

**Scottish Labour**

**How to Change the Future for Women and Girls: Ending  
Violence and Sexual Harassment Against Women and Girls**

**30 June 2023**

1. The NASUWT welcomes the opportunity to comment on the Scottish Labour consultation paper: *How to Change the Future for Women and Girls: Ending Violence and Sexual Harassment Against Women and Girls*.
2. The NASUWT is the Teachers' Union, representing teachers and school leaders in all sectors of education.

**GENERAL COMMENTS**

3. The NASUWT works with and supports trade unions across the globe and continues to campaign for and promote social justice worldwide.
4. The NASUWT is committed to the challenge of securing equal rights for women and girls at home and around the world and believes that governments, education bodies and other organisations have a key role to play.
5. The Union is fully committed to a set of Gender Equality Challenge Principles, launched by the NASUWT in 2015, which supports and champions equality for women and girls. These principles are:

- A commitment to advancing equality for women and girls in education, employment and economic participation – ensuring they can enjoy and exercise their full human and equal rights in society.
- The provision of high-quality, fully funded and free state education that recognises the full and equal participation and access of women and girls around the world.
- An end to the pay gap between women and men, and discriminatory policies, practices and attitudes that prevent the full and equal participation of women in employment.
- Urgent action worldwide to end violence against women and girls with funded support for preventative programmes that recognise and address social and cultural norms.
- A commitment to promoting the positive and progressive contributions of women to society, the economy and cultural life.
- A commitment to ending the sexualisation and objectification of women and girls in education and society, recognising the important role of men and boys in this.

## **SPECIFIC COMMENTS**

### **Young Women and Sexual Harassment**

**QUESTION 1: How can we tackle these issues with young men and women? Is this key to long-term change?**

6. Effective strategies to address and deal with sexual harassment require concerted action across all spheres of society. Schools and colleges can make a vital contribution in relation to educating, safeguarding and creating a climate in which all staff and children and young people feel safe and are treated with respect.
7. The sexualisation of young people shatters the lives of all victims and prevents the formation of healthy relationships. Sexual harassment of

teachers in schools and colleges is commonplace and the majority of incidents fail to be reported or dealt with effectively. Women make up approximately three quarters of the teaching profession and the NASUWT membership, so this is a key issue for the Union.

8. There is a need to educate children and young people and school/college staff on the importance of gender equality and to address the causes and impact of sexual harassment.
9. The NASUWT believes that the manner in which a school responds to incidents of sexual harassment and bullying of its staff will be indicative of how seriously and how effectively the bullying and harassment of pupils is tackled. A school that fails to tackle sexual and other forms of harassment and bullying of its employees effectively will find it more difficult to develop an effective and credible response to safeguarding pupils.
10. Teachers' lives continue to be marred by regular incidents of sexual harassment, including through the abuse of social media by both pupils and parents. This is having a detrimental impact on the mental health and wellbeing of teachers.

**QUESTION 2: What have been the benefits of the Equally Safe programme in schools? How could these be built upon or developed further? Should there be a programme built into the school curriculum?**

11. The Union is supportive of the Equally Safe at School (ESAS) strategy for preventing and eradicating violence against women and girls (VAWG) and agrees that it is important to challenge the underpinning attitudes which enable such violence to take place.
12. The ESAS project, developed by Rape Crisis Scotland and Zero Tolerance, applies a whole-school approach to inequality and gender-based violence in schools. While every secondary school in Scotland is eligible for ESAS, Rape Crisis Scotland has reported that only 77

schools are registered with an ESAS account. This important work needs to be available and embedded in all schools, both at secondary and primary level, and approached in an age-appropriate and stage-appropriate way.

13. There are a number of education-based programmes and initiatives aimed at tackling VAWG which are supported by: the Scottish Government: Mentors in Violence Prevention (MVP): a peer education programme; the Gender Equality Taskforce in Education and Learning; the Gender Based Violence in Schools Working Group; and Rape Crisis Scotland's National Sexual Violence Prevention Programme for secondary schools. All of these strands need to be brought together to provide a cohesive approach.
14. The NASUWT is a member of the Gender Based Violence in Schools Working Group which was established to develop a national framework to prevent and respond to harmful behaviour and gender-based violence in schools. The aim is for this national framework to be supported by appropriate teaching resources to help school staff deliver confident and meaningful learning to combat sexual harassment and gender-based violence in schools. While this work is ongoing, it is hoped that the national framework created will be of significant use to schools across Scotland.
15. As a member of the Gender Equality Taskforce in Education and Learning, the NASUWT is committed to tackle the lack of gender equality which remains evident in education settings. Our schools must be safe places for all staff and no woman should ever feel harassed, scared or intimidated just by going to work. Misogyny has no place in our schools or workplaces or on our streets, and we look forward to working with the new Cabinet Secretary for Education as the chair of the taskforce to achieve a gender-competent experience of education and learning for all girls and women.

16. Relationships, sexual health and parenthood education in schools is also important. The NASUWT is keen to work with the Scottish Government to update and refresh statutory guidance to education authorities on how sex education should be conducted in Scottish schools. This is just the beginning of the change needed. Schools need to go much further and take proactive action to create a culture in which girls are safe and can thrive. What is needed is a whole-school approach.

### **Online Crime**

**QUESTION 3: Does the new Online Safety Bill do enough to protect girls and women from online abuse/sexual abuse? Should the offence of 'cyberflashing' be created for Scotland?**

17. The Union has received the following testimonials from women teachers via our surveys, showing that significant issues remain with respect to sexual harassment and misogynistic online abuse:

- repeated sexual gestures at me or directed at me behind my back;
- unwanted phone calls;
- overfamiliarity and overt flirting; close physical proximity;
- a ten-year-old boy flashed at me and it was caught on CCTV. When reported, the comment was *"I'm sure you've seen plenty of those"*; senior leadership in the school thought it was funny;
- Twitter poll containing a photo of teachers, including myself and the head, with sexualised comments;
- comments made about me marrying my same-sex partner and who would wear the dress;
- inappropriate messaging through social media;
- a same-sex member of staff looks me up and down regularly and comments on my body;
- looking up my skirt and down my top;

- comments that I have a dick in front of other students;
- attempted kiss;
- degrading comments about women;
- expectations based on gender: make the tea, clear up after a meeting; and
- called names relating to female animals and female genitalia.

18. The NASUWT deplores the abuse and harassment of teachers and other education workers, including online and through the use of technology.

19. The Union has been appalled that teachers, predominantly women, who have been actively advocating for and demonstrating positive practice in LGBT-inclusive education and anti-racist education have been targeted for abuse.

20. It is of deep concern that we are receiving increasing reports of online or remote abuse and harassment of teachers via social media platforms such as Twitter that continue to impact negatively on their wellbeing and self-esteem, as well as teaching and learning.

21. Online harassment and abuse can occur outside school or college working hours and the working environment. Such incidents can often exacerbate feelings of fear and anxiety as the person receiving the abuse may be isolated at home when images or messages are seen.

22. The effects of abuse and harassment on teachers can be extremely serious and should be challenged in all forms. The Union has been advocating for and lobbying the Government to:

- (i) take action to ensure safer working conditions for all education workers;
- (ii) press social media companies to take immediate action to stamp out online abuse;

- (iii) support schools to take effective action to ensure staff safety and wellbeing, particularly those subjected to online abuse; and
- (iv) challenge attempts to undermine schools' inclusive education and anti-racism practices and activities.

23. The NASUWT is therefore happy to support the calls from the End Violence Against Women (EVAW) Coalition for a VAWG Code of Practice. The NASUWT is fully supportive of the EVAW campaign, in particular the focus on reducing online abuse of women and girls. The NASUWT also agrees that, with the Online Safety Bill, the UK Government has a once-in-a-generation opportunity to address VAWG by requiring social media companies to take action to prevent and end abuse on their platforms, and by requiring tech companies and the regulator to look at the relationship between perpetrators and the platforms they use, while creating a system of accountability. However, women and girls are currently being left out of this law.

24. Social media companies cannot continue to be allowed to hide behind spurious arguments when their platforms are being used and abused to denigrate teachers and headteachers. The NASUWT is therefore insisting that Ministers take appropriate action to ensure that social media companies address immediately the very serious threats to teachers and take full responsibility for the harm being caused by those who use these platforms to abuse teachers.

25. This is an issue which requires urgent and immediate attention, as evidence shows the situation is only getting worse. The Safer Internet Centre's Professionals Online Safety Helpline (POSH) recently released its annual report of enquiries, which showed a marked increase of online abuse of school staff.<sup>1</sup>

26. As a UK-wide union, the NASUWT supported the launch of the new report: *It's #AboutTime: A Whole School Approach to Ending Violence*

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<sup>1</sup> <https://saferinternet.org.uk/blog/professionals-online-safety-helpline-report-2021-2022>

*Against Women & Girls.*<sup>2</sup> The report lands two years on from the landmark Ofsted review into sexual abuse in schools in England and Wales.<sup>3</sup> The report finds major challenges in how schools are addressing sexual violence, stemming from government failures to adequately prioritise and invest in vital prevention work. This follows recent EVAW data published in January.<sup>4</sup> While we have different contexts in Scotland, there is certainly a spotlight on some of this work in England, and the NASUWT remains keen that we keep a cross-border eye on it and maintain pace both at Westminster and within Scotland.

**QUESTION 4: What further types of technology could be used to keep women and girls safe online? What could be done specifically in Scotland to better address and tackle online/cyber sexual crime?**

27. Teachers have a huge weight of expectations placed on them, particularly after COVID with its impact on children's mental health and their behaviour, which can play out as sexual harassment. Fixing the problem cannot be left to schools and teachers alone: a whole-school and whole-society approach is needed.

28. It must be remembered that teachers are directly impacted too. NASUWT research in 2018 found that 81% of teachers had suffered sexual harassment or bullying in the workplace. The majority of this was online abuse, which is a growing issue for young people. The Union also hosts annual consultation conferences for women members where the issue of VAWG continues to be a key concern for women

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<sup>2</sup> <https://www.endviolenceagainstwomen.org.uk/new-report-its-about-time-a-whole-school-approach-to-ending-violence-against-women-and-girls/>

<sup>3</sup> <https://www.gov.uk/government/publications/review-of-sexual-abuse-in-schools-and-colleges/review-of-sexual-abuse-in-schools-and-colleges>

<sup>4</sup> <https://www.endviolenceagainstwomen.org.uk/new-campaign-film-its-about-time-things-changed/>



members and particularly their safety in the workplace, which is often overlooked by employers.

29. While schools have obligations to report abuse, their policies do not always address the impact of abuse on school staff.

30. Action has to come from the top – underfunding is a real problem when schools are having to prioritise funding in different ways. We need to keep the pressure up to ensure schools are properly funded to address sexual harassment and abuse.

### **Domestic Abuse**

**QUESTION 5: Are there ways that Clare’s Law could be strengthened? Should Clare’s Law be reviewed to encourage police officers to proactively visit the new partners of those convicted of domestic abuse?**

31. Domestic abuse affects women of all ages, ethnicities, classes and backgrounds. It affects each and every one of us. It is a serious crime. In any legislative or policy initiative, there is a need to protect victims/survivors in the workplace and their identities.

32. Domestic abuse should not be viewed as a private family matter, but as a social matter. Violence and abuse against women and children incur untold lifelong damage, so it is imperative that each and every one of us recognise the signs of domestic abuse and offer support to survivors.

33. In the year ending March 2019, an estimated 2.4 million adults aged 16 to 74 years experienced domestic abuse (1.6 million women and 786,000 men).

34. Domestic abuse is a workplace issue. In the UK, in any one year, more than one in five victims of domestic violence take time off work and two per cent lose their jobs as a direct result of the abuse. This is why it is

important that trade unions raise the issue of domestic abuse in the workplace and make sure that employers are aware of their responsibilities.

35. The NASUWT advocates for employers to be challenged on the assumption that domestic abuse happens outside school/college and is therefore a personal matter. Domestic abuse can have a huge impact on an individual's working life and on their colleagues, resulting in unexplained absences and lateness and negatively impacting performance. This puts survivors' jobs and incomes at risk. There is also the risk of the survivor being further at the mercy of their abuser, as they lose their financial independence.

36. It is important that people experiencing domestic abuse feel confident to raise issues in the workplace and know where and who to go to for help and support.

37. Preventing and tackling domestic abuse is a key part of an employer's duty of care towards their employees, as well as their legal responsibility under the Health and Safety at Work Act (HASAW) to ensure a safe working environment.

38. The NASUWT advises that Workplace Representatives and/or Health and Safety Representatives should be pushing for the following:

- appropriate training for managers and staff;
- a clear policy developed in consultation with unions;
- awareness raising;
- ensuring risk assessments take the needs of survivors into account and that measures to control risks are implemented;
- establishing recognised points of contact within the workplace;
- improving access to appropriate support within the workplace — this includes support groups and/or counselling; and
- providing 'decent' teaching/management jobs — this means offering flexible working to women, whatever their position. This may be on a temporary basis.

39. Employers must recognise their responsibilities under the health and safety legislation and ensure that risk assessments take the specific needs of women who have survived domestic abuse into account. Employers will experience increased staff retention, increased loyalty from employees who feel valued and listened to, increased productivity, and an enhanced reputation.

40. The NASUWT provides support to local negotiating representatives to negotiate domestic abuse policies as a health, safety and welfare issue.

41. Tackling domestic abuse has been a campaign issue for the NASUWT for some time and in a 2021 motion to the STUC Women's Conference, the Union made the following campaign demands:

*'Conference condemns the fact that globally, women continue to bear the brunt of gender-based violence, discrimination and structural power imbalances that hinder their access to freedoms, safety and progression in the workplace.*

*Conference further condemns the growing trend of domestic abuse perpetrated predominantly against women during the COVID-19 lockdown period.*

*Conference is appalled at the surge of women needing help from the Domestic Abuse Helpline during the pandemic.*

*Conference asserts that domestic violence often impacts on the working lives of those experiencing the abuse and is therefore a key workplace issue that requires support and action by employers and trade unions.*

*Conference further asserts that establishing policies and practices that provide adjustments and arrangements for workers experiencing domestic abuse must be a key campaigning and bargaining priority for the STUC and affiliates.*

*Conference calls on the STUC to:*

*(i) work with affiliates for securing greater workplace policies and practices that support workers experiencing domestic abuse;*

*(ii) continue to campaign for a day one right to flexible working, which would afford domestic abuse survivors greater opportunities for accessing support;*

- (iii) lobby for greater enforcement and compliance with International Labour Organisation (ILO) Convention 190; and
- (iv) continue to lobby for greater enforcement and compliance of health and safety legislation to prevent and tackle domestic abuse in the workplace.’

**QUESTION 6: Do you think the Caledonian System should be more widespread? Should there be more programmes to work with men who have perpetrated domestic abuse in order to cut rates of re-offending?**

42. The NASUWT sponsors White Ribbon, the UK’s leading charity engaging men and boys to end VAWG. Their mission is to prevent VAWG by addressing its root causes, to change long-established and harmful attitudes, systems and behaviours around masculinity that perpetuate gender inequality and men’s violence against women. White Ribbon’s work is wholly preventative, to end violence before it starts, which the NASUWT agrees is crucial.

43. The Lead Project Coordinator for White Ribbon Scotland spoke passionately about her experiences at the recent Scottish Parliamentary reception.<sup>5</sup> The NASUWT agrees that the voice and views of those with lived experience, in determining the appropriate approach, should be prioritised.

**Men’s Responsibility**

**QUESTION 7: Are there new offences that would assist in combatting violence against women? If so, what types?**

44. In terms of legislative change, it is notable that the Women and Equalities Select Committee Inquiry into Sexual Harassment in the Workplace recommended an extension of the time limit for bringing a

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<sup>5</sup>[https://twitter.com/wenyinqgggg/status/1655634232507523078?t=cyyyViAhm3ggf\\_XjqlpeA&s=19](https://twitter.com/wenyinqgggg/status/1655634232507523078?t=cyyyViAhm3ggf_XjqlpeA&s=19)

claim of sexual harassment to at least six months.<sup>6</sup> This would avoid additional pressures being placed upon potential complainants to decide whether or not they should submit a claim when they may be engaged in a potentially difficult and stressful internal grievance procedure.

45. The same Committee also looked at tribunal time limits in its report on pregnancy and maternity discrimination, recommending that the time limit for bringing a claim in maternity and pregnancy discrimination cases should be extended to six months.

46. Three months is not a lot of time in practice, especially when an employee has to absorb the situation, recognise they have been wronged, deal with the stress and trauma of what has happened to them, seek representation (if appropriate), go through early conciliation, and begin the process of lodging a potential employment claim, including the associated paperwork. The relationship between such claims and claims on other equalities grounds should also be a consideration, and there must be a consistent approach taken which recognises how the issues of intersectionality can affect the treatment of individuals in the workplace.

47. The NASUWT therefore asserts that the time limit should be extended to a minimum of six months and that the time limit should not begin until all the pertinent information requested by the claimant has been fully disclosed. It should also be noted that, often, respondents do not disclose all the information in a timely manner in order to allow claimants to adhere to the current three-month time limits. In this context, the NASUWT therefore believes there is a compelling argument for rationalising time limits into a more consistent and generous time limit of at least six months, with greater powers of discretion being afforded to employment tribunals in respect of this.

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<sup>6</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmwome/725/725.pdf>

**QUESTION 8: How else can we tackle society's attitudes to abuse and violence against women?**

48. Tackling sexual harassment and sexual violence in schools has been of growing concern to the NASUWT for many years. These issues have been part of the Union's anti-bullying/harassment work for over a decade and the NASUWT has lobbied numerous governments - working alongside organisations such as the Anti-Bullying Alliance, Childnet International, and Stonewall.
49. The NASUWT was the first union to launch a programme of work on prejudice-related bullying, which included work on gender-based harassment and violence and challenging the sexualisation of women and young girls.
50. The NASUWT is now working with Childnet International's Project deSHAME, tackling online sexual harassment amongst teens.
51. The Union is fully committed to a set of Gender Equality Challenge Principles that supports and champions equality for women and girls. They are set out in the general comments above.
52. The first step to tackling societal attitudes is to recognise there is a problem. Girls in schools in the UK are experiencing high levels of sexual violence and harassment. The UN calls VAWG '*one of the most widespread, persistent and devastating human rights violations in our world today*'.
53. The statistics are more than startling:
- more than one in three women worldwide have experienced violence in some form in their lifetime. Two women every week are killed by a current or ex-partner and other close relative;
  - only 15% of serious sexual offences and 21% of partner abuse incidents are reported to the police;

- Black women suffer disproportionately from violence and face multiple barriers to reporting, including heightened forms of shame, stigma, cultural and religious constraints, racism, immigration insecurities, and lack of awareness of their rights;
- more than 100,000 women and girls in the UK are at risk of and living with the consequences of female genital mutilation, forced marriage and so-called 'honour-based' violence; and
- inquiries into child sexual abuse repeatedly reveal failures at every level of the state to prevent or protect girls from abuse.

54. Legal aid has shrunk and abused women are often unable to obtain legal advice and representation. This has meant that some women find themselves face to face with their perpetrators in courts.

55. Looking at the experiences of young women specifically:

- a third of 16-18 year olds had been subjected to unwanted sexual touching at school;
- 71% of 16-18 year olds witnessed sexual name calling towards girls at school;
- 85% of women aged 18-24 had experienced sexual assaults by men in public;
- 64% had experienced sexual harassment; and
- 35% had been touched sexually.

56. In the NASUWT's survey data, of those teachers who stated that they were sexually harassed:

- over a third (36%) said that they had been sexually harassed by a colleague;
- almost a third (31%) said that they had been sexually harassed by a manager;
- 8% said that they had been sexually harassed by a parent; and
- over two fifths (42%) said that they had been sexually harassed by a pupil.

57. When asked what the nature of the sexual harassment incidents experienced by teachers were:

- over two thirds (67%) said that they had experienced inappropriate comments about their appearance/body;
- over half (51%) said that they had subjected to inappropriate comments about sex;
- almost a third (30%) said that they had been subjected to unwanted touching; and
- over a fifth (21%) said that they had been sexually propositioned.

58. Teachers who were sexually harassed were asked to state the amount of times or frequency of incidents that occurred. Teachers reported as follows:

- over a quarter (26%) stated that they had experienced one incident of sexual harassment;
- more than one in ten (14%) said that they had experienced two incidents;
- almost a third (29%) said that they had experienced between three and five incidents;
- almost a sixth (15%) said that they had experienced between five and ten incidents of sexual harassment; and
- a sixth (16%) have experienced more than ten incidents of sexual harassment.

59. When asked whether teachers reported the incidents of sexual harassment that they experienced, the survey found that:

- a third (33%) of teachers reported the incidents of sexual harassment;
- a quarter (25%) of teachers reported some, but not all, incidents; and



- over two fifths (42%) of teachers did not report the incidents of sexual harassment.

60. Of those who did report the incidents of sexual harassment, almost all (95%) teachers reported the issues to their school or employer and only 6% reported the incidents to the police.

61. For teachers who did report incidents of sexual harassment, they were asked what the outcome was. Teachers reported as follows:

- over a fifth (21%) said that no action was taken against the harasser;
- over two fifths (41%) said that the harasser was spoken to about their behaviour, but that the victim did not feel this matched the seriousness of the incident;
- over a quarter (26%) said that the harasser was dealt with appropriately and they felt supported by the action taken;
- 10% said that they were not believed and their claims were dismissed; and
- 3% said that legal/police action was taken against the harasser.

62. Teachers who had experienced sexual harassment but did not report the incident were asked why they did not do so. Their responses were:

- over a quarter (28%) said they did not think they would be believed;
- over two thirds (68%) said they did not feel anything would be done about it;
- almost half (46%) said that they did not report the incident out of embarrassment/fear; and
- almost half (46%) said that they thought they would be blamed or there would be negative consequences for themselves if they were to make the report.

63. Teachers who suffered from sexual harassment incidents had a range of experiences after the event. These included the following:

- almost half (48%) made changes to their daily routine in order to avoid the person who harassed them;
- over two fifths (43%) said that they had experienced a loss of confidence;
- almost two fifths (38%) said that they had experienced anxiety and/or depression;
- almost a third (32%) said that they had felt pressure to change their appearance or style of clothing in order to seek to avoid further harassment;
- almost a fifth (18%) said that they felt that the incident(s) had had a negative impact on their career progression; and
- almost a sixth (14%) said that they had changed their job or moved to a new school as a consequence of their experiences of sexual harassment.

64. Recognising the extent of the issue is important to all organisations, including trade unions. Through our Sexual Harassment Action Plan, the NASUWT is fully committed to creating a safe and inclusive space for women, with the work of our Sexual Harassment Task Group changing the way we work. The Sexual Harassment Action Plan can be found here: <https://www.nasuwt.org.uk/static/ef0cd10d-3023-43c7-b67f0fefd56dd66e/c676e7bd-f81e-45c9-b4863cc43dda029d/NASUWT-Sexual-Harassment-Action-Plan.pdf>.

65. The NASUWT also provides advice and education for members with a detailed toolkit which covers:

- Domestic abuse
- FGM
- Forced Marriage
- Genital Mutilation<sup>7</sup>

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<sup>7</sup> <https://www.nasuwt.org.uk/advice/equalities/under-represented-groups/women/violence-against-women-and-girls.html>

**QUESTION 9: Do you believe that court backlogs will discourage women from reporting sexual offences?**

66. The reasons for under-reporting are myriad and court backlogs cannot be said to be the sole reason for discouraging women from reporting sexual offences.

**QUESTION 10: Do you believe court backlogs may discourage victims from pursuing justice, and withdrawing from the court system?**

67. The views of victims who have withdrawn from the court system should be sought direct to inform any policy or statutory interventions.

68. The fact that too many are unable to secure justice from sexual harassment is a disgrace and is a poor failing of the justice system, which also discourages other women victims/survivors to come forward.

**QUESTION 11: What measures could be taken to improve women's experience of the justice system when they report a sexual offence?**

69. It is very important that sensitive and safe processes for women reporting sexual offences are provided. Women reporting incidents should not be treated as criminals and their background and personal lives should not be up for scrutiny.

70. Engagement and training within Police Scotland is also essential. For example, the NASUWT Representative on the STUC Black Workers' Committee represents the Black Workers' Committee at the Police Scotland 'Break the Race Ceiling' meetings. Open engagement, dialogue and training are a good first step.

## **Proposals for justice reform**

**QUESTION 12: Would a pilot of single-judge trials for serious sexual offences be justified due to the long delays before cases come to trial and due to the disproportionate impact this has on women and children? What is the risk to fairness for the accused if juries were removed?**

71. In 2022, the NASUWT submitted the following motion to the STUC Women's Conference:

*Conference is deeply concerned about the level of misogyny that is faced by women, trans and non-binary staff and pupils on a regular basis.*

*Conference asserts that all women and girls in educational settings have an inalienable right to be afforded safety, security and respect at all times and to not be exposed to derogatory comments, actions and communications that lead to them feeling and being unsafe whilst at school.*

*Conference further asserts that, in too many workplaces, misogyny is institutional as evidenced in the many high-profile cases reported in the press.*

*Conference calls on the STUC to continue to campaign against all forms of sexual harassment and misogyny and to:*

- (i) support and promote the recommendations of the working group on Misogyny and Criminal Justice for the creation of new criminal law provisions in four areas;*
- (ii) work with relevant bodies to produce comprehensive policies in order to protect women and girls against violence, misogyny, assault, harassment and sexism;*
- (iii) work with organisations that are campaigning against any groups that promote hatred of women and others;*
- (iv) campaign to make it compulsory for schools to explicitly teach pupils and students about misogyny and misogynistic attitudes;*

(v) lobby for fully-funded mental health and wellbeing programmes and further investment in mental health services, with a priority on early intervention; and

(vi) continue to raise the profile of misogyny and sexual harassment with affiliates and urge the importance of reporting to employers any incidences experienced or witnessed.

72. As per the motion above, the NASUWT supports the creation of new criminal law provisions in four areas. Three of these are new offences criminalising specific forms of misogynistic conduct, and the fourth is the creation of a new sentencing aggravation to address the spectrum of misogynistic conduct.

73. The NASUWT notes that Rape Crisis Scotland has an identified policy position<sup>8</sup> regarding single judge trials, but the Union does not have specific policy in this area.

**QUESTION 13: Would it be beneficial to establish a new specialist criminal court dealing with serious sexual offences?**

74. The Union notes that Lady Dorrian's Review considered the evidence in support of the creation of a new specialist court and made the following recommendation: *'national specialist sexual offences court should be created to deal with serious sexual offences including rape and attempted rape.'*

75. Again, the Union notes that Rape Crisis Scotland has an identified policy position,<sup>9</sup> but the NASUWT does not have specific policy in this area.

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<sup>8</sup> <https://www.rapecrisisscotland.org.uk/news/blog/why-we-support-single-judge-trials/>

<sup>9</sup> <https://rapecrisisscotland.org.uk/resources/Specialist-Sexual-Offences-Court--Briefing.pdf>

## **Street harassment**

**QUESTION 14: Do you agree that there should be a new offence to deal with street harassment in Scotland?**

**QUESTION 15: What other measures do you think might help women to feel safer on our streets?**

76. At the 2021 Women Teachers' Conference, we asked women teachers about their safety in the workplace and outside of the workplace. In a poll asking how safe do you feel, generally outside of work, only 10% of respondents felt very safe. Women feel largely unsafe outside of the workplace, particularly travelling to and from school.

77. The current legislation is insufficient with regards to public sexual harassment, given sexual harassment in public spaces continues unabated and when cases of serious assault and murder of women are arising with seemingly more frequency.

78. The NASUWT has campaigned for laws around sexual harassment to be strengthened, and welcomed the Law Commission's recommendation to make public sexual harassment an offence. The Union strongly supports the Equality and Human Rights Commission's (EHRC's) call for the 'current motivation test' in hate crime legislation to be '*amended to consider whether the crime was motivated by prejudice, in addition to hostility, towards the protected characteristic*'. The NASUWT also asserts that this change would enhance all legislation on hate crime, and therefore strengthen the case for misogyny and public sexual harassment to be treated as a hate crime.

79. The NASUWT also firmly believes that there must be a change in the law and its enforcement in order for all workers, including teachers, to be better protected from sexual harassment in the workplace, whatever that workplace happens to be. The NASUWT would like to see a statutory preventative duty introduced for employers. The Union firmly

believes that the onus should be on the employer to prevent sexual harassment, and not on the victim of the abusive behaviour to tackle the issue after the event.

80. Current statutory provisions have been woefully inadequate in ensuring employers' exercise of their duty of care to employees. Any specific statutory preventative duty, coupled with appropriate and robust statutory enforcement measures, could contribute to making workplaces safer for all workers by ensuring employers focus on prevention and early intervention.
81. The NASUWT insists that such a statutory duty must be accompanied by strong statutory enforcement arrangements. The NASUWT is concerned about the declining level of funding for the EHRC, which has impacted on its ability to discharge effectively its enforcement function. If the EHRC is to be the body tasked with enforcing the duty, it is paramount that it is afforded the necessary funding, resources and powers to undertake this function effectively.
82. The EHRC powers of enforcement should include the power to impose substantial fines and to publish details of organisations in breach of the duty and the Code of Practice.
83. Where employers are in breach of the statutory duties, financial penalties should at least match those imposed under health and safety legislation in cases of failure to fulfil preventative duties to protect workers from risk of harm, whether physical or emotional. Any financial penalty should be proportionate to the size of the organisation and significant enough to incentivise employers to comply with the statutory duty.
84. The justice system in Scotland is failing the victims of upskirting: only a handful of cases have been reported to the Crown Office. In 2022, 547 incidents were recorded by police, but just 29 were passed on to prosecutors - slightly more than five per cent. The Sexual Offences

(Scotland) Act 2009 was amended in 2010 to make it illegal to take a picture or a film beneath a person's clothing to observe their 'genitals or buttocks (whether exposed or covered with underwear)' without their consent. However, it has, for years, been little prosecuted: between 2011 and 2018 there were, on average, just three prosecutions. While it is encouraging to see an increase in the number of cases reported, the low number of cases being passed to the Crown Office is shocking.

### **Lack of data on violence against BME and disabled women and girls**

**QUESTION 16: What are the ways in which policy making would benefit from more data, with the goal of bringing down the levels of violence against women and girls in BME communities as well as disabled women and girls?**

85. The NASUWT recognises that sexual harassment also intersects with other forms of discrimination. Any reported sexual harassment incident should 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 should also be dealt with and may include conduct related to sex or sexual orientation, race, religion or belief, age, disability or gender reassignment.

86. TUC research<sup>10</sup> shows the widespread scale of workplace sexual harassment and the intersectional impact of this abhorrent behaviour. Over 50% of women and almost 70% of LGBT workers have been sexually harassed in the workplace. Figures for BME lesbian, bisexual and trans (LBT) women are significantly higher than those for white LBT women. Women with disabilities also report significantly higher levels of sexual harassment than both disabled men and non-disabled

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<sup>10</sup> TUC – Still just a bit of banter? Sexual harassment in the workplace in 2016.  
TUC – Sexual harassment of LGBT people in the workplace, 2019.



men and women. The NASUWT has also gathered survey data referenced earlier in the consultation response.

87. It should not be left to trade unions to collect data on the extent of sexual harassment faced by workers. Adequate reporting, monitoring and enforcement mechanisms must be put in place, so that employers take seriously their statutory duty of care to employees.

88. Responses to workplace sexual harassment, from both the Government and employers, is grievously inadequate and workers are being let down by the failure to protect them from such behaviour.

**QUESTION 17: What other ways are there to bring down the levels of violence against disabled women and girls as well as women and girls in BME communities?**

89. Violent attacks against women are on the increase and are often driven by other intersectional factors such as ethnicity, age, faith, sexual orientation and disability.

90. The NASUWT cautiously welcomed the UK Government's ratification of ILO Convention 190 on Violence and Harassment, having launched a campaign to get MPs to lobby for its adoption at our 2021 Women's Conference. But ratification in itself is not enough. Enforcement and monitoring will be key.

91. Education at all levels has a key role to play in challenging prejudice and hatred. The NASUWT has condemned the rise of the far right and the impact of right-wing extremist influencers on the right wing media and government policy.

92. The proposed UK Bill of Rights will make it more difficult for human rights to be enforced in UK law, both by marginalising the domestic

influence of the European Court of Human Rights and by limiting the capacity of domestic courts to uphold Convention rights.

93. The NASUWT believes the Bill of Rights could lead to the decimation of hard-fought rights for people and will continue to campaign vigorously against the UK Bill of Rights and the removal of the jurisdiction of the European Court of Human Rights.

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