

# TENNIS MANITOBA HARASSMENT POLICY

## POLICY STATEMENT

1. Tennis Manitoba 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 Manitoba 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 Manitoba, as well as to all directors, officers, consultants, volunteers, coaches, athletes, and officials associated with specific Tennis Manitoba activities (henceforth identified as members of Tennis Manitoba). Tennis Manitoba 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 Manitoba business, activities and events. It also applies to harassment between individuals associated with Tennis Manitoba but outside Tennis Manitoba business, activities and events when such harassment adversely affects relationships within the Tennis Manitoba 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 behavior 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 behavior is offensive. A standard of a "reasonable person" or, in the case of sexual harassment, a "reasonable woman (or man)" is used to assess behavior.

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 behavior 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 behavior 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 behavior by males towards females; however, sexual harassment can also occur between males, between females, or as behavior 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 Executive Director of Tennis Manitoba and the Chair of the Board of Directors are responsible for the implementation of this policy. In addition, the President of Tennis Manitoba and the Chair of the Board of Directors are responsible for:

- discouraging and dealing with harassment within Tennis Manitoba;

- 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 Manitoba who experiences harassment by someone who is not an employee or member of Tennis Manitoba;
- making all employees and members of Tennis Manitoba 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 Manitoba has a responsibility to play a part in ensuring that the Tennis Manitoba sport environment is free from harassment. This means not engaging in, allowing, condoning or ignoring behavior contrary to this policy. In addition, any employee or member of Tennis Manitoba 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.

14. In the event that the Chair of the Board of Directors is involved in a complaint, which is made under this policy, the Tennis Manitoba President shall appoint a suitable alternate for the purpose of dealing with the complaint.

## **DISCIPLINARY ACTION**

15. Employees or members of Tennis Manitoba 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**

16. Tennis Manitoba 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 Manitoba recognizes the interests of both the complainant and the respondent in keeping the matter confidential.

17. Tennis Manitoba 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.

18. Information related to harassment matters is provided to others on a "need to know" basis only. While Tennis Manitoba 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 Manitoba will take all possible steps to preserve confidentiality.

## HARASSMENT OFFICERS

19. Tennis Manitoba 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.

20. 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 Executive Director of Tennis Manitoba and the Chair of the Board of Directors.

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

## COMPLAINT PROCEDURE

22. A person who experiences harassment is encouraged to make it known to the harasser that the behavior is unwelcome, offensive, and contrary to this policy.

23. If confronting the harasser is not possible, or if the person experiencing the harassment does not wish for any reason to confront the alleged harasser, or if after confronting the harasser the harassment continues, the complainant should seek the advice of a harassment officer.

24. The harassment officer shall inform the complainant of:

- the options for pursuing an informal resolution of his or her complaint;
- the right to lay a formal written complaint under this policy when an informal resolution is inappropriate or not feasible;
- the availability of counseling and other support provided by Tennis Manitoba;
- the confidentiality provisions of this policy;
- the right to be represented by a person of choice (including legal counsel) at any stage in the complaint process;
- the external mediation/arbitration mechanisms that may be available;
- the right to withdraw from any further action in connection with the complaint at any stage (even though Tennis Manitoba 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*.

25. There are four possible outcomes to this initial meeting of complainant and officer.

(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 Manitoba.
- (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.

26. As soon as possible after receiving the written complaint, but within 21 days, the officer shall submit a report to the Executive Director of Tennis Manitoba and the Chair of the Board of Directors, 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.

27. In the event that the harassment officer's recommendation is to proceed, the Tennis Manitoba President and the Chair of the Board of Directors shall within 14 days appoint three employees or members of Tennis Manitoba to serve as a case review panel. Tennis Manitoba may also appoint up to two members to the panel from outside Tennis Manitoba. 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.

28. 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.

29. Within 14 days of the hearing, the case review panel shall present its findings in a report to the Tennis Manitoba President and the Chair of the Board of Directors 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.

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

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

32. 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.

33. 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

34. 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 Manitoba President, the Chair of the Board of Directors and the harassment officers.

35. 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**

36. 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**

37. Both the complainant and respondent shall have the right to appeal the decision and recommendations of the case review panel as per Tennis Manitoba's Appeals Policy.

#### **REVIEW AND APPROVAL**

38. The Tennis Manitoba Board of Directors approved this policy on April 2, 2008.

39. The Tennis Manitoba Executive Director and the Chair of the Board of Directors on an annual basis shall review this policy.

**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.