

## **Sexual Harassment Policy and Procedure – adopted by NEC 29 January 2019**

### **Introduction**

This document explains the Labour Party's approach to complaints of sexual harassment and describes the procedure for dealing with such complaints, including the support available to those who experience this behaviour.

This policy replaces the Sexual Harassment Policy and Procedure adopted by the NEC in April 2018.

### **Sexual harassment and the Labour Party**

The Labour Party strives to provide a safe space for people to engage in campaigning and other political activity. The Party has a zero tolerance approach to sexual harassment and will take all complaints of this nature extremely seriously. If a Labour Party member or a person involved in our activities experiences any behaviour that they feel amounts to sexual harassment towards themselves or anyone else, they are strongly encouraged to:

- **Report it to us** as soon as possible, using the dedicated sexual harassment complaints portal, or
- If unsure what to do, **get advice and support from the free advice service** operated by an independent charity. They can explain the options and can support the person concerned through the Party's complaints process if she or he decides to use it.

### **What is sexual harassment?**

Sexual harassment is a form of sex discrimination. It takes place when someone is subjected to unwelcome and unwanted sexual behaviour or other conduct related to their gender.

Harassment is defined by law in the Equality Act 2010 as "unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual". In the case of sexual harassment the relevant protected characteristic is sex. The Labour Party recognises that sexual harassment can be experienced alongside other forms of harassment, and that black women, disabled women, lesbian, bisexual and trans women can be specifically targeted for sexual harassment. All are included and covered by this procedure.

The NEC has adopted a *Code of Conduct: Sexual Harassment*. This explains the kinds of behaviour likely to be regarded as sexual harassment. Under the Equality Act and the Code of Conduct, behaviour that constitutes sexual harassment includes:

- Unwelcome behaviour of a sexual nature. This may be either physical or verbal.
- Inappropriate or suggestive remarks or verbal sexual advances.
- Indecent comments, jokes or innuendos relating to a person's looks or private life.
- Unwanted physical contact such as hugging, kissing or inappropriate touching.
- Requests for sexual favours.
- The display or circulation of pornography or indecent images.

Some of this behaviour may involve sexual violence or abuse amounting to a crime. At the other end of the spectrum, the behaviour may offend the person concerned or make them feel uncomfortable, but might be brushed off by the harasser as 'banter' or harmless flirting. It is important to remember that **the impact the behaviour had on the victim** is the most important factor. It is less important whether the perpetrator **intended** to cause that effect.

## Sexual Harassment Procedure

The Labour Party rules form a contract between all its members. The Party's complaints and disciplinary procedures are designed to determine whether a member has behaved contrary to the rules about conduct, and if so to ensure that appropriate steps are taken against that member – which can include the expulsion of that person from the Party. The process is designed to operate confidentially and in a way that ensures fair treatment of everyone involved. The rules apply equally to every member – whether they are a young person who has just joined the Party, or an experienced member who is an MP or other public figure.

We understand that reporting sexual harassment can be intimidating, so we aim to make the process as clear and straightforward as possible. At no point in the procedure do the victim and alleged perpetrator confront each other face-to-face. The steps in the process are:

- **Initial advice and reporting:** either contacting the advice line or reporting the matter directly via the sexual harassment portal (the advice line is available at any stage of the process, even if the matter is reported directly first).
- **Investigation:** If a formal complaint is made, an independent person takes a statement from the complainant and advises the Party on what other steps it should take to gather information about what happened.
- **Decision whether to take further action:** Once the information has been gathered, a panel of five specially trained members of the National Executive Committee (NEC) Disputes Panel decides whether there is a case for referring disciplinary charges against the member to the National Constitutional Committee (NCC).
- **Formal disciplinary charges:** If the disciplinary charges are referred to the NCC, they are determined by a trained panel of NCC members, usually after a hearing. The victim and alleged perpetrator are kept separate at the hearing, and any questions to either of them are asked through the panel, not directly.

### Initial advice and reporting

The contact details for the Labour Party's sexual harassment complaints portal are:

- **e-mail:** [sexual\\_harassment@labour.org.uk](mailto:sexual_harassment@labour.org.uk)
- **phone:** 07595 432542

The portal is operated by experienced members of the Party's HQ complaints team. CLPs cannot investigate sexual harassment cases.

If unsure whether to report the matter via the portal, the person concerned can contact the external support line operated by an independent charity, the Rape and Sexual Abuse Support Centre, on 020 8683 3311. The support line is available to people who have experienced **any kind of sexual harassment** within the Party – not just sexual violence or abuse.

The support line can still be used even if contact is made with the Party first. The staff operating the portal will make that clear. The Centre also offer ongoing support during the investigation and disciplinary process. If the matter is reported via the portal, it will only be treated as a formal complaint if the person concerned makes it clear that this is the route they would like to take. We want individuals to feel confident about using the complaints process, but we will never press anyone to take action they do not feel comfortable with. The complaints team and the Centre can also advise and assist if an individual wishes to explore the possibility of informal resolution in an appropriate case, but will not take the initiative in suggesting this course.

If the information received indicates that a criminal offence may have taken place, we will remind the individual of their right to report the incident to the police. The Rape and Sexual Abuse Support

Centre can give advice about contact with the police and criminal justice system. If we have serious concerns about the safety of the complainant or others, then under the Party's safeguarding policies (which are designed to protect children and "at risk" adults) we may have a duty to contact the police or other authorities ourselves. Any disclosure we make to the authorities will not reveal the identity of an adult complainant of full capacity without their agreement, except in rare cases where we believe that they, or another adult or child, may be at risk of serious or significant harm. In those circumstances we will make every effort to explain to the complainant the reasons for the disclosure before making it.

If the complaint is subject to an ongoing police inquiry, we will not start our own investigation until the police investigation, and any resulting criminal proceedings, have finished (but where appropriate the alleged perpetrator may be administratively suspended from the Party in the meantime).

### **Investigation**

Where a formal complaint is made, an independent investigator – who is not a Party staff member or office-holder – will arrange to speak to the complainant to get their description of what happened and details of any witnesses.

In the light of that information, the investigator will produce a statement for the complainant to sign, and will advise the Head of Complaints (the senior staff member with special responsibility for sexual harassment cases) on what subsequent steps should be taken to gather information, such as interviewing any witnesses.

Those subsequent steps will usually be taken by members of staff, with the independent investigator continuing to give advice.

The information obtained, including the complainant's statement or extracts from it, will be put to the respondent, who will also be asked to describe what happened. It may then be necessary to take further steps such as interviewing additional witnesses and asking the complainant for further information.

We will deal with all personal information relating to the complaint in the strictest confidence, and we will insist that the complainant, respondent and anyone else involved (such as witnesses) do the same.

When the complaint is made, we will provide an estimate of how long we expect the investigation to take, and will do our best to give an update if that changes.

The complainant can continue to get advice and support from the Rape and Sexual Abuse Support Centre while the investigation is underway. The notice of investigation (or, where applicable, of administrative suspension) sent to the respondent also signposts them to sources of advice and support.

### **Sexual Harassment Panel decision**

Once all the necessary information has been gathered, the independent investigator will review the material and provide a reasoned assessment. That will form the basis of a report to the NEC Disputes Panel, sitting as a Sexual Harassment Panel. A Sexual Harassment Panel consists of five members of the NEC (with a quorum of three) who have received appropriate training. An independent legal adviser will attend all panel meetings.

The report, statements and other material given to the panel will be anonymised so that the members will not know the identity of the people involved.

The panel will decide whether there is a case to answer, and if so whether to refer disciplinary charges to the NCC or to take some other action (which would normally be a Formal NEC Warning). Where it appears there **may** be a case to answer, but that depends on conflicting accounts of events which can only be properly determined by oral evidence, the panel should refer the case to the NCC.

The record of the panel's decision must briefly explain the reasons for its conclusion. Where possible we will notify the complainant and respondent personally of the decision. They will also receive a copy of the record of the decision.

The Rape and Sexual Abuse Support Centre can give the complainant advice and support in relation to the panel's decision.

### **Disciplinary charges**

Charges presented to the NCC are dealt with in accordance with the NCC Procedural Guidelines, which include a specially modified hearing procedure for sexual harassment cases.

The charges are presented to a panel of three NCC members, through a representative on behalf of the NEC. The respondent will also usually have a representative. The NEC's and respondent's representatives are not allowed to question the complainant or respondent directly but must ask any questions through the NCC panel. The NEC representative does not act on behalf of the complainant as such; their role is to give the NCC a fair and objective account of the evidence. However, all Party staff involved in NCC proceedings will do their best to make sure the complainant is treated supportively and sensitively, and that the respondent is also treated with appropriate sensitivity. The complainant can continue to seek advice and support from the Rape and Sexual Abuse Support Centre.

The Party tries to resolve cases as quickly as possible, but some time can pass between the Sexual Harassment Panel decision to refer charges and an NCC hearing. The Party's Disputes Team will provide periodic updates on the progress of the case.

### **Third party complaints**

In this document, "complainant" generally refers to a person who tells us they are the victim of an incident. Where someone other than the victim (for example, a friend or witness) makes a report to the portal, it is likely to be difficult to investigate the matter further without the victim's engagement in the process. The Party will handle such cases in accordance with any guidelines for third party complaints currently in force.

### **Transitional arrangements and review**

The procedures and guidance set out in this document apply in full to any complaint of sexual harassment received by the Party **on or after 25 February 2019**. They apply as appropriate to any pre-existing complaint, depending on the stage it has reached. Generally, a complaint that has reached a particular stage of the previously applicable procedure (corresponding to the "Initial advice and reporting", "Investigation" and "Sexual Harassment Panel decision" stages described in this document) will complete that stage under that procedure. The next stage will be dealt with under the procedure set out in this document.

The NEC will examine the operation of this document during the second half of 2019 and will keep it under review.