



## 2. Human Resources

No: 06

**Policy Title:** Harassment & Discrimination

**Date Approved:** August 13, 2006

*(Note: Included as an Appendix under Specific Hosting Guidelines and to be posted at all Championship events)*

### **I - GENERAL DEFINITIONS**

In this Policy:

“Complainant” means an employee who considers that the behaviour of another employee towards him or herself is discrimination or harassment and is seeking redress by means of the provisions contained in this Policy;

“Director of Human Resources” means the individual appointed by the President to be responsible for Human Resources issues;

“Employee” means any employee of the NSCA and includes any volunteer, consultant, contractor or individual who is working on behalf of the NSCA, providing a service on behalf of the NSCA or participating in an event under the jurisdiction of NSCA;

“Employer” means the NSCA;

“Non-Employee” means any individual who is an employee or representative of a vendor, contractor, subcontractor, supplier or consultant who, during their course of business, interacts with an employee of NSCA;

“Respondent” means the employee considered by a Complainant to be responsible for the alleged harassment;

“Supervisor” means the individual that an employee reports to;

“Workplace” means the offices of the NSCA or any venue or location where “employees” are working on behalf of the NSCA, providing a service on behalf of the NSCA or participating in an event under the jurisdiction of NSCA;

### **II - POLICY STATEMENT**

The Nova Scotia Curling Association is committed to providing a working environment in which all individuals are treated with respect and dignity. All employees have the right to freedom from

harassment or discrimination in the workplace. Harassment or discrimination is illegal in the workplace and will not be tolerated. Such actions constitute a serious disciplinary infraction and will be subject to disciplinary measures up to and including termination of employment.

### **III - APPLICABILITY**

The provisions of this Policy apply equally to all employees of the NSCA, during working or work related hours, at or away from the workplace.

### **IV - DEFINITION OF HARASSMENT AND DISCRIMINATION**

As it must, the NSCA will rely upon and comply with the definitions of harassment and discrimination included in the *Human Rights Act*. For greater clarity, the NSCA considers workplace harassment or discrimination as any offensive, hurtful or malicious comment or behaviour by any employee towards another employee that is known or ought reasonably to be known to be unwelcome. Behaviour is considered unwelcome if it is perceived as such by the Complainant. Harassment or discrimination may be one incident, a series of incidents, or may exist systemically as part of the work environment. It includes a work environment where offensive comments or behaviour, not directed at anyone in particular, are pervasive and have a negative effect on moral

The Employer, persons acting on behalf of the Employer and employees are all prohibited from harassing or showing discrimination towards an employee.

Workplace harassment or discrimination may include:

- Discrimination or harassment of an employee on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status, sexual orientation or handicap.
- Sexual harassment in particular includes jokes, innuendos and practical jokes of a sexual nature which cause embarrassment, or awkwardness; derogatory or degrading remarks directed toward members of one sex or one sexual preference group, displaying sexually offensive material, leering, sexually suggestive gestures, unnecessary physical contact such as touching, patting or pinching, repeated offensive sexual flirtations, advances, propositions, coercion and physical assault.
- Sexual advances or solicitation made by an employee who is in a position to grant or deny a benefit to another employee also constitutes sexual harassment.

### **V - MANAGEMENT RESPONSIBILITIES**

The *Human Rights Act* provides that a person who has the authority to prevent or discourage harassment or discrimination may be held responsible for failure to do so. It is recognized therefore that NSCA Management has a particular duty to act and deal with any such incidents whenever they become aware that there is an issue to address.

## **VI - PROPERLY DISCHARGED SUPERVISION**

Any properly discharged supervisory and instructional responsibility carried out by NSCA Management does not constitute harassment or discrimination. Performance appraisals, counselling, discipline and the proper enforcement of high standards, provided that such standards are applied in a non-discriminatory manner, are not contrary to this Policy.

## **VII - VOLUNTEER SCREENING PROCESS**

Any properly discharged volunteer screening process carried out in accordance with the NSCA Volunteer Screening Policy does not constitute harassment or discrimination and the enforcement of certain standards and criteria in the selection of volunteers is not contrary to this Policy.

## **VIII - RIGHT TO GO ELSEWHERE**

This policy provides an opportunity to deal with discrimination and harassment issues quickly and fairly. All employees are encouraged to follow this policy and the procedures contained herein. However, nothing in this policy is intended to prevent a Complainant from using an alternate procedure such as the *Human Rights Act* or appropriate law enforcement agencies.

## **IX - COMPLAINT RESOLUTION PROCEDURES**

The following set of procedures is meant to provide a structure for the resolution of internal NSCA complaints.

### Confidentiality

Individual privacy and confidentiality are basic principles underlying all parts of the resolution process. The NSCA will not disclose a Complainant's or Respondent's name, or any circumstances related to a complaint to anyone except, as necessary to investigate the complaint or take disciplinary action related to the complaint or as required by law or if the NSCA determines that the safety of an individual or the community is at risk. Individuals involved in a complaint will keep all information confidential, except in the above circumstances.

### Conflict of interest

Individuals involved in the discrimination or harassment resolution process will be objective and free of perceived or real conflict of interest.

### Documentation

An employee who feels that he or she has been subject to discrimination or harassment, or an employee who witnesses behaviour that he or she perceives as discrimination or harassment, or an employee who is accused of discrimination or harassment should make written notes (times, dates, locations, witnesses, details, etc.) about the events leading to the incident(s) and retain all such documents and materials that relate to the incident(s).

## Complainant Procedures

The NSCA has implemented different options to internally address the type and severity of a discrimination or harassment complaint. An employee may:

- Option A: Deal directly with the employee whose behaviour gave rise to the complaint;
- Option B: Request informal action and resolution;
- Option C: File a formal complaint.

Options A and B may help to resolve the complaint in the early stages of the conflict but may not be appropriate in all situations particularly where personal safety is threatened. Although the informal approach and resolutions are encouraged, employees are not required to engage in these steps and may choose to initiate the process through the formal complaint option (Option C). For tracking purposes, a record will be kept of the informal process resolutions. These will not form part of the employee record for either the Complainant or the Respondent.

### Option A:

A Complainant, who is able, should tell the Respondent to stop the offensive behaviour. The Complainant should make it clear to the Respondent that he or she is embarrassed, humiliated, demeaned or otherwise bothered by what the Respondent is doing or saying. The Respondent may not realize that his or her behaviour is unwelcome or offensive. In many instances this approach will stop the offensive behaviour.

It is recognized that in some situations the use of this option may be difficult or inappropriate, or the Complainant may have told the Respondent to stop but the offensive behaviour continues. In this case the Complainant should take immediate action as outlined below.

### Option B:

If a Complainant is unsure whether he or she has experienced discrimination or harassment or would like to proceed with the matter on an informal basis in the interest of seeking an informal resolution, the Complainant should report the incident immediately to his or her Supervisor (only if he or she is not involved in the incident), the President or Vice President (only if he or she is not involved in the incident) and a trusted staff member.

These individuals will, through discussion, determine an appropriate course of action, a time line to resolve the situation and a reasonable resolution acceptable to the Complainant. Such action must include informing the Respondent of the complaint, discussing the complaint individually with both parties, and may include discussing the complaint jointly with both parties or conducting such discussions with both parties by means of a neutral third party.

The resolution of a complaint by means of this informal process must be concluded within fifteen (15) working days of the complaint being received unless there is mutual agreement for an extension.

### Option C:

If the Complainant has attempted resolution of a complaint by means of Option A and/or Option B and did not reach a satisfactory result, within acceptable time limits, he or she may request a formal resolution process. Or, the Complainant may choose to initiate a resolution of the complaint by means of the formal complaint process.

A formal complaint must be made in writing and may be filed with:

- The Complainant's Supervisor (if he or she is not involved in the incident) or;
- The President or Vice President (only if he or she is not involved in the incident) or;
- A trusted staff member.

The complaint must include the following information:

- Name of the employee who is the Complainant;
- Name of the employee who is the Respondent;
- Sufficient details concerning the complaint such as what occurred, where, when, witnesses, etc.

An Investigation Team will be convened in accordance with the provisions contained in the "Roles, Responsibilities and Time Frames" section of this document. The Investigation Team will meet with the Respondent, explain the complaint, provide a copy of the written complaint, explain the Respondent's rights and the process and will request a formal written response from the Respondent within a reasonable period of time. The response will normally include a description of the incident(s) from the Respondent's perspective as well as the names of any witnesses the Respondent wishes to provide.

The Complainant has the right to:

- File a complaint and have it dealt with promptly, without fear of embarrassment or reprisal;
- Have a person of his or her choice accompany him or her during the process, or appoint someone to represent him or her in the process;
- Ensure that no record of the complaint is placed on his or her personnel file as long as it was made in good faith;
- Be informed about the progress of the complaint;
- Receive fair treatment
- Be informed of the findings of the investigation.

### Respondent Procedures

A Respondent will be expected to participate in the ensuing investigation of any discrimination or harassment complaint made against him or her. A Respondent may ask his or her Supervisor, the President or Vice President, or a lawyer for advice. In many cases, an employee may not recognize that their behaviour was perceived as offensive.

Therefore, if it is an acceptable remedy to the Complainant, a Respondent may choose to apologize and commit to changing his or her behaviour. If the investigation continues, a

Respondent will be expected to cooperate, give their perspective on what happened and, if the investigation shows that a Respondent did harass or show discrimination toward another employee or group of employees, he or she will be required to change their behaviour. If the investigation reveals harassment or discrimination occurred, a Respondent may also be subject to disciplinary action.

In the case of Option A or Option B:

- A Respondent will be asked to answer to the complaint, either verbally or in writing, and to attend any meetings discussing the complaint. A Respondent may request assistance of a Supervisor, a colleague or legal counsel in resolving the conflict;
- If the Complainant and Respondent agree, a neutral third party may be asked to mediate a solution to the complaint.

If a formal complaint (Option C) is made against a Respondent, he or she will:

- Be informed of the complaint;
- Be given a written statement of the official allegations and be asked to respond;
- Have a person of their choice accompany him or her during the process, or appoint someone to represent him or her in the process;
- Be informed about the progress of the complaint;
- Be informed of the findings of the investigation.

## **IX - ROLES, RESPONSIBILITIES AND TIME FRAMES**

### Investigation Team

Normally an Investigation Team will consist of two members (greater numbers may jeopardize the confidentiality of the process). If circumstances warrant it, NSCA may choose to bring in a lead investigator from outside the organization. The actual membership and composition of the team will be determined on a case-by-case basis, (e.g., in a cross gender sexual harassment investigation it may preferable to have one male and one female investigator).

Members of the Investigation Team must possess the appropriate experience/qualifications, be independent, objective and maintain the confidentiality of the process.

All complaints will be dealt with as quickly and with as little disruption to the workplace as possible.

The Investigation Team shall:

- Commence an investigation within three (3) working days of receiving a complaint;
- Interview the Complainant and obtain a signed complaint and obtain the names and contact information for any witnesses;
- Inform the Respondent of the complaint, provide him or her with a copy of the complaint, and agree on a deadline by which the Respondent will respond;
- Receive, from the Respondent, either a written response or have the Respondent sign a written summary of the interview and obtain the names and contact information for any witnesses;

- Interview witnesses and obtain written statements or have the witnesses sign written summaries of their interviews;
- Decide, on the balance of probabilities, whether discrimination or harassment did occur;
- Submit a written report to the President within fifteen (15) working days of commencing the investigation and/or request an extension stating why more time is required;
- If the investigation is extended, complete it within thirty (30) days of the original commencement date.

The written report should contain:

- A summary of the investigation process;
- The findings on the allegation of discrimination or harassment;
- All statements and documents related to the investigation.

A copy of the report (but not the supporting statements and documents) shall be provided to the Complainant and Respondent.

### The President

The President may designate a member of the management team to represent him or her in the investigation proceedings.

The President will make the final decision based on the investigation report and insure the decision is communicated to all parties involved, within five (5) working days of completion of the investigation.

The President shall meet individually with the Complainant and the Respondent to explain the disposition of the complaint and identify any ongoing concerns the Complainant or Respondent may have.

The President will withdraw from the proceedings if a conflict of interest exists. In this circumstance, senior management, who are not in a conflict of interest position, will appoint one of them to carry out the President's role in the investigation. This person will be responsible for making the final decision based on the Investigation Team's recommendations and ensuring the decision is communicated within five (5) working days of receiving the report.

If the President is the Respondent, the Board of Directors will appoint a Board member(s) to assume the role of the President as described above.

### Employees

All employees are expected to co-operate in the investigation of complaints and efforts to resolve them. Employees should be mindful of the sensitivities of the parties and must keep any information related to complaints confidential.

## **X - REMEDIES AND CORRECTIVE ACTION**

### Corrective Action

If it is determined that a Respondent is guilty of discrimination or harassment, a progressive discipline will be used to change and discourage the Respondent's unacceptable behaviour. It will be applied fairly and without delay. Discipline imposed will be based on the seriousness of the event and any prior occurrences of related behaviour. The levels of discipline are:

- Verbal reprimand;
- Written reprimand;
- Suspension without pay;
- Dismissal.

Counselling and/or anti-harassment or discrimination training may be required instead of, or in addition to, disciplinary action.

If the investigation does not substantiate the complaint, there will be no documentation concerning the complaint placed on the file of the Respondent. However, if the investigation reveals harassment or discrimination occurred, the incident and the discipline, which is imposed on the Respondent, will be recorded in the Respondent's file.

### Remedies for the Victim

If it is determined that a Respondent has harassed or showed discrimination toward a Complainant, NSCA will make every reasonable effort to remedy the effects of the harassment upon the Complainant. Remedial action could be, but is not limited to:

- An oral or written apology from the Respondent;
- Compensation for any lost NSCA employment benefits;
- The removal, from the employee file, of any unfavourable work review or comments based solely on, or found to be part of the harassment or discrimination.

No record of the complaint, investigation or decision will be placed in the Complainant's personnel file if the complaint was made in good faith.

## **XI - CLOSURE**

### No Retaliation

Every individual has a right to carry out any of the following actions without fear of retaliation. An employee may:

- File a harassment or discrimination complaint;
- Participate or cooperate in an investigation;
- Provide information relative to the complaint;
- Act in any designated role under this policy and the procedures contained herein.

Anyone who retaliates in any way against an employee, who has complained of discrimination or harassment, participated in a discrimination or harassment investigation or been found to have harassed another employee, will themselves be subject to a harassment investigation and, if the complaint is substantiated, will be subject to the same disciplinary action.

#### Safe Work Environment during a Discrimination or Harassment Investigation

It is important to maintain a safe, discrimination or harassment free work environment during the investigation of a discrimination or harassment complaint.

During the investigation of a discrimination or harassment complaint, the Complainant has the right to request, through his or her Supervisor, to discontinue contact with the Respondent, pending determination of the investigation. Such request shall not be unreasonably withheld.

If the presence of the Respondent may jeopardize the investigation or may escalate the activities perceived as discrimination or harassment, the Respondent may be suspended with pay for the lesser of the duration of the investigation or thirty (30) days. Said time period may be extended in exceptional circumstances.

#### Withdrawing a Complaint

A Complainant may, at his or her discretion, decide to withdraw a complaint at any point in the process. However NSCA may be required to investigate the complaint to comply with its legal obligations under the applicable Human Rights legislation.

#### Unsubstantiated Complaints

If an employee, in good faith, files a discrimination or harassment complaint that is not supported by evidence gathered during an investigation, said complaint will be dismissed, and no record of it will be placed in either the Complainant's or Respondent's file.

#### Malicious or Bad Faith Complaints

If it is determined that a complaint has been made maliciously or in bad faith, the Complainant will be subject to the same disciplinary process as that which would be applicable to a Respondent who was found guilty of discrimination or harassment and a record of the incident and any disciplinary action taken will be placed on the Complainant's personnel file.

Discipline for a Complainant who is found to have made a complaint maliciously or in bad faith will be the same as that which would be applicable to a Respondent who was found guilty of discrimination or harassment, and will depend on the seriousness of the incident. Remedies for a Respondent falsely accused may include steps to restore lost reputation and any of the remedies that are available in a case of discrimination or harassment.

#### Monitoring

When a resolution of a complaint has occurred, unless the complaint has been dismissed, NSCA will monitor the successful application of the resolution with the employees concerned. This follow-up is an important component of effective complaint resolution. If during the resolution implementation process, there is insufficient change in behaviour, the progressive discipline process will be applied.

## **XII - NON-EMPLOYEES**

If an allegation of discrimination or harassment is made by an employee against a non-employee, NSCA will contact the appropriate authorities and inform them of the allegations made against the non-employee. If no action is taken by these appropriate authorities, or if NSCA is not satisfied with the action taken, NSCA may prohibit the non-employee from being present in the workplace.