

# **NATIONAL OLYMPIC COMMITTEE OF SRI LANKA**

## **SEXUAL HARASSMENT AND ABUSE POLICY**

### **1. Policy Statement**

The National Olympic Committee of Sri Lanka ("**NOCSL**") is committed to create a safe and supportive sport environment wherein the respect and dignity of sportsmen and women are upheld. The International Olympic Committee has adopted the Consensus Statement on Sexual Harassment and Abuse in 2007 encouraging its members to recognize the hindrance caused by sexual harassment and abuse to the individual and organizational health. Sexual harassment and abuse can occur at any level of any sport resulting in diminishing the performance of athletes and athlete drop-outs.

Thus, NOCSL adopts this Sexual Harassment and Abuse Policy ("**SHAP**") with the below objectives;

- To identify and prevent occurrence of any form of sexual harassment and abuse in sports;
- To encourage seeking support on behalf of alleged victims in sexual harassment and abuse cases;
- To create a conducive environment for mental, physical and emotion well-being of all athletes and other stakeholders.
- To set up a disciplinary procedure to be followed in such sexual harassment and abuse cases;
- To establish independent and transparent disciplinary committees to inquire into sexual harassment and abuse cases, and to impose requisite punishments; and
- To educate and raise awareness of sexual harassment and abuse among all the stakeholders of sport in Sri Lanka

The NOCSL shall have zero tolerance of sexual harassment and abuse and it shall be the duty of every stakeholder including administrators, coaches, parents, organizers of competitions, and athletes to maintain impartial and fair proceedings when a complaint/allegation of sexual harassment and abuse is made to enable and empower the relevant inquiring committee to prescribe disciplinary, penal or other appropriate measures.

## **2. Application of SHAP**

This SHAP shall apply to all stakeholders, including directors, employees, administrative officers, coaches, competition officials, athletes, volunteers, interns and any others coming under the purview of:

- (a) a national sports federation affiliated to an international federation governing a sport included in the program of the Olympic Games; or
- (b) any other multi-games (ie: Asian Games, Commonwealth Games and SAG Games and any other games other than Olympics) recognized and coming under the purview of the NOCSL from time to time.

## **3. Defining the Problem**

Sexual harassment and abuse in sport stem from power relations and abuses of power mainly from a person in authority although co-athletes could also be identified as perpetrators. It is important to note the distinction between Sexual Harassment and Sexual Abuse.

- a) Sexual Harassment refers to behaviour towards an individual or group that involves sexualized verbal, non-verbal or physical behaviour, whether intended or unintended, legal or illegal, that is based upon an abuse of power and trust. Sexual Harassment is considered by the victim or a bystander to be unwanted or coerced.
- b) Sexual Abuse involves any sexual activity where consent is not or cannot be given. In sport, it often involves manipulation and entrapment of the athlete.

Sexual harassment and abuse occur within an organizational culture that facilitates such opportunities. Gender-based Harassment, Hazing and Homophobia are all aspects of sexual harassment and abuse in sport.

- a) Gender-based Harassment consists of derogatory treatment of one gender or another which is systematic and repeated but not necessarily sexual.
- b) Hazing involves abusive initiation rituals that often have sexual components and in which newcomers are targeted.
- c) Homophobia is a form of prejudice and discrimination ranging from passive resentment to active victimization of lesbian, gay, bisexual and transgendered people.

The risk of sexual harassment is much greater when there is lack of protection, high motivations of the perpetrator and the athlete's vulnerability due to age and maturity.

Sexual Harassment and Abuse shall include but not be limited to the following acts:

- Physical
  - ✓ Making unnecessary physical contact
  - ✓ Standing unnecessarily close
  - ✓ Touching, patting, stroking, squeezing, hugging, pinching
  - ✓ Brushing or rubbing one's genitalia against someone
  - ✓ Sexual assault
  
- Verbal
  - ✓ Making sexual comments or insinuations
  - ✓ Insulting a person's sex or sexual identity
  - ✓ Commenting on a person's physical appearance, age, private life, single or marital condition, maternal or non-maternal status
  - ✓ Relating sexual jokes or stories or inquiring about sexual fantasies
  - ✓ Directing work discussions to sexual topics
  - ✓ Requesting sexual favours
  - ✓ Requesting sexual favours in return for advancement of sporting career (quid pro quo)
  - ✓ Whistling or making sexually suggestive sounds
  - ✓ Using obscene and offensive language
  - ✓ Making anonymous phone calls
  - ✓ Making repeated unwelcome social invitations
  - ✓ Gossiping, slandering or spreading rumours
  
- Gestural
  - ✓ Staring, leering, ogling, winking or watching
  - ✓ Blowing kisses, wagging the tongue or licking lips
  - ✓ Making sexually explicit hand or finger movements
  - ✓ Imitating sexually suggestive acts
  
- Visual
  - ✓ Sending unwanted emails, text messages, or posting sexually explicit jokes
  - ✓ Making sexually suggestive comments and inappropriate advances via social media platforms (ie: Facebook, Twitter, Whatsapp, Viber, Messenger, Snapchat, Instagram etc)
  - ✓ Writing graffiti of a sexual nature
  - ✓ Displaying sexually explicit pictures, photographs, posters, calendars, desktop wallpapers, or pornographic sites
  - ✓ Posting or sharing another person's intimate pictures / videos, taken without their knowledge / consent, on any online or offline platform.

For the purposes of SHAP, Sexual Harassment and/ or Abuse can occur in the following places, including but not limited to:

- a) at sporting events, sporting arenas, competition venues, and in training sessions;
- b) at the registered or unregistered federation offices and/or other offices related to sports;
- c) at sport related social functions;
- d) at the business functions of relevant national sport association/ federation and its member clubs, such as meetings, conferences, training sessions and workshops;
- e) during sport related travel;
- f) through any form of communication device/system including but not limited to telephone, mobile phones, social media, email, fax, websites, postal service;
- g) any formal or informal location where the sexual harassment and / or abuse of a person is a result of their sport related involvement.

#### **4. Consensual Relationships**

##### **4.1. Relationships between Coach and Athlete**

The relationship between a coach and an athlete is generally based on the power exercised by the coach over the athlete when they are being trained, evaluated, criticized or being praised. Therefore, a sexual relationship between these two parties (albeit consensual) would be inappropriate due to imminent risk of abuse of power by the coach and sexual exploitation of the athlete. Given the fundamentally unequal nature of the relationship, voluntary consent on the part of the athlete is also disputable and a point for contention. Furthermore, such relationships could cause conflict of interest which would in turn cloud the judgment of a coach. Such perceived unprofessional conduct could be detrimental to other athletes and create an inference of implicitly obtaining benefits or undue advantage due to such relationship or what would be perceived as sexual favours.

Therefore, it is important to mandate coaches not to have consensual sexual relationships with athletes (who are trained by them or otherwise under their control) as it would compromise the professional integrity of the coach and educational mission of athletics. For this purpose the NOCSL has incorporated a prohibition clause to negate such relationships and a disclosure clause to disclose any previous consensual/romantic relationship with the athlete, duration of that relationship and the current status of such relationship.

#### **4.2. Relationships between Co-Athletes**

Even though relationships of this nature are not prohibited, athletes are encouraged to disclose such relationships to the administrative authorities. The disclosure must contain names of both parties, nature of the relationship duration of the relationship and any other relevant details.

#### **4.3. Relationships between Selectors, Administrators and Any Others**

Selectors, administrators and any others are encouraged to disclose any consensual relationships to the administrative authorities. The disclosure must contain names of both parties, nature of the relationship, duration of the relationship and any other relevant details. They are also encouraged to recuse themselves from relevant committees.

### **5. Redress**

This provision provides information about who can complain, to whom and what should be contained in a complaint.

#### **5.1 Who can complain?**

An employee, administrative officer, coach, competition official, athlete, volunteer or an intern who believes he/ she/ they have been sexually harassed or abused **and** comes within the purview of Clause 2 above (“the Victim”) or any person listed below (the “Complainant”), may lodge a written complaint with the Complaint Committee immediately after becoming aware of such sexual harassment and/ or abuse as prescribed in Clause 5.2 below:

##### **On behalf of a Physically Incapable Victim**

- **Victim’s relative/ friend**
- **Co-Athlete**
- **NOCSL administrative officer**
- **Any person who has the knowledge of the incident with Victim’s prior written consent**

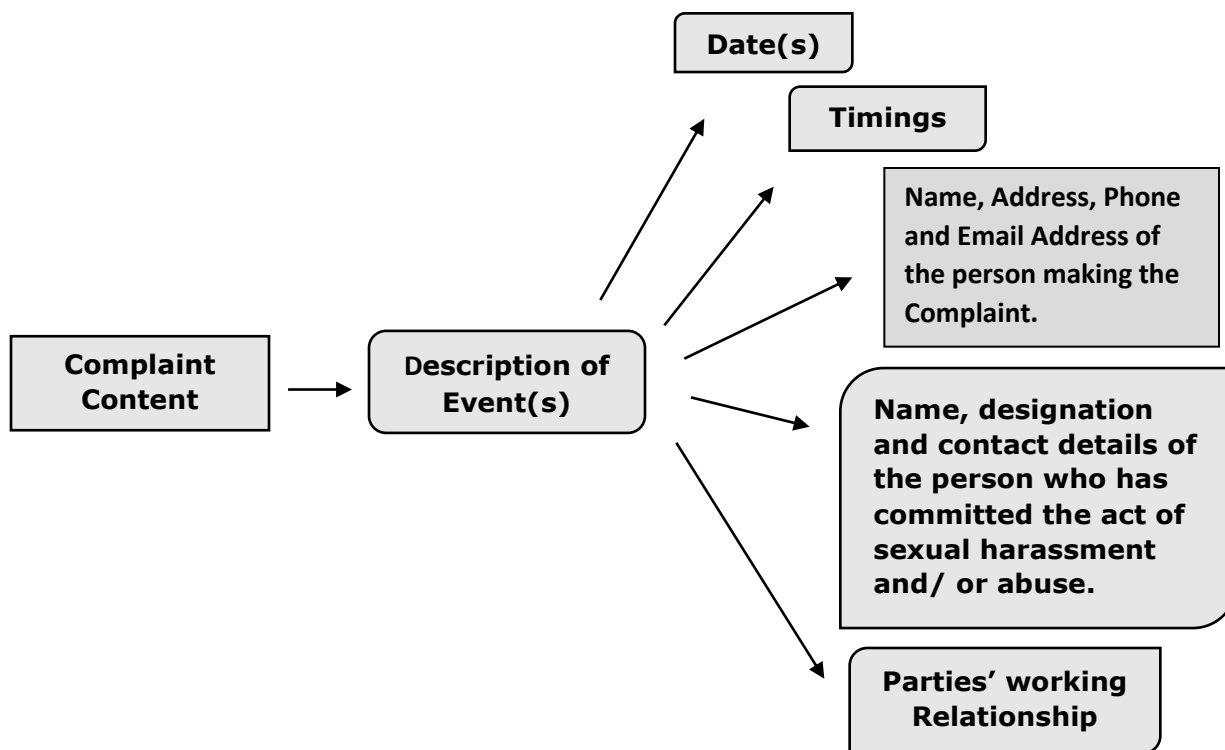
##### **On behalf of a Mentally Incapable Victim**

- **Victim’s relative/friend**
- **A qualified psychiatrist/psychologist**
- **The authority under whose care the Victim is receiving treatment**
- **NOCSL administrative officer**

If the victim is dead under whatever circumstances, any person who is aware of such event could lodge a complaint with the consent of the victim’s family members.

The NOCSL will not entertain any *mala fide* or frivolous and misleading complaints and shall take actions against any person who makes such complaints.

**5.1. What should the complaint contain?**

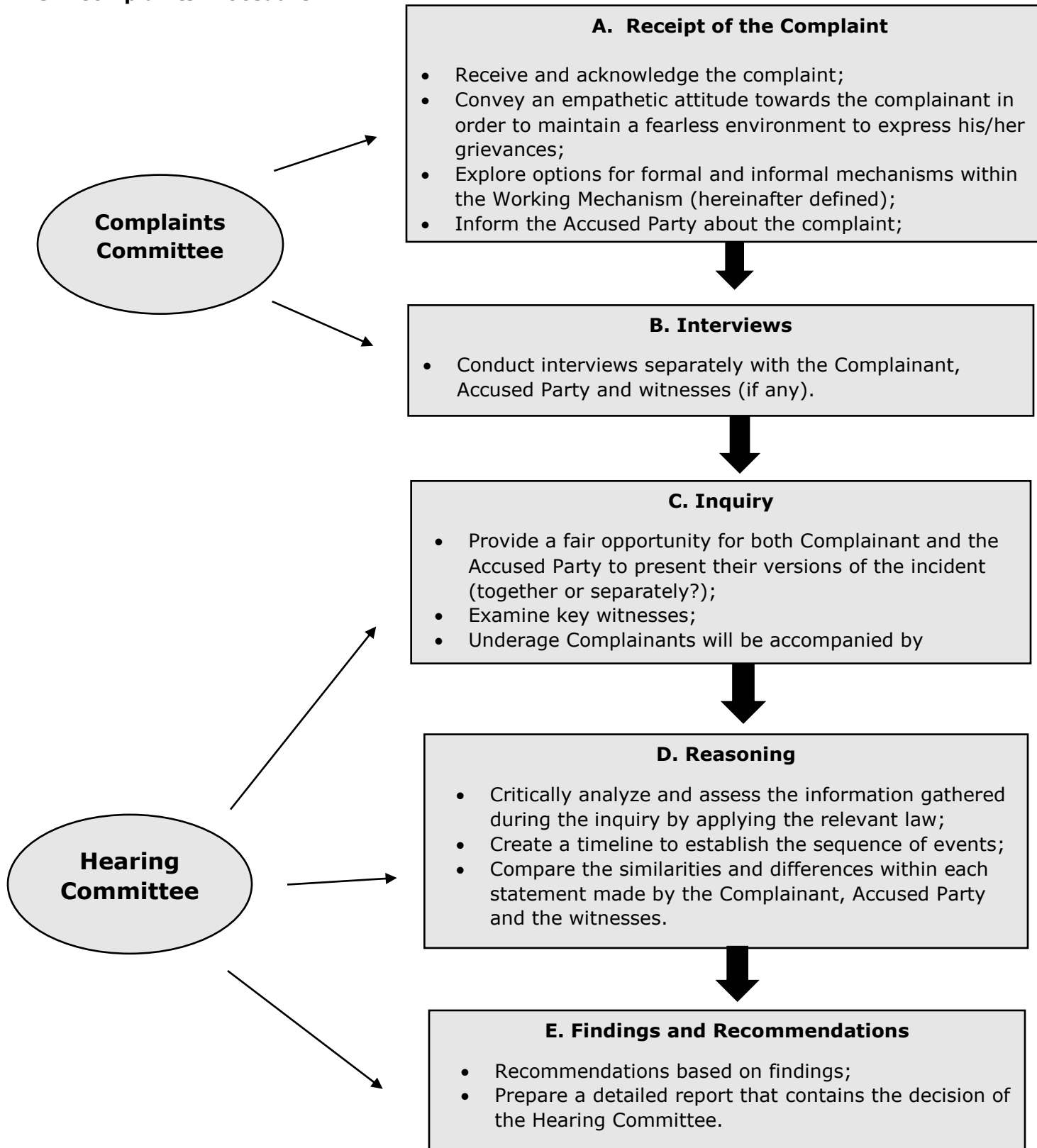


**5.2. To whom should a complaint be made?**

Complaints of sexual harassment and abuse would be received by a Complaints Committee (“CC”) which should comprise a minimum Fifty Percent (50%) female representation. Members of the CC appointed by the NOCSL should comprise members from the following:

No.	Member	Eligibility
1	A former female athlete of repute	A former senior female athlete who has represented Sri Lanka at an International tournament.
2	2 legal officers	Who have in depth knowledge about the acts, policies, and any other enactments relating to sexual harassment and abuse, and are committed to prevention of sexual harassment and abuse.
3	Member of the women’s committee of the NOCSL	A female member of the NOC Women’s Committee without any perceived conflict of interest.

## 5.4 Complaints Procedure



## **A. Receipt of the Complaint**

The receipt and handling of complaints by the CC shall be in accordance with the NOCSL Sexual Harassment and Abuse Policy Working Mechanism ("WM") and the complaint would be pursued by the CC if the CC is satisfied *prima facie* that:

- The Accused Party displayed a potentially improper and/or offensive conduct which would constitute an act of sexual harassment and/or abuse;
- The behaviour was directed to the Complainant;
- The Complainant experienced harm or potential for harm;

The Accused Party and Complainant would be directed to meet the CC and explore options of formal and informal redress mechanisms based on the seriousness of the complaint, as determined by the CC.

### **▪ Informal Mechanisms**

This includes counselling or warning the Accused Party to immediately stop the unwelcome conduct or appointing a neutral person to act as a mediator to resolve the dispute between the parties (such mediator would submit his/her recommendation to the CC). However, CC must at all times consider the severity of the complaint and must refrain from advising the Complainant to resolve the matter directly with the Accused Party.

### **▪ Formal Mechanisms**

If the Complainant chooses or mediator suggests or the serious nature of the complaint calls for formal redress, CC would adopt the process setout above. Moreover, the CC members must ensure that there is no conflict of interest. Thereafter, the CC must inform the Accused Party within 14 days of receiving the complaint and provide the Accused Party an opportunity to submit an answer to the complaint in writing within 30 days. Furthermore, the CC must create a separate confidential file of the complaint and subsequent documents including the answer of the Accused Party (if any), list of witnesses, interviewing plan along with all the relevant enactments, policies and guidelines. Regular updates of the status of the complaint will be provided to the Complainant.



## **B. Interviews**

Interviews of each person must be held separately and in confidence, in order to make sure that the interviewees are not intimidating. The interviews must take place in a confidential environment to ensure confidentiality of the process. The following guidelines could be followed when carrying out the interviews,

- a. Be empathetic while appreciating different versions of facts.
- b. Explain the interview process and the sensitivity of the subject.
- c. Ask appropriate questions that enables a clear understanding of the case.
- d. Choose an appropriate location.
- e. Record the interview through written notes and audio recordings.
- f. Get the statements signed.

## **C. Inquiry**

The inquiry takes place before a Hearing Committee ("HC") which shall comprise members from the following, of which two thirds (more than 50%) shall be women:

- i. President or the Secretary General of the NOCSL (ex officio)
- ii. Chairperson of the Women's Committee of the NOCSL
- iii. Assistant Director General of the Ministry of Sports or official of the Ministry of Sports duly authorized by the Director General of Sports
- iv. A lawyer nominated by the NOSL
- v. An elected representative of the national federation of the sport of the Accused Party
- vi. Two representatives of the NOC Sexual Harassment Complainants Committee

The Inquiry shall be inquisitorial in nature where a fair hearing shall be given to both the Complainant and the Accused Party and both parties shall be given equal opportunity to present evidence in support of their case and cross examine witnesses and evidence produced against them. The inquiry before the HC shall be recorded in writing and through audio recordings and be concluded within 21 days, unless the complexity of the matter or exceptional circumstances as shall be expressly stated in its Report warrant an extended period.

Without limitation to the rules of natural justice which must be abided by the HC in conducting such inquiry process, an Accused Party shall be entitled to the following rights:

- a. Copies of all documents forming part of the inquiry process including the findings and recommendations of the HC;
- b. Representation at such inquiry;
- c. To have an observer present during inquiry proceedings.

#### **D. Reasoning**

After the inquiry the HC must:

- Identify the **substance** of the complaint.
- Prepare timeline that constitutes a sequence of events.
- Compare different versions of facts
- Determine on a **balance of probability** whether sexual harassment or abuse took place or not, by considering relevant legislative enactments, policies and guidelines.

#### **E. Findings and recommendations**

The HC must find whether the complaint must be upheld or not. Based on such finding appropriate recommendations must be made.

- If the HC decides against the complaint, there will be no remedy for the Complainant. However, if it is proved that the Complainant made a false or malicious accusation against the Accused Party, disciplinary action may be taken against the Complainant.
- If the HC finds the Accused Party guilty of sexual harassment, HC has the discretion to recommend penalties according to the grievous nature of the wrong doing including but not limited to those set out in the Working Mechanism.
- The HC may where the circumstances so warrant, recommend to the Complainant to pursue further legal recourse against the Accused Party for financial damages and/or any other legal redress on account of:
  - Mental trauma, emotional distress caused
  - Medical expenses incurred
  - Loss of career, etc. and/or other financial loss

## **6. Action in Terms of HC Findings**

The HC shall prepare a detailed Report which encompass a description of the complaint and all the relevant facts and circumstances, the procedure followed, relevant laws, policies applicable, findings and recommendations including recommended sanctions if any, within 21 days of receiving the complaint from the CC. Such Report should be submitted to the NOCSL with copies thereof provided to the Complainant and Accused Party. Thereafter the NOCSL shall take action in consideration of the recommendations of the HC, within 14 days. Where the NOCSL considers it necessary or expedient to give full effect to such action the NOCSL may direct and impose such action against the Accused Party through the relevant national federation of the sport of the Accused Party.

All action taken in pursuance of this NOCSL Policy shall be in addition to and without prejudice to any rights and recourse available in law to any Complainant and/or aggrieved party.

## **7. Confidentiality**

NOCSL understands that it can be extremely difficult to come forward with a complaint of sexual harassment and abuse, and that it can be devastating to be wrongly convicted of sexual harassment and abuse. NOCSL recognizes the interests of both the complainant and the Accused Party in keeping the matter confidential. NOCSL and its representatives shall not disclose to outside parties the name of the complainant, the circumstances giving rise to a complaint or the name of the Accused Party unless such disclosure is required by a disciplinary or other remedial process or by law. All records of complaints, including contents of meetings, interviews, results of investigations and other relevant material will be kept confidential by NOCSL except where disclosure is required by a disciplinary or other remedial process or where required to disclose by law.

In all reported instances, a prompt, thorough, fair investigation will take place giving careful consideration to protect the rights and dignity of all people involved. The regular procedures associated with privacy and confidentiality will be observed at all times, including the sealing of all documents upon the conclusion of the investigation.

*In case of divergence between the English version of the NOCSL Sexual Harassment and Abuse Policy, its NOCSL Sexual Harassment and Abuse Policy Working Mechanism and its translated versions, the English version prevails.*