

## Harassment Policy - TENNIS NEW BRUNSWICK

### POLICY STATEMENT

1. Tennis NB is committed to providing a sport and work environment in which all individuals are treated with respect and dignity. Each individual has the right to participate and work in an environment, which promotes equal opportunities and prohibits discriminatory practices.

- Harassment is a form of discrimination. Harassment is prohibited by the Canadian *Human Rights Act* and by human rights legislation in every province and territory of Canada.
- Harassment is offensive, degrading, and threatening. In its most extreme forms, harassment can be an offense under Canada's *Criminal Code*.
- Whether the harasser is a director, supervisor, employee, coach, official, volunteer, parent or athlete, harassment is an attempt by one person to assert abusive, unwarranted power over another.
- Tennis NB is committed to providing a sport environment free of harassment on the basis of race, colour, sex, disability, ethnic or national origin, age, religion or creed, sexual orientation, marital or family status, civil status, or other prohibitive grounds of discrimination covered by Human Rights legislation.

2. This policy applies to all employees of Tennis NB, as well as to all directors, officers, consultants, volunteers, coaches, athletes, and officials associated with specific Tennis NB activities (henceforth identified as members of Tennis NB). Tennis NB encourages the reporting of all incidents of harassment, regardless of who the offender may be.

3. This policy applies to harassment, which may occur during the course of all Tennis NB business, activities and events. It also applies to harassment between individuals associated with Tennis NB but outside Tennis NB business, activities and events when such harassment adversely affects relationships within the Tennis NB and sport environment.

4. Notwithstanding this policy, every person who experiences harassment continues to have the right to seek assistance from their provincial or territorial human rights commission, even when steps are being taken under this policy.

## DEFINITIONS

5. Work place harassment involves unwelcome and offensive comments, conducts, gestures or contact based on or related to race, colour, sex, disability, ethnic or national origin, age, religion or creed, sexual orientation, marital or family status, civil status, or other prohibitive grounds of discrimination covered by Human Rights legislation. Harassment occurs when the behaviour concerned:

- is likely to be offensive, embarrassing or humiliating;
  
- might, on reasonable grounds, be perceived as placing a condition on employment, its terms or continued employment;
  
- has the purpose or effect of interfering with an individual's work performance or creating an intimidating, threatening, hostile or offensive work environment.

6. Harassment occurs when the individual knows or reasonably should know that the behaviour is offensive. A standard of a "reasonable person" or, in the case of sexual harassment, a "reasonable woman (or man)" is used to assess behaviour.

7. For the purpose of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature when:

- submitting to or rejecting this conduct is used as the basis for making decisions which affect the individual; or

- such conduct has the purpose or effect of interfering with an individual's performance; or
- such conduct creates an intimidating, hostile, or offensive environment.

8. Types of behaviour which constitute harassment include but are not limited to:

- written or verbal abuse or threats;
- the display of visual material which is offensive or which one ought to know is offensive;
- unwelcome remarks, jokes, comments, innuendo, or taunting about a person's looks, body attire, age, race, religion, sex, or sexual orientation;
- leering or other suggestive or obscene gestures;
- condescending, paternalistic, or patronizing behaviour which undermines self-esteem, diminishes performance, or adversely affects working conditions;

- practical jokes which cause awkwardness or embarrassment, endanger a person's safety, or negatively affect performance;
- unwanted physical contact including touching, petting, pinching or kissing;
- unwelcome sexual flirtations, advance, requests or invitations; or
- physical or sexual assault.

9. Sexual harassment most commonly occurs in the form of behaviour by males towards females; however, sexual harassment can also occur between males, between females, or as behaviour by females toward males.

10. Harassment may be inflicted directly or indirectly, and through any means of communication, including through electronic communications.

11. For the purposes of this policy, retaliation against an individual

- for having filed a complaint or taken any other step under this policy; or
- for having participated in any procedure under this policy; or

- for having been associated with a person who filed a complaint or participated in any procedure under this policy will be treated as harassment, and will not be tolerated

## RESPONSIBILITY

12. The President of Tennis NB and the members of the Tennis NB Executive are responsible for the implementation of this policy. In addition, the President of Tennis NB and the members of the Tennis NB Executive are responsible for:

- discouraging and dealing with harassment within Tennis NB;
- investigating formal complaints of harassment in a sensitive, responsible, and timely manner;
- imposing appropriate disciplinary or corrective measures when a complaint of harassment has been substantiated, regardless of the position or authority of the offender;
- providing advice to persons who experience harassment;
- doing all in their power to support and assist any employee or member of Tennis NB who experiences harassment by someone who is not an employee or member of Tennis NB;

- making all employees and members of Tennis NB aware of the problem of harassment, including, sexual harassment, and of the procedures contained in this policy;
- informing both complainants and respondents of the procedures contained in this policy and of their rights under the law;
- regularly reviewing the terms of this policy to ensure that they adequately meet the organization's legal obligations and public policy objectives;
- appointing harassment officers and providing the training and resources they need to fulfill their responsibilities under this policy, and
- appointing unbiased case review panels and appeal bodies and providing the resources and support they need to fulfill their responsibilities under this policy.

13. Every employee or member of Tennis NB has a responsibility to play a part in ensuring that the Tennis NB sport environment is free from harassment. This means not engaging in, allowing, condoning or ignoring behaviour contrary to this policy. In addition, any employee or member of Tennis NB who believes that a fellow employee or member has experienced or is experiencing harassment is encouraged to notify a harassment officer appointed under this policy.

## DISCIPLINARY ACTION

14. Employees or members of Tennis NB against whom a complaint of harassment is substantiated may be severely disciplined, up to and including employment dismissal or termination of membership in cases where the harassment takes the form of assault, sexual assault, or a related sexual offense.

## CONFIDENTIALITY

15. Tennis NB understands that it can be extremely difficult to come forward with a complaint of harassment and that it can be devastating to be wrongly convicted of harassment. Tennis NB recognizes the interests of both the complainant and the respondent in keeping the matter confidential.

16. Tennis NB shall not disclose to outside parties the name of the complainant, the circumstances giving rise to a complaint, or the name of the respondent unless a disciplinary or other remedial process requires such disclosure.

17. Information related to harassment matters is provided to others on a “need to know” basis only. While Tennis NB wishes to create an environment where members are willing to come forward to have complaints resolved, such members should understand that harassment allegations must be dealt with in a forthright and fair manner. This includes an obligation to be fair to the alleged harasser by providing sufficient information about the allegation that concerns them to enable them to respond properly. In many cases, this will mean that anonymity is not feasible or fair. However, members can be assured that Tennis NB will take all possible steps to preserve confidentiality.

## HARASSMENT OFFICERS

18. Tennis NB shall appoint at least two persons, one male and one female, who are themselves members or employees of the sport organization, to serve as officers under this policy.

19. The role of harassment officers is to serve in a neutral, unbiased capacity and to receive complaints, assist in informal resolution of complaints and investigate formal written complaints. In carrying out their duties under this policy, officers shall be directly responsible to the President of Tennis NB.

20. Tennis NB shall ensure that officers receive appropriate training and support for carrying out their responsibilities under this policy.



- the right to withdraw from any further action in connection with the complaint at any stage (even though Tennis NB might continue to investigate the complaint); and
- other avenues of recourse, including the right to file a complaint with a human rights commission or, where appropriate, to contact the police to have them lay a formal charge under the Criminal Code.

24. There are three possible outcomes to this meeting of complainant and official:

- a. The complainant and officer agree that the conduct does not constitute harassment.
  - If this occurs, the harassment officer will take no further action and will make no written record.
- b. The complainant brings evidence of harassment and chooses to pursue an informal resolution of the complaint.
  - If this occurs, the harassment officer will assist the two parties to negotiate a solution acceptable to the complaint, or may assist the complainant with informal means of resolving the complaint. If desired by the parties and if appropriate, the harassment officer may also seek the assistance of a neutral mediator.
  - If an informal resolution yields a result, which is acceptable to both parties, the harassment officer will make a written record that a complaint was made and was resolved informally to the satisfaction of both parties, and will take no further action

- If informal resolution fails to satisfy the complaint, the complainant will reserve the option of laying a formal written complaint.
  
  - If an informal resolution is not achieved, and the complainant does not file a written complaint, a record of his or her dealings with the harassment officer will be kept by the harassment officer. Such record will be confidential it shall not be placed or referred to in any other file kept in any other department of Tennis NB.
- c. The complainant brings evidence of harassment and decides to lay a formal written complaint.
- If this occurs, the harassment officer will assist the complainant in drafting a formal written complaint, to be signed by the complainant, and a copy given to the respondent without delay. The written complaint should set out the details of the incident(s), the names of any witnesses to the incident(s), and should be dated and signed.
  
  - The respondent will be given an opportunity to provide a written response to the complaint. The harassment officer may assist the respondent in preparing this response.
- d. The complainant brings evidence of harassment but does not wish to lay a formal complaint.
- If this occurs, the harassment officer must decide if the alleged harassment is serious enough to warrant laying a formal written complaint, even if it is against the wishes of the complainant.

- When the harassment officer decides that the evidence and surrounding circumstances require a formal written complaint, the harassment officer will issue a formal written complaint and, without delay, provide copies of the complaint to both the complainant and the respondent.

25. As soon as possible after receiving the written complaint, but within 21 days, the officer shall submit a report to the President of Tennis NB, containing the documentation filed by both parties along with a recommendation (and reasons for the recommendation) that:

- No further action be taken because the complaint is unfounded or the conduct cannot reasonably be said to fall within this policy's definition of harassment; or

- The complaint should be investigated further.

- A copy of this report shall be provided, without delay, to both the complainant and the respondent.

26. In the event that the harassment officer's recommendation is to proceed, the Tennis NB President shall within 14 days appoint three employees or members of Tennis NB to serve as a case review panel. Tennis NB may also appoint up to two members to the panel from outside Tennis NB. This panel shall consist of at least one woman and at least one man. To ensure freedom from bias, no member of the panel shall have a significant personal or professional relationship with either the complainant or the respondent.

27. Within 21 days of its appointment, unless the parties and the panel agree otherwise, the case review panel shall convene a hearing. The hearing shall be conducted in a manner that is fair to both parties, and shall be governed by such procedures as the panel may decide, provided that:

- The complainant and respondent shall be given 14 days notice, in writing, of the day, time and place of the hearing.

- Members of the panel shall select a chairperson from among themselves.

A quorum shall be all three-panel members.

- Decisions shall be by majority vote. If a majority vote decision is not possible, the decision of the chairperson will be the decision of the panel.
- The hearing shall be in camera.
- Both parties shall be present at the hearing to give evidence and to answer questions of the other party and of the panel. Each shall have the right to present evidence and to question and cross-examine witnesses.
- If the complainant does not appear, the matter may be dismissed (unless the complainant decided not to lay a formal complaint, but the officer concluded that the evidence and surrounding circumstances were such as to require a formal written complaint). If the respondent does not appear, the hearing may proceed in any event.
- A representative or adviser may accompany the complainant and respondent.

- The harassment officer may attend the hearing at the request of the panel.

28. Within 14 days of the hearing, the case review panel shall present its findings in a report to the Tennis NB President which shall contain:

- a summary of the relevant facts found by the case review panel, based on the evidence presented at the hearing;
- a determination as to whether harassment as defined in this policy has occurred as alleged in the complaint;
- recommend disciplinary action against the respondent, if harassment is found to have occurred; and
- recommend measures to remedy or mitigate the harm or loss suffered by the complainant, if harassment is found to have occurred.

29. If the panel determines that the allegations of harassment are false, vexatious, retaliatory, or unfounded, their report may recommend disciplinary action against the complainant.

30. A copy of the report of the case review panel shall be provided, without delay, to both the complainant and the respondent.

31. When determining appropriate disciplinary action and corrective measures, the case review panel shall consider factors such as:

- the nature of the harassment;

- whether the harassment involved any physical contact;
- whether the harassment was an isolated incident or part of an ongoing pattern;
- the nature of the relationship between complainant and harasser;
- the age of the complainant;
- whether the harasser had been involved in previous harassment incidents;
- whether the harasser admitted responsibility and expressed a willingness to change; and
- whether the harasser retaliated against the complainant.

32. In recommending disciplinary sanctions, the panel may consider the following options, singly or in combination, depending on the severity of the harassment:

- a verbal apology;

- a written apology;
- a letter of reprimand from the sport organization;
- a fine or levy;
- referral to counseling;
- removal of certain privileges of membership or employment;
- demotion or a pay cut;
- temporary suspension with or without pay;

- termination of employment or contract; or
  
- expulsion from membership

33. Where the investigation does not result in a finding of harassment, a copy of the report of the case review panel shall be placed in the harassment officer's files. These files shall be kept confidential and access to them shall be restricted to the Tennis NB President and the harassment officers.

34. Where the investigation results in a finding of harassment, a copy of the report of the case review panel shall be placed in the personnel or membership file of the respondent. Unless the findings of the panel are overturned upon appeal, this report shall be retained for a period of ten years, unless new circumstances dictate that the report should be kept for a longer period of time.

#### PROCEDURE WHERE A PERSON BELIEVES THAT A COLLEAGUE HAS BEEN HARASSED

35. Where a person believes that a colleague has experienced or is experiencing harassment and reports this belief to a harassment officer, the officer shall meet with the person who is said to have experienced harassment and shall then proceed in accordance with Section 21 of this policy.

#### APPEALS

36. Both the complainant and respondent shall have the right to appeal the decision and recommendations of the case review panel. A notice of intention to appeal, along with grounds for the appeal, must be provided to the chairperson of the case review panel within 14 days of the complainant or respondent receiving the panel's report.

37. Permissible grounds for an appeal are:

- the panel did not follow the procedures laid out in this policy, or has otherwise failed to act in a fair and impartial manner;

- members of the panel were influenced by bias; or
- the panel reached a decision which was patently unfair or unreasonable.

38. In the event that a notice of appeal is filed, the Tennis NB President shall appoint a minimum of three members to constitute the appeal body. Up to two members of the panel may also be appointed from outside Tennis NB. This appeal body shall consist of a least one woman and at least one man. These individuals must have no significant personal or professional involvement with either the complainant or respondent, and no prior involvement in the dispute between them.

39. The appeal body shall base its decision solely on a review of the documentation surrounding the complaint, including the complainant's and respondent's statements, the reports of the harassment officer and the case review panel, and the notice of the appeal.

40. Within ten days of its appointment, the appeal body shall present its findings in a report to the Tennis NB President. The appeal body shall have the authority to uphold the decision of the panel, to reverse the decision of the panel, and/or modify any of the panel's recommendations for disciplinary action or remedial measures.

41. A copy of the appeal body's report shall be provided, without delay, to the complainant and respondent.

42. The decision of the appeal body shall be final.

#### REVIEW AND APPROVALS

43. The Tennis NB Board of Directors reviewed and approved this policy on February 1, 2008.

#### STATUTE OF LIMITATIONS:

Should you be involved in or witness an incident of harassment as described in this policy, you have one (1) year from the date on which the incident occurs in which to file a report to a harassment officer. If you fail to comply within this time limit, there is no recourse.