

Sexual Misconduct Allegation from a Patient against an Auckland DHB Employee – AED/CDU Initiated

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<ul style="list-style-type: none"> • Organisation(s) • Directorate(s) • Department(s) • Used for which patients? • Used by which staff? • Excluded 	Auckland District Health Board Adult Medical Services Adult Emergency Department (AED)/Clinical Decision Unit (CDU) All adult patients All AED/APU staff members
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1. Purpose of policy

The purpose of this policy is to outline the organisation’s expectations if a patient or visitor makes an allegation of sexual misconduct against a staff member of the Adult Emergency Department (AED) or the Clinical Decision Unit (CDU) within Auckland District Health Board (Auckland DHB).

2. Policy statements

It is the policy of Auckland DHB to:

- Maintain confidentiality and patient privacy
- Ensure all actual or suspected sexual misconduct by an employee/contractor are followed up immediately, regardless of any questions as to the validity of the reports or concerns about capacity or consent
- Ensure managers are trained in preventing and management of possible sexual misconduct of staff towards patients or visitors.
- Outline AED/CDU management of the patient following the complaint
- Outline management of the Auckland DHB staff member/contractor
- Outline the documentation to be completed at the time of the incident
- Ensure the incident is escalated to senior management for formal investigation

A patient admitted to Auckland DHB has the right to be treated in a safe environment, with respect for dignity and privacy.

Auckland DHB has a zero-tolerance for sexual misconduct and is also committed to the safety of patients and employees.

Auckland DHB must comply with the Crimes Act 1961, Victims Rights Act 2002, Code of Health and Disability Services Consumers' Rights 1996, NZ Bill of Rights Act 1990, Health and Safety in Employment Act 1992 and Employment Relations Act 2000 to address complaints against staff members (see [Legislation](#)).

3. Definitions

Term	Definition
CCN	Clinical Charge Nurse
EAP	Employee Assistance Programme
ECP	Emergency contraceptive pill
HELP	Community Crisis Counselling Agency
NZ	New Zealand
On-call doctor	Pohutukawa Adult Sexual Assault on call doctor Day hours: Phone 021 893 532 After hours: Phone the Auckland DHB call centre
SMO	Senior Medical Officer
STI	Sexually transmitted infection
Sexual misconduct	A range of behaviours including inappropriate sexual touching,

Term	Definition
	sexual harassment, sexual assault and sexual abuse. These terms are used to describe acts which are sexual or indecent in nature, which may be accompanied by actual or threatened force and may induce fear, shame or mental suffering.
Sexual assault	The act of intentionally applying or attempting to apply force to the person of another, directly or indirectly, or threatening by any act or gesture to apply such force to the person of another, if the person making the threat has, or causes the other to believe on reasonable grounds that he or she has, present ability to effect his or her purpose; and to assault has a corresponding meaning (Crimes Act, 1961 - see Legislation).

4. Immediate management notification and escalation process

The CCN and duty SMO must be informed immediately when an allegation of a sexual nature or of sexual misconduct is made by a patient against an Auckland DHB employee or contractor. The CCN must take charge of the immediate management of the patient and is responsible for initiating the implementation of this policy. The CCN must also notify:

- The duty manager and the AED SMO on duty immediately
- The nurse unit manager and clinical director of the department promptly

5. Immediate management of the patient and escalation process

5.1 Secure the patient

All allegations of a sexual nature or of sexual misconduct must be managed in accordance with this policy:

Step	Action
1.	If the patient who has made an allegation of a sexual nature or of sexual misconduct requires urgent medical intervention, that takes priority over “gathering and preserving of evidence.” The CCN must notify the most senior doctor on duty to assess, treat and care for the patient immediately.
1.	The patient must be provided with a single room and offered the support of family/whānau, and/or a social worker.
2.	Arrange an Auckland HELP crisis support counsellor immediately to support the patient whether they want to go to the police or not. Ring HELP phone number: 09 623 1700 (24/7) and leave a message to ring the CCN phone number. Messages are responded to promptly.
3.	If the patient wishes to report the incident to the Police, the CCN must liaise with the HELP counsellor who will phone the police to attend and organise a forensic medical examination by the on-call doctor. The forensic sexual assault examiner will provide the necessary medical care such as emergency contraception and prophylaxis for STIs. Note: The Pohutukawa Adult Sexual Assault on call doctor is only available for police requested forensic medical examinations and advice only. During day time hours, contact

Step	Action
	the Pohutukawa Adult Sexual Assault on call doctor on: 021 893 532 or after hours via the Auckland DHB call centre.
4.	If the patient is unsure or has not made decision to report the incident to the Police, liaise with the Pohutukawa Adult Sexual Assault on call doctor regarding a plan who may organise a “just in case” forensic examination, which is done on a case by case basis. On occasions ECP/STI prophylaxis will need to be given by the ED doctor. In addition, provide the following leaflets (see Associated documents): <ul style="list-style-type: none"> • Pohutukawa Sexual Assault Service for Adults • Information for Victims of Sexual Assault (NZ Police) • Support for Sexual Abuse Survivors (HELP Crisis Services)
5.	If the patient does not wish to report the incident to the police, then proceed with the following basic medical care <ul style="list-style-type: none"> • Providing emergency contraceptive pill (ECP) where appropriate • Offering STI screening • Offering standard antibiotic prophylaxis for prevention of STIs • Offering a genital exam, in particular if the patient has any genital symptoms • Provision of the same leaflets as above
6.	Ensure the patient’s decision and plan is documented.

5.2 Secure the environment

Step	Action
1.	Ensure that any relevant material or information is secure including clothing, the area concerned and records.
2.	Preserve forensic evidence whilst a decision is made regarding police investigation. If possible (within reason), the patient is not to wash, change clothes, urinate, defecate, drink, eat, brush hair or teeth, rinse mouth.
3.	Do not clean wounds unless part of essential repair of major injury.
4.	In situations where forensic evidence may be required by the police, patient clothing or bedding must not be sent for laundering.

5.3 Employee involved

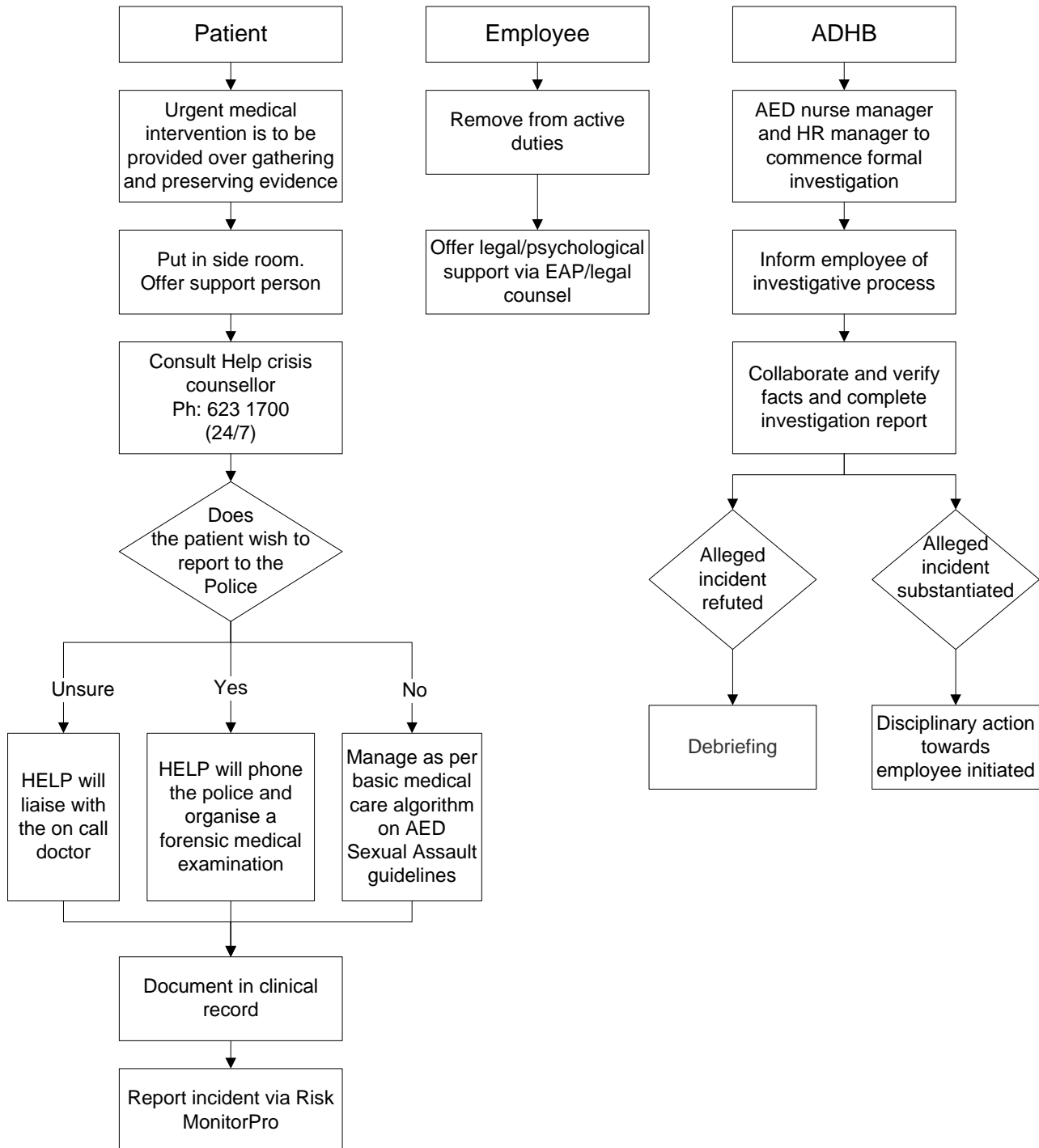
Step	Action
1.	Manager to remove the employee from the situation, take them to a private, confidential area, offer to include a support person and advise them of the allegations.
2.	The employee is to be taken off active duties, advise regarding leave type.
3.	Legal and psychological/welfare support to the employee must be offered immediately. This may be arranged through the duty manager, nurse manager/clinical director, EAP or legal counsel.
4.	Encourage the employee to write their own notes of the incident in private and ensure their confidentiality is maintained.
5.	Prior to the employee going off duty check with the nurse unit manager and or clinical director to see if more information is required. Before the employee leaves Auckland DHB ensure that:

Step	Action
	<ul style="list-style-type: none"> • They are safe to drive • Have support outside work • Personal contact details are recorded
6.	Manager to liaise regularly with the employee to keep them updated with the steps of the investigation process.

6. The investigation process

Step	Action
1.	After the initial process is completed, the nurse manager and/or the clinical director in consultation with the human resource manager must initiate the Auckland DHB preliminary investigation process for the allegation.
2.	The employee must be informed of the investigation process.
3.	Where the employee's presence would hinder the investigation the affected employee may be transferred to other duties or placed on leave with full pay.
4.	Suspension or transfer must be promptly discussed with and then confirmed in writing to the employee.
5.	In the event of the employee going on leave they must advise where they can be contacted and remain available for interview at reasonable notice.
6.	If the investigation refutes the allegations of sexual assault, no disciplinary action will be taken but appropriate debriefing must be conducted and communicated.
7.	If, as a result of the investigation process, the allegations are substantiated, Auckland DHB must take appropriate steps to ensure that the disciplinary process is invoked and suitable disciplinary action is taken in accordance with Discipline and Dismissal policy (see Associated documents).
8.	If, as a result of a full disciplinary investigation process, the review findings are deemed to constitute serious misconduct, dismissal will be an outcome;
9.	Based on the outcome of the investigations, appropriate regulatory authorities may need to be notified (MCNZ, HDC, and Nursing Council).
10.	The employee and patient need to be advised of the outcome of the investigation.

7. Patient, employee and Auckland DHB process



8. Legislation

- Code of Health and Disability Services Consumers' Rights 1996
- Crimes Act 1961
- Employment Relations Act 2000
- Health & Safety in Employment Act 1992
- NZ Bill of Rights Act 1990
- Victims' Rights Act 2002

9. Associated documents

- Consumer Complaints Management
- Discipline & Dismissal
- Harassment & Bullying
- Incident Management Policy
- Incident Management Guideline
- Informed Consent
- Police & Other Agency Investigations (Mental Health)
- Security
- Sexual Behaviour in Mental Health Inpatient Units
- Workplace Violence & Aggression Management

Patient information

- Pohutukawa Sexual Assault Service for Adults
- Information for Victims of Sexual Assault (NZ Police)
- Support for Sexual Abuse Survivors (HELP Crisis Services)

10. Disclaimer

No guideline can cover all variations required for specific circumstances. It is the responsibility of the health care practitioners using this Auckland DHB guideline to adapt it for safe use within their own institution, recognise the need for specialist help, and call for it without delay, when an individual patient falls outside of the boundaries of this guideline.

11. Corrections and amendments

The next scheduled review of this document is as per the document classification table (page 1). However, if the reader notices any errors or believes that the document should be reviewed **before** the scheduled date, they should contact the owner or [Document Control](#) without delay.