggling to know how they can best support their children.

The key recommendations of the in the Select Committee report included:

- Use the new Education Bill to create an obligation on every Governing Body to take appropriate action to prevent and respond to sexual harassment and sexual violence. Clear national guidance and support must be developed to help achieve this effectively through a 'whole school approach'. This involves teachers, governors, school leaders, parents, young people and specialist sector organisations working together.
- Require Ofsted and the Independent Schools Inspectorate to assess schools on how well they are recording, monitoring, preventing and responding to incidents of sexual harassment and sexual violence.
- Ensure every child at primary and secondary school has access to high quality, age-appropriate relationships and sex education delivered by well-trained individuals. This can only be achieved by making sex and relationships education (SRE) a statutory subject; investing in teacher training; working with sexual violence specialists to update SRE guidance; ensuring teachers have access to appropriate materials; and investing in local third sector specialist support.

In March 2017, following a ten year campaign by ERAW, it was announced that relationship and sex education would become compulsory for schools in England.

¹⁰ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2015/sexual-harassment-and-violence-in-schools-report-published-16-17/>





CAMPAIGNS AND INTERVENTIONS

The inquiry outlined above was the outcome of the Schools safe4girls campaign, and many of the campaign asks, such as a whole school approach¹¹ were included in the recommendations.

The recommendations in the EAW legal briefing go further, seeking statutory responsibilities. The Government:

- *considerably revise the current statutory guidance to schools on safeguarding and child protection;*
- *legislate to make high quality, age appropriate sex and relationships education (SRE) compulsory in all schools - primary and secondary and of all funding statuses;*
- *make clear to all schools that it is inappropriate and unlawful to respond to an allegation of sexual assault by agreeing to act only in the event of a police investigation;*
- *develop a plan to improve teacher training in this area;*

Further we recommend that without waiting for legislation school leaders and their governing bodies

- *put in place policies addressing violence against women and girls, including a zero tolerance policy towards abuse of girls;*
- *build links with local women and girls support services;*
- *introduce high quality, age appropriate sex and relationships education (SRE);*
- *involve girls and boys in the schools' ongoing response to abuse.*

We recommend that Ofsted begins to inspect schools specifically for their performance in this area as a matter of great interest to parents and young people.

As part of the campaign for, EAW linked with Everyday Sexism on a social media campaign using the hashtag #SREnow. Some tweets showed how complaints of sexual harassment were ignored and the campaign united children's charities, LGBT groups and the women's sector.

Emma Renold is developing interventions with young women in Wales on feminism, under the project title AGENDA, which includes addressing sexual harassment (Libby, Georgia, Close, Courtney, Olivia & Rhiannon with Renold, 2017).

¹¹ http://www.endviolenceagainstwomen.org.uk/data/files/Whole_School_Approach.pdf



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