

The Home Office

Ref: Consultation on Public Sexual Harassment

The NASUWT welcomes the opportunity to comment on the Home Office consultation on public sexual harassment, but feels strongly that the timeframe allowed is insufficient for such an important legal and social issue.

This submission sets out the NASUWT's views on some of the key issues surrounding public sexual harassment, but the Union requests that the Home Office extends the deadline to allow the NASUWT and other organisations to consider the legal issues at hand properly.

The NASUWT acknowledges that the Government believes that current legislation is sufficient with regards to public sexual harassment, but suggests that this is clearly not the case when sexual harassment in public spaces continues unabated and when cases of serious assault and murder of women are arising with seemingly more frequency.

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.

The sexualisation of young people and women 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.

Teachers' lives continue to be marred by regular incidents of sexual harassment in the workplace. This is having a detrimental impact on the mental health and wellbeing of teachers.

The NASUWT asserts that many forms of sexual harassment are classed as 'outraging public decency' and that, under the criterion of the Obscene Publications Act 1959, a school and/or classroom would constitute 'a public place'. The case of *R v Walker* [1996] [1 Cr App R 111] indicated as much, as did the prosecution of the schoolboy in Northern Ireland who was charged with, and found guilty of, five counts of committing an act of a lewd, obscene and disgusting nature and outraging public decency after taking 'upskirting' photos of two women teachers. In that case, the judge said that a school setting was different from a home in terms of expectations of privacy, that teachers and pupils formed members of the general public, and that the school was a public place.

A survey carried out by the NASUWT in 2018 found that more than eight in ten teachers (81%) believed they had suffered sexual harassment or bullying in the workplace. One in five said they had been sexually harassed at school by a colleague, manager, parent or pupil since becoming a teacher. Nearly a third (30%) of those who had been sexually harassed said they had been subjected to unwanted touching, while two thirds (67%) had experienced inappropriate comments about their appearance or body. Over half (51%) had been subjected to inappropriate comments about sex, and 21% had been sexually propositioned. A further 3% said they had suffered upskirting or down blousing (having had photos taken up their skirts or down their tops).

It is clear, therefore, that sexual harassment is an issue blighting women teachers in the public place that is their workplace, as well as on the streets and in other public spaces.

The NASUWT 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, both as a place of work and as a public space.

In previous responses, the NASUWT has called for a statutory preventative duty on all employers to protect workers from harassment in the workplace. The Union has called for the ratification of International Labour Organization (ILO) Convention 190

and a new statutory Equality and Human Rights Commission (EHRC) Code of Practice to be drawn up in full and meaningful consultation with stakeholders, including trade unions. The NASUWT has also consistently called for sufficient funding to be allocated to the EHRC to allow it to carry out its statutory duties.

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 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'.¹

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.

As previously stated, the incredibly short timeframe, and also the timing of the consultation (during the school Summer holidays) makes it very difficult for the NASUWT to consult and comment in detail on the proposals.

Once again, the NASUWT strongly urges the Home Office to extend the deadline to allow the Union and other organisations to consider the legal issues at hand properly.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Patrick Roach', written in a cursive style.

Dr Patrick Roach
General Secretary

¹ EHRC Submission to the Law Commission consultation on hate crime