

**SEXUAL HARASSMENT POLICY**

**Table of Contents**

- (1) Policy statement
- (2) About this policy
- (3) Who does this policy apply to?
- (4) Who is responsible for this policy?
- (5) What is sexual harassment?
- (6) Other forms of harassment
- (7) If you are being or have been sexually harassed
- (8) Making a formal complaint
- (9) Formal Investigations
- (10) Action following the investigation
- (11) The disciplinary process
- (12) Appeals
- (13) Support for those involved
- (14) Confidentiality
- (15) Co-operation with other bodies

**Appendix 1:** Disciplinary and Appeal Committees' Hearing Procedure

**Appendix 2:** Informal Resolution Options

**Appendix 3:** Designated Officer Checklist

**Appendix 4:** External support agencies dealing with sexual harassment and sexual abuse

**Appendix 5:** Investigating Officer Checklist

**Annex A:** Complaints Involving NASUWT Staff

**Annex B: Summary Flowchart**

## **I. Policy statement**

- 1.1 The NASUWT is committed to preventing sexual harassment and all forms of unlawful discrimination. We are committed to providing an environment free from any form of harassment, including sexual harassment, to ensure that all members, staff and third parties are treated, and treat others, with dignity and respect.
  
- 1.2 The NASUWT's Rules seek to regulate relations between members through actively opposing all forms of harassment, prejudice and unfair discrimination, whether on grounds of sex, race, ethnic or national origin, caring responsibilities, marital status, religion or belief, sexuality, disability, gender reassignment, age or other status

or personal characteristic, and to protect and promote the interests of members.

1.3 NASUWT members and agents of the Union, including all lay officials, National Executive Members (NEMs) and National Officers are expected to comply with this policy and any protocols, bylaws or other relevant procedures adopted by Conference or by the National Executive.

1.4 NASUWT staff must also be safe to work in an environment free from offensive, aggressive, intimidatory or disrespectful behaviour. Complaints which relate to NASUWT staff should be reported in the first instance to the General Secretary (see also Annex A).

## **2. About this policy**

2.1 This policy is relevant to Rule 27 of the Rules of the NASUWT and any Codes of Conduct of procedures issued by the Union. The Union will ensure that all proceedings in respect of sexual harassment are progressed in accordance with this policy. In the event of any conflict, the procedure within this policy for progressing complaints on matters relating to sexual harassment shall take precedence.

2.2 The National Executive may amend this policy at any time, subject to the consideration of any legal or other expert advice.

## **3. Who does this policy apply to?**

3.1 This policy applies to all members of the Union, including elected lay representatives.

#### **4. Who is responsible for this policy?**

4.1 The General Secretary, on behalf of the National Executive, has overall responsibility for the effective operation of this policy and can delegate responsibility for overseeing its implementation. You should refer any questions about this policy to the General Secretary.

4.2 The National Executive will review this policy when necessary and at least every two years.

#### **5. What is sexual harassment?**

5.1 Sexual harassment is unlawful under legislation including the Equality Act 2010 and the Sex Discrimination (Northern Ireland) Order 1976 (as Amended). Acts of sexual harassment will be considered to be in breach of this policy whether or not the sexual harassment is unlawful.

5.2 Sexual harassment is unwanted conduct of a sexual nature with purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, or offensive environment for that person.

5.3 In deciding whether an incident has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading or offensive environment for that person, each of the following will be taken into account:

- a) the perception of that person;
- b) the other circumstances of the case;
- c) whether the conduct may reasonably be considered to have that effect.

5.4A single incident can amount to sexual harassment.

## **6. Other forms of harassment**

6.1 The NASUWT recognises that sexual harassment also intersects with other forms of discrimination. Any reported sexual harassment incident will also consider whether there is another intersecting factor connected to the unwanted conduct. Where a complaint is made which intersects with another form of discrimination, the intersecting part will also be dealt with under this policy.

6.2 Harassment may also include conduct related to sex or sexual orientation, race, religion or belief, age, disability or gender reassignment. This policy is also relevant to unwanted conduct more widely, including harassment on the grounds of nationality, ethnic or national origin, marital or civil partner status, pregnancy or maternity. Harassment is unacceptable even if it does not fall within any of these categories.

- 6.3 It is also harassment to subject a person to less favourable treatment because they rejected or submitted to unwanted conduct, where the unwanted conduct is of a sexual nature or relates to sex or gender reassignment.
- 6.4 It is also unlawful and in breach of this policy to instruct, cause or induce and/or knowingly help another person to do anything which constitutes harassment or discrimination.
- 6.5 A complaint of harassment may be considered unlawful or in breach of this policy even if the behaviour is not directed at the complainant.
- 6.6 **Sexual** harassment may include (NB. this list is not exhaustive):
- (a) sexual comments or jokes;
  - (b) taking and/or displaying sexually graphic pictures, posters or photos, including posts of a sexual nature, through contact on social media, downloaded images, electronic device screens or other means;
  - (c) suggestive looks, staring or leering;
  - (d) propositions and sexual advances;
  - (e) making promises in return for sexual favours;
  - (f) sexual gestures;
  - (g) intrusive questions about a person's private or sex life, and discussing your own sex life;
  - (h) spreading sexual rumours about a person;
  - (i) coercion, including pressure for sexual favours;
  - (j) sending sexually explicit emails or text messages;
  - (k) unwelcome touching, hugging, massaging or kissing;

(l) criminal behaviour, including sexual assault, stalking, indecent exposure and offensive communications.

6.7 Unwanted sexual conduct constituting sexual harassment may refer/relate to a person or persons of the same or different sex or someone who is gender non-binary; it may be witnessed or overheard by a third party, and does not need to be directed at any individual.

6.8 Sexual interaction that is invited, mutual or consensual is not sexual harassment because it is not unwanted. However, sexual conduct that has been welcomed in the past can become unwanted.

6.9 Sexual harassment and victimisation may include acts perpetrated by third parties. A third party in this context means anyone who is not either an NASUWT member or employee. The NASUWT does not tolerate sexual harassment by any third party, encourages anyone who experiences it to report it, and will be proactive in taking action to protect members from sexual harassment and victimisation perpetrated by third parties.

6.10 NASUWT members who have engaged in unwanted conduct of a sexual nature which has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them in any situation outside of their NASUWT activity, are liable to be subjected to disciplinary procedures under this policy even if the person affected by the sexual harassment was not protected by law. In particular, members who hold office are placed in a position of trust and

authority, bringing them into contact with others who may be particularly at risk of sexual harassment or victimisation. The NASUWT has a duty to protect people who are likely to be targeted by known harassers. This might entail prohibiting membership of the Union or denying a member the right to hold office within the Union.

6.11 A person may be harassed even if they were not the intended target. Harassment is also considered unlawful or in breach of this policy, and unwanted, if a person witnesses an act of harassment, language or behaviour that creates an intimidating, hostile, degrading or offensive environment.

## **7. If you are being or have been sexually harassed**

7.1 The NASUWT does not tolerate sexual harassment of its members, staff or third parties. Sexual harassment is unacceptable and unlawful and has no place in this organisation.

7.2 If you are being sexually harassed, witness it, or are subject to other forms of harassment by another member or other members, you should report it to the Union. You may speak to an NASUWT-designated officer who can provide confidential advice and talk you through your reporting options. The Union will respect your right to privacy and confidentiality, unless there is a serious and immediate concern for your safety or welfare.

7.3 Under this policy, there is no time limit to you reporting an incident of sexual harassment. Often the impact of sexual harassment is not



felt or witnessed immediately. It is recognised that those who experience or witness sexual harassment or violence, or who provide support or assistance, may also experience trauma well after the incident taking place.

7.4 You can report an incident, confidentially, via the Union's **'Hotline for reporting harassment'**. The 'Hotline' permits members to report incidents anonymously.

7.5 If you experience or witness a serious incident of sexual harassment or sexual assault, you may choose to report the matter to the police and, if you suffered an assault, you may also choose to seek medical assistance, including specialist counselling support.

7.6 If you have been sexually assaulted, there are **Specialist Helplines and other support** available, where you can talk through your options. If you choose to report the matter to the Union, we will discuss whether you want to report the matter to the police, and we will support you if you choose to do so. The Union will not seek to pressure you to make any particular decision. If you do not want to tell the police, you do not have to.

7.7 In some circumstances, the Union may decide to tell the police where there is likely to be an ongoing risk to your safety or the safety of others. Before the Union reports a matter to the police, we will talk with you first and let you know when we have reported the matter to the police.

## **8. Making a formal complaint**

- 8.1 Allegations of sexual harassment or other forms of harassment will be dealt with seriously and confidentially. Members should not fear victimisation when raising complaints.
- 8.2 If you wish to make a formal complaint about sexual harassment about another member or other members, you should submit it in writing to the General Secretary (or to the President where a complaint relates to the General Secretary) or by reporting the incident on the Union's reporting 'Hotline'.
- 8.3 If your complaint is against the General Secretary or National President, you should raise this with a Designated Officer who will advise on how your complaint can be progressed.
- 8.4 You may wish to talk through the complaint with a trusted person who may be willing to record your complaint/statement on your behalf.
- 8.5 Your complaint should, where you feel able, set out details of the unacceptable conduct in question, including:
  - (a) the name(s) of the harasser(s) (if known). If you are unable to provide this, then provide any identifying details that may assist the Union;
  - (b) the nature of the harassment;
  - (c) the date(s) and time(s) at which it occurred;
  - (d) the names of any witnesses (if known/applicable);
  - (e) any actions that have been taken following the incident(s), and by whom;

(f) whether the incident has been reported to an external agent such as the police.

8.6 As a general principle, the decision whether to report a matter is up to you. However, the NASUWT has a duty to protect all members, staff and third parties, and may also pursue matters if the Union considers it appropriate to do so, and whilst respecting your right to confidentiality.

## **9. Formal investigations**

9.1 Upon receipt of a complaint, the General Secretary will consult with the National President (or alternate) to appoint an investigating officer<sup>1</sup> to commence the formal investigations as set out below. If you would prefer to talk to an investigator of the same sex, this will be respected.

9.2 Your complaint will be investigated in a timely, respectful, sensitive and confidential manner. The process for investigating complaints is outlined below.

9.3 The Union reserves the right to consider delegating the investigation to trained external investigators in cases involving particularly serious misconduct, or where the President and/or General Secretary (or alternate) considers this warranted.

---

<sup>1</sup> Fully trained investigator on sexual harassment and discrimination matters

- 9.4 Where the allegation(s) has been reported to the police, the Union will co-operate with their investigation.

### **The Process**

- (a) The investigating officer will be appointed to review all the information and documents provided by you, and arrange a meeting with you,<sup>2</sup> as soon as reasonably practicable, so that you can give your account of events. You will be afforded the right to be accompanied by a colleague of your choice, who will be reminded of the confidentiality of the investigation. If you prefer, the Union can provide someone to support you at the meeting. If the investigating officer considers that further information is required, they will make a request to obtain this from you.
- (b) Where your complaint is about another member or other members, the President (or an alternate) will commission an investigating team who will consider whether there are sufficient grounds for suspending from membership the alleged harasser<sup>3</sup> and may impose such interim suspension measures as they may deem necessary, pending the outcome of the investigation.
- (c) The investigator will meet with the alleged harasser, who will also be afforded the right to be accompanied by a colleague of their choice, in order to hear their account of events. They have a

---

<sup>2</sup> Complainant's standard invitation letter from the Complaint Secretary – Appendix I.

<sup>3</sup> Suspension of the alleged harasser will not be a knee-jerk response, but depending on the position of the members and may be necessary to protect the investigation and reduce the risk of victimisation.

right to be informed of the details of the allegations against them in advance of this meeting.

- (d) If the alleged harasser resigns their membership of the Union during the course of an investigation, the Union may continue to investigate the complaint. The alleged harasser will be requested to continue to co-operate fully.
- (e) The alleged harasser will be instructed not to make contact with you or your witnesses. Support will be provided to you (as far as practicably possible) to ensure there is no contact between both parties.
- (f) It may be necessary to interview witnesses to any of the incidents mentioned in your complaint. If there are witnesses, the importance of maintaining confidentiality will be emphasised to them.
- (g) At the end of the investigation, the investigator will submit a written report to the General Secretary or their appointed Complaints Secretary.
- (h) A Designated Officer<sup>4</sup> will be appointed by the General Secretary to meet with you at each stage of the process and also update you on progress and next steps.
- (i) The Designated Officer will meet with you, to discuss the report of the investigation and what action, if any, will be taken. You will be given the right to be accompanied by a colleague of your

---

<sup>4</sup> Fully trained on sexual harassment and discrimination matters

choice to the meeting. A copy of the report of the investigation will be given to you and to the alleged harasser.

## **10. Action following the investigation**

10.1 If the investigation concludes that there is a case to answer, the Designated Officer will discuss the next steps with you.

10.2 On completion of the investigation, we will discuss with you how the Union will support you.

## **11. The Disciplinary Process**

### **11.1 Sexual Harassment (Rule 27) Disciplinary Committee**

(a) Complaints relevant to Internal Union Discipline may be made against any member of the Union by:

- i. any member of the Union;
- ii. resolution of the National Officers.

(b) When a sexual harassment disciplinary committee is required, the President will, with advice from the General Secretary, select its membership from those National Executive Members elected to serve on the Union's Disciplinary Committees (and Appeals Panel), subject to availability and where those members have successfully completed the designated programme of training on equalities, unconscious bias and anti-discrimination.

- (c) The members of the Disciplinary Committee shall elect a Chair from amongst their number. However, an external decision-making Chair may be appointed to the Committee, in cases involving serious misconduct, or where the accused member is a senior member of the Union.
  
- (d) Disciplinary Committee members will be required to have participated in regular training on sexual harassment, other forms of harassment and discrimination in order to serve on a Disciplinary Committee; such training will continue on a regular basis during their tenure and will also include training on equality opportunities awareness and the questioning of witnesses on sexual harassment matters, as well as on other forms of harassment.

## **11.2 Disciplinary hearings**

- (a) The Committee will convene a disciplinary hearing at such time and date as it shall determine and will give notice of the date for the hearing within one calendar month following the date the disciplinary complaint is received.
  
- (b) The Complainant and the Respondent will have the right to bring a NASUWT member with them to the hearing to support or represent them. If you prefer, the Union may appoint someone to attend the hearing with you.

- (c) If, in the opinion of the Complaint Secretary, the Respondent or the Complainant submits written good cause no less than 24 hours before the time of any hearing why they cannot attend, the hearing shall be adjourned to a future date and as soon as practicably possible.
- (d) No more than one adjournment will be permitted.
- (e) If the Respondent or the Complainant does not attend the hearing, then the hearing may proceed in absentia. Your case may still be heard if either you or the respondent chooses not to attend the hearing.
- (f) The Disciplinary Committee may agree, upon receipt of a request from the Complainant, to permit the Complainant (and/or their representative) to be heard by the Committee in the absence of the Respondent. The Committee may agree to put such questions as appropriate to the Complainant on behalf of the Respondent in the absence of the Respondent.

### **11.3 Decisions and penalties**

- (a) The Disciplinary Committee, after the disciplinary hearing, may resolve to:
  - i. dismiss the complaint;
  - ii. uphold or partially uphold the complaint.



- (b) If the Disciplinary Committee were to find the complaint of sexual harassment or any other forms of harassment upheld, the Disciplinary Committee shall resolve to penalise the respondent, taking into account any aggravating factors, including (but not limited to): seniority and abuse of power; violence; exploitation; malice; threat and coercion; victimisation; bullying; retaliation; breach of privacy; intimidation; frequency; discrimination or combined (intersectional) discrimination; breach of confidentiality; refusal to engage in the process; or acting in bad faith.
  
- (c) The penalties available to the Disciplinary Committee shall include, but not be restricted to, the following:
  - i. to expel the Respondent from membership of the Union;
  - ii. to debar the Respondent from holding office in the Union;
  - iii. to suspend the Respondent from membership of the Union;
  - iv. to issue a reprimand the Respondent.
  
- (d) As soon as is practicable, and within ten calendar days, the Complaint Secretary shall notify both parties in writing of the resolutions of the Disciplinary Committee and of their right of appeal.

- (e) Any penalties imposed shall take effect from the date of decision, save that of expulsion where a suspension from membership will apply pending any Appeal.
- (f) Where a complaint is upheld, the victim/survivor may be provided with such remedies as considered appropriate, including financial compensation or access to counselling.

## **12. Appeals**

### **12.1 Appeals panel**

- (a) There shall be a right of appeal from the Disciplinary Committee to the Appeals Committee.
- (b) The Appeals Committee shall be constituted in the same manner as the Disciplinary Committee above.
- (c) No member of the Disciplinary Committee against whose resolution(s) the appeal has been made shall be a member of the Appeals Committee considering that appeal.

### **12.2 The Appeal**

- (a) The Appellant shall submit the appeal in writing (Notice of Appeal) specifying the grounds of the appeal to the Complaint Secretary.

- (b) All appeal hearings shall consider only grounds in relation to the decision made by the Disciplinary Committee, and will not be a full re-hearing. The grounds of appeal must clearly and concisely identify any:
  - i. part of the policy which the panel has interpreted wrongly and applied erroneously; and
  - ii. breach of procedure by the panel.
- (c) The time limit for an appeal shall be ten calendar days from the date the written notice of the resolution(s) against which the appeal lies was sent to the Complainant and Respondent.
- (d) Upon receipt of a Notice of Appeal the General Secretary (or alternate) shall within seven calendar days convene a meeting of the Appeals Committee to consider the appeal.
- (e) The Appeal hearing will be convened at such time and date as the Appeals Committee shall determine and normally within 21 calendar days of receipt of the appeal.
- (f) The Appeals Committee may resolve to dismiss, uphold, increase or reduce the penalty imposed by the Disciplinary Committee.
- (g) Any decision of the Appeals Committee shall be final.
- (h) As soon as is practicable, and within ten calendar days, the Complaint Secretary shall notify the relevant parties in writing of the resolutions of the Appeals Committee.

### **13. Support for those involved**

- (a) Members who make complaints under this protocol or who participate in good faith in any investigation must not suffer any

form of retaliation or victimisation as a result. Anyone found to have retaliated against or victimised someone in this way might be subject to the Disciplinary Process.

- (b) If a complainant or witness believes they have suffered any retaliation or victimisation as a result of their involvement in such proceedings, they should inform the Complaint Secretary immediately, who will advise on what action to take.
- (c) The NASUWT offers access to confidential counselling, which is available on request for anyone subjected to, affected by, or accused of, sexual harassment or other forms of harassment. A designated support officer is available to assist in accessing support.
- (d) Where a member has been accused of sexual harassment and the complaint has been upheld, and where the member subsequently faces criminal charges, casework support and legal assistance may not be provided by the Union.

#### **14. Confidentiality**

- (a) Confidentiality is an important part of the procedures provided under this policy. Details of the investigation and the name of the person making the complaint and the person accused must only be disclosed on a 'need to know' basis. Breach of confidentiality may give rise to disciplinary action under this policy.

**15. Co-operation with other bodies**

- (a) In such circumstances where a complaint of sexual harassment has been reported to the police, the Union will undertake to co-operate with the police in the conduct of any criminal investigation. The Union may be required to provide details to the police of any materials obtained during the course of the Union's internal investigations. The Union will advise the relevant parties where this is the case.
  
- (b) Where a complaint is upheld, the Union may report the outcome of the disciplinary process to the Respondent's employer.



## **Appendix I: Disciplinary and Appeal Committees' Hearing Procedure**

### **1. Administration of the hearing procedure**

- 1.1 A designated Complaint Secretary will provide advice and support, and administer the procedures under the sexual harassment policy.
- 1.2 Other than in exceptional circumstances, all sexual harassment hearings will be held at such place, format and time as notified by the Complaint Secretary.
- 1.3 Prior to the hearing, if there are procedural issues to be addressed, the Chair will rule on these and confirm the decision, in writing, to both parties.

### **2. Witnesses**

- 2.1 The complainant and respondent are entitled to identify witnesses to support their case.
- 2.2 Witnesses must provide a written, signed witness statement, which gives the key points of their evidence.
- 2.3 Witnesses called simply to provide a character reference will not be allowed.

### **3. Hearing arrangements**

- 3.1 The timing and place of the Disciplinary Committee hearing will be solely at the determination of the Discipline Committee (or Appeals Committee).
- 3.2 When necessary and appropriate, the NASUWT will attempt to secure paid release from work to enable participants to attend Disciplinary Committee hearings, whilst ensuring the confidentiality of the process.
- 3.3 Where a respondent is unable to attend on a date designated for a Disciplinary Committee hearing, they should inform the Complaints Secretary as soon possible.
- 3.4 The NASUWT will reimburse reasonable subsistence and travel expenses incurred by participants in attending Disciplinary Committee hearings.
- 3.5 The respondent and complainant may be represented at the Disciplinary Committee hearing by another member of the Union providing that member is willing to act as their representative.
- 3.6 The respondent and complainant shall notify the Complaint Secretary of the name and address of their representative as soon as practicable and, in any event, at least seven calendar days before the hearing.



3.7 All Disciplinary Committee hearings and appeals hearings shall be convened and conducted in accordance with the sexual harassment policy.

3.8 The Complaint Secretary will make separate consultation rooms available to the respondent and to the complainant for the duration of the hearing. Arrangements will be made upon request for submissions to be given remotely.

#### **4. Procedure prior to the hearing**

4.1 The Disciplinary Committee will notify in writing to the Complainant and the Respondent the dates and deadlines for:

- a) Statements of case for the Complainant and the Respondent
- b) The date by which statements of case will be sent to the Complainant and the Respondent
- c) Date for receipt of any other written submissions and witness statements
- d) The date by which all documentation to be considered at the hearing will be sent to the Complainant and the Respondent
- e) The date of the disciplinary hearing

4.2 It will be the responsibility of the Complainant and the Respondent to ensure that documentation to be considered at the disciplinary hearing is received by the Complaints Secretary by the dates notified.

4.3 Neither the respondent nor the complainant will be permitted to table at the hearing, or to refer to in evidence, any document not circulated in advance of the hearing.

4.4 At least seven days before the Disciplinary Committee hearing, the parties must submit to the Complaint Secretary concise written details of any procedural issues which they wish to raise. The Committee Chair will determine such issues prior to the hearing. The Complaint Secretary will advise the parties, in writing, of the Chair's decision.

## **5. Procedure at the hearing**

5.1 The sequence of events at a Disciplinary Committee hearing shall be:

- (a) Chair opens proceedings and makes introductions;
- (b) opening statement by complainant (or representative);
- (c) presentation of submission by first complainant's witness (or representative) (if available) or, as appropriate, respondent (or representative);
- (d) calling of further complainant witnesses for questioning (if available);
- (e) opening statement by respondent (or representative);
- (f) calling of first respondent witness for questioning by respondent (or representative) (if available) or, as appropriate, complainant (or representative);

- (g) calling of further respondent's witnesses for questioning (if available);
- (h) closing statement by complainant (or representative) or, as appropriate, complaint presenter;
- (i) closing statement by respondent (or Representative);
- (j) departure of complainant and respondent;
- (k) determination of complaint by Committee.

5.2 Members of the Disciplinary Committee may, at the discretion of the Chair of the Committee, put questions to both the respondent and complainant and their witnesses.

5.3 At the discretion of the Chair, members of the Disciplinary Committee may intervene at any time during the hearing in order to seek further information/clarification in respect of any issue under consideration.

5.4 The Chair shall take such steps as they deem necessary to ensure the smooth running of the proceedings without any interruption by either party or their representatives.

5.5 The Chair may determine that a hearing may be conducted where one or both parties participate in person or via video link.

5.6 Witnesses will not be in attendance during the hearing other than when giving their evidence.

5.7 For the avoidance of doubt, questioning of witnesses by the other party and/or members of the Disciplinary Committee may refer to

the content of written statements in addition to matters not referred to in the statements.

- 5.8 Witnesses will not normally be recalled unless the Chair rules otherwise.
- 5.9 The Disciplinary Committee may require the parties to withdraw from the room at any time should the members of the Committee wish to discuss the case in private.
- 5.10 The ruling of the Chair is final and will be binding on all parties in respect of any interpretation of this procedure and/or matters not covered within this document.
- 5.11 For the avoidance of doubt, the Chair has the discretion to adjourn a hearing and reconvene as soon as possible for any purpose deemed necessary by the members of the Committee.

## **6. Post-hearing**

- 6.1 The decision of the Disciplinary Committee will be conveyed in writing to both the complainant and respondent by the Complaint Secretary as soon as possible, and within ten calendar days after the hearing.
- 6.2 After the conclusion of the Disciplinary Committee hearing and any related appeal, a report of the findings of the Committee and of any sanction imposed will be made to the National Officers

## **APPEAL HEARING PROCEDURE**

### **7. Arrangements for appeal hearings**

- 7.1 Arrangements for appeal hearings shall be as set out above for Disciplinary Committee hearings.
- 7.2 The time limit for an appeal is ten calendar days from the date of the written notice of decision of the Disciplinary Committee.

### **8. Procedure prior to the appeal**

- 8.1 An appeal may be lodged by either party and must be submitted in writing.
- 8.2 The grounds of appeal must clearly and concisely identify the:
- a) part of the policy which the panel has interpreted wrongly and applied erroneously; and
  - b) breach of procedure by the panel.
- 8.3 Upon receipt of a Notice of Appeal the General Secretary (or alternate) shall within seven calendar days convene a meeting of the Appeals Committee to consider the appeal.

8.4 The Appeal hearing will be convened at such time and date as the Appeals Committee shall determine and normally within 21 days of receipt of the appeal.

8.5 The Appeals Committee may resolve to dismiss, uphold, increase or reduce the penalty imposed by the Disciplinary Committee.

8.6 Any decision of the Appeals Committee shall be final.

## **9. Procedure at the appeal hearing**

9.1 Appeal hearings shall be conducted in accordance with the procedures set out above for Disciplinary Committee hearings.

## **10. Post-appeal hearing**

10.1 The decision of the Appeals Committee will be conveyed in writing to the complainant and to the respondent by the Complaint Secretary as soon as is reasonably practicable after the hearing.

10.2 After the appeal, a report of the findings of the appeals committees, together with any sanction imposed, shall be made to the National Officers Committee.

## **Appendix 2: Informal Resolution Options**

1. Designated support officers are trained and accredited to provide advice and support in response to reports of sexual harassment. They will be fully engaged in resolving the issue and equipped to provide you with guidance in how to do so in a confidential manner.
  
2. If you seek the support of one of the Union's designated support team, they will:
  - a) listen to what you have to say;
  - b) advise you on your options;
  - c) support you in your decision making;
  - d) accompany you when speaking to the alleged harasser (if applicable);
  - e) help you set out your thoughts in writing;
  - f) raise the matter informally with the alleged harasser on your behalf (if appropriate);
  - g) obtain specialist advice on how best to resolve the issue and/or find assistance in doing so from other sources either internally or externally;
  - h) help to obtain counselling support, safeguarding advice or a risk assessment, if appropriate;
  - i) not raise a formal complaint unless you want to do so;
  - j) respect your right to privacy and confidentiality as appropriate.
  - k) Signpost and help you to access support from appropriate external agencies.
  
3. Mediation is rarely suitable for resolving sexual harassment cases. It is inappropriate and unnecessary for a victim of sexual harassment to be

invited to sympathise with the point of view of a harasser whose actions were unlawful and prohibited, whether or not they intended harm.

4. If you have experienced or witnessed sexual harassment, you may speak to a friend or someone you trust, in confidence. Keep a diary of incidences. The NASUWT online reporting platform is also available for individuals to report matters of concern in confidence.
5. There could be circumstances where certain information may need to be shared with other people (such as police or an employer) because of the Union's duty of care or safeguarding responsibilities, as a result of concerns identified whether in an informal or formal process. In these cases, we will speak to you first.
6. We will respect your wishes and only share minimal information where absolutely necessary, after discussion with you.



### **Appendix 3: Designated Officer Checklist**

1. The checklist is to help the designated officer to understand their obligations and how to comply with them.
2. As a designated officer, you will have the responsibility to liaise between the complainant and the Union during the investigation. You may also be called upon to liaise between the alleged harasser and the Union.
3. If contacted directly by the complainant, the designated officer shall advise the complainant on the steps to be taken in order to progress their complaint. The designated officer will consider requests for support sympathetically and ensure an ongoing dialogue with the complainant. The designated officer will be willing and ready to talk to the complainant (and alleged harasser) in a sensitive, respectful and supportive way.
4. All communication between the designated officer and the complainant will be confidential. The same confidentiality will be maintained in all liaison with the alleged harasser. Such communication will not be disclosed to a third party without the consent of the complainant and the alleged harasser.
5. However, because the Union has a statutory obligation to investigate serious concerns raised with us, the designated officer will not be able to guarantee confidentiality of a complainant. However, the designated officer will first discuss any issues relating to disclosure with the complainant in the first instance.

6. The designated officer will be required to meet with the complainant at each stage of the investigation process in order to ensure that the complainant has access to appropriate support throughout the process (including access to counselling and other external support) and provide updates on the progress of the investigation and next steps.
  
7. In addition, the designated officer will:
  - (a) explain the likely stages involved in the process and how long the process may take, and answer any question the complainant or alleged harasser may have;
  - (b) make enquiries to decide whether action is required to safeguard the complainant;
  - (c) confirm whether the allegation has been reported to the police or contact made with victim support agencies;
  - (d) consider whether the complainant should be signposted to external bodies for support.
  
8. If the complainant's evidence is about personal or sensitive matters, or if they are particularly worried about giving evidence in person, the designated officer will liaise with the investigating officer in order to provide special measures to support the complainant. Special measures are adjustments the Union can make to assist witnesses in giving evidence and could include:
  - (a) remote links so that the complainant can give evidence outside the room where the hearing is taking place – with or without the video being switched on;
  - (b) hold the hearing or part of the hearing in private;

(c) regular breaks when the complainant is giving evidence.

9. The designated officer will ensure that regular reviews of support and adjustments are undertaken of any agreed measures with the complainant.

10. Upon receipt of the investigating officer's report, the designated officer will discuss with the complainant the report of the investigation and what action, if any, will be taken.

11. In the event of a potential conflict of interest, separate designated officers or a new designated officer may be appointed to provide support to the complainant and alleged harasser.

#### **Appendix 4: External support agencies dealing with sexual harassment and sexual abuse**

**Details of external support organisations are available at:**

**[www.naswt.org.uk/](http://www.naswt.org.uk/)**

## **Appendix 5: Investigating Officer Checklist**

1. In addition to the investigating officer's duties under paragraph 9 above, they will have the overarching responsibility to identify whether there are grounds for an allegation to proceed to hearing.
  
2. The following factors should assist the investigating officer in making their decision on whether a recommendation should be made for the matter to be referred to external bodies:
  - (a) The nature of the allegation[s].
  - (b) The seriousness of the conduct.
  - (c) Criminality of the conduct.
  - (d) Vulnerability of the complainant.
  - (e) Consensual relationship that becomes non-consensual

### The nature of the allegation

(a) See paragraphs 6.6 – 6.11 above

#### The seriousness of the conduct

The investigating officer will make an assessment of the gravity of the allegation, taking into consideration all the circumstances of the case including, but not limited, to the seniority of the alleged harasser.

#### Criminality of the conduct

If an investigating officer receives a complaint of alleged sexual harassment, which could amount to a criminal offence, e.g. rape or sexual assault, and the victim has not already reported this to the police, they should advise the victim/survivor of their right to report the matter externally. The designated officer will assist the individual if required.

#### Vulnerability of the alleged complainant

(a) The investigating officer shall take into consideration the vulnerability of the alleged complainant, such as:

- i. Disability
- ii. Fragile health
- iii. Sexual orientation
- iv. Cultural and/or religious vulnerabilities
- v. Age
- vi. Professional status – seniority
- vii. Professional relationship

### Consensual relationship that becomes non-consensual

- (a) Persistence (now unwanted) sexual attention
- (b) Attempts to revive the relationship by bullying, threats and intimidation.
- (c) Incentivising

3. It is important to note that intoxication will not be accepted or considered as a defence to allegations of sexual harassment. In fact, intoxication could aggravate the behaviour.

4. For the avoidance of doubt, an investigating officer is not required to assess or consider the issue of consent between the parties.

## **ANNEX A**

### **Complaints Involving NASUWT Staff**

In cases where a sexual harassment complaint related to a member of staff (as a victim/survivor or alleged harasser, it should be reported in the first instance to the General Secretary or a member of the General Secretary's Team.

The General Secretary (or nominee) will, as appropriate:

- a) Manage the complaint in accordance with the staff grievance and disciplinary procedures (where the alleged harasser is a member of staff); or
- b) Refer the matter to the National Officers Committee (where an alleged harasser is a member of the NASUWT) to manage the complaint in accordance with the sexual harassment policy.

## **ANNEX B**

### **Summary Flowchart**

Please refer to the NASUWT website