

TORONTO ULTIMATE CLUB
HARASSMENT POLICY
(BOARD APPROVED 5 January 2018)

Definitions

Responsibility

Coach/Athlete Dating and Sexual Relations

Disciplinary Action

Confidentiality

Harassment Officers

Complaint Procedure

Procedure Where A Person Believes that A Colleague has Been Harassed

Appeals

Review and Approval

Timelines Under the Harassment Policy

1. The Toronto Ultimate Club (TUC) is committed to providing a sport and working 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 Charter of Rights and Freedoms, and by the Ontario Human Rights Code.
 - Harassment is offensive, degrading, and threatening. In its most extreme forms, harassment can be an offense under the Criminal Code of Canada.
 - 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.
 - TUC is committed to providing a sport environment free of harassment on the basis of sex, national or ethnic origin, race, citizenship, ancestry, colour, religion, age, sex, sexual orientation, marital status, family status, disability, or pardoned conviction.

2. This policy applies to all employees as well as to all directors, officers, volunteers, coaches, athletes, officials, guests, and members of TUC. TUC encourages the reporting of all incidents of harassment, regardless of who the alleged offender may be.

3. This policy applies to harassment which may occur during the course of all TUC business, activities, and events. It also applies to harassment between individuals associated with TUC but outside TUC business, activities or events, including club-sanctioned social events, when such harassment adversely affects relationships within TUC's work and sport environment.
4. Notwithstanding this policy, every person who experiences harassment continues to have the right to seek assistance from police, the Ontario Human Rights Commission, or from independent legal counsel, even when steps are being taken under this policy.

Definitions

5. Harassment may take many forms but can generally be defined as comment, conduct, or gesture directed towards an individual or group of individuals, which is insulting, intimidating, humiliating, malicious, degrading or offensive.
6. For the purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual¹ 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.
7. Types of behaviour which constitute harassment are those which are offensive or which one ought to know are offensive and include, but are not limited to:
 - written or verbal threats;
 - the display of offensive visual material
 - 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 or 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, advances, requests, or invitations; or
 - physical or sexual assault; or
 - any other grounds as listed in paragraph 1, above.

¹ Sexual behaviour in this context includes any unwanted sexual activity– such as kissing, touching, groping, flashing, oral sex, intercourse, photographing, etc.

8. Sexual harassment can occur in the form of behaviour by males towards females, between males, between females, or as behaviour by females towards males, or behaviour of any person toward another person.
9. For the purposes of this policy, retaliation against an individual will be treated as harassment, and will not be tolerated.
 - for having filed a complaint 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,

Responsibility

10. The TUC Director Responsible For This Policy (DRFTP), staff members, members of the Board of Directors, and appointed officials within the Club, are responsible for the implementation of this policy. In addition, the TUC - DRFTP is responsible for:
 - discouraging and preventing harassment within TUC
 - investigating formal complaints or 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 TUC who experiences harassment by someone who is not an employee or member of TUC;
 - making all members and employees of TUC aware of the problem of harassment, and of the procedures contained in this policy;
 - informing both complainants and respondents of the procedures contained in this policy and their rights under the law;
 - regularly reviewing the terms of this policy to ensure that they are adequately meeting 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;
 - appointing unbiased case review panels and appeal bodies and providing the resources and support they need to fulfill their responsibilities under this policy.
11. The TUC Director Responsible for this Policy (DRFTP) will be the Chair of the Governance Committee, if no other individual has been selected to take on the responsibility.

12. Every member of TUC has a responsibility to play a part in ensuring that the TUC sport environment is free from harassment. This means not engaging in, allowing, condoning, or ignoring behaviour contrary to this policy. In addition, any member of TUC who believes that a fellow member has experienced or is experiencing harassment is encouraged to notify an harassment officer appointed under this policy.
13. In the event that the TUC DRFTP is involved in a complaint which is made under this policy, the TUC President shall appoint a suitable alternate for the purposes of dealing with this complaint.

Coach/Athlete Dating and Sexual Relations

14. For TUC sanctioned programming, TUC takes the view that dating and/or intimate sexual relationships between coach and adult athletes within the same program, while not against the law, can have harmful effects on the individual athletes involved, on other athletes, and on TUC's public image. TUC therefore takes the position that such relationships are unacceptable for coaches at any level.

TUC recognizes that some relationships between people who become athlete and coach, may pre-date the athlete-coach relationship. TUC views these relationships as "grandparented", in the sense that the Club will not require that the coach be re-assigned to another program. However, in these situations, when decisions such as team selection or any other decisions requiring the coach's judgement are being made, TUC requires that another coach be involved in these decisions.

Should a new sexual relationship develop between an adult athlete and a coach in the same program, TUC will investigate and take action which could include reassignment, or if this is not feasible, a request for resignation or dismissal from the coaching position. Dating and/or intimate sexual relations between a coach (of any age) and an athlete under the age of 18 years (as defined by law), will be regarded severely and referred to the appropriate criminal authorities.

Disciplinary Action

15. Employees or members of TUC 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 occurs repeatedly or takes the form of assault, sexual assault, or a related sexual offence. All disciplinary actions will be at the discretion of the DRFTP.

Confidentiality

16. TUC understands that it may be extremely difficult to come forward with a complaint of harassment, and that it can be devastating to be wrongfully accused of harassment. TUC recognizes the interests of both the complainant and the respondent in keeping matters confidential.
17. TUC shall not disclose to outside parties the names of the complainant, the circumstances giving rise to the complaint, or the name for the respondent unless such disclosure is required by a judicial or quasi-judicial body.

Harassment Officers

18. TUC shall appoint at least two persons, one male and one female, who are themselves members or employees of the Club, to serve as officers under this policy. If more than two officers are appointed, TUC shall ensure a gender balance.
19. The role of harassment officer is to serve in a neutral, unbiased capacity and to review complaints, assist in informal resolution of complaints, investigate formal written complaints and to encourage a complainant to approach higher authorities when necessary.
20. TUC shall ensure that officers receive appropriate training and support to carry out their responsibilities under this policy.

Complaint Procedure

21. A person who experiences harassment is encouraged to make it known to the harasser that the behaviour is unwelcome, offensive and contrary to this policy.
22. If confronting the harasser is not possible, or if after confronting the harasser, the harassment continues, the complainant should seek the advice of the harassment officer. (It is of course possible for the complainant to seek the advice of the harassment officer at any time, before or after confronting the harasser.)

23. The harassment officer shall inform the complainant of:
- the option for pursuing an informal resolution of his or her complaint, with or without the assistance of the harassment officer;
 - the right to lay a formal written complaint under this policy when an informal resolution is inappropriate or not feasible;
 - the availability of counselling and other supports provided by the TUC;
 - 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 mechanism that may be available;
 - the right to withdraw from any further action in connection with the complaint at any stage (even though the TUC might continue to investigate the complaint); and
 - other avenues of recourse, including the right to file a complaint with the Ontario Human Rights Commission, or, where appropriate, to contact police to have them lay a formal charge under the Criminal Code.
24. The complainant will always have the duty to report any offenses to the Ontario Human Rights Commission, or, where appropriate, to contact 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 harassment 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 complainant. If desired by the parties and if appropriate, the harassment officer may also seek the assistance of a neutral mediator.
 - If informal resolution yields a result that is acceptable to both parties, the harassment officer will make a written record that a complaint has been 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 making a formal written complaint.

- 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 without delay, provide copies of the complaint both to the complainant and the respondent.

- 26. As soon as possible after receiving the written complaint, but within 21 days, the harassment officer shall submit a report to the TUC DRFTP containing the documentation filed by both parties along with a 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.

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

- 28. In the event that the harassment officers' recommendation is to proceed with an investigation, the TUC's DRFTP shall within 14 days appoint three members of the Club of the TUC to serve as a case review panel. This panel shall consist of at least one man and one woman. To ensure freedom from bias, no member of the panel shall have a significant professional or personal relationship with either the complainant or the respondent.

29. Within 21 days of its appointment, a case review panel shall convene a hearing. The hearing shall be governed by such procedures as the panel may decide, provided that:
 - i. The complainant and respondent shall be given 14 days notice, in writing, of the day, time and place of the hearing.
 - ii. Members of the panel shall select a chairperson from among themselves.
 - iii. A quorum shall be all three panel members.
 - iv. Decisions shall be by majority vote (more than half the votes). The Chair will vote last. If a majority decision is not possible, the decision of the Chair shall be the decision of the panel.
 - v. The hearing shall be held in camera (in private), no other parties in attendance except the complainant, respondent, and panel.
 - vi. Both parties shall be present at the hearing to give evidence and to answer questions of the other party and of the panel. If the complainant does not appear, the matter will be dismissed, (unless the complainant decided not to lay a formal complaint, but the harassment 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 will proceed.
 - vii. The complainant and respondent may be accompanied by a representative or an adviser.
 - viii. The harassment officer may attend the hearing at the request of the panel.

30. Within 14 days of the hearing, the case review panel shall present its findings in a report to the TUC DRFTP, which shall contain:
 - i. a summary of the relevant facts;
 - ii. a determination as to whether the acts complained of constitute harassment as defined in this policy;
 - iii. recommended disciplinary action against the respondent, if the acts constitute harassment; and
 - iv. recommended measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.

31. If the panel determined that the allegations of harassment are false, vexatious, retaliatory, or unfounded, their report shall recommend disciplinary action against the complainant.

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

33. When determining appropriate disciplinary action and corrective measures, the case review panel shall consider such factors as:
- i. the nature of the harassment;
 - ii. whether the harassment involved any physical contact;
 - iii. whether the harassment was an isolated incident or part of an ongoing pattern;
 - iv. the nature of the relationship between complainant and harasser;
 - v. the age of the complainant, and if they are a minor under the age of 18;
 - vi. whether the harasser had been involved in previous harassment incidents;
 - vii. whether the harasser admitted responsibility and expressed willingness to change; and
 - viii. whether the harasser retaliated against the complainant.
34. 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 Board of Directors;
 - a fine or a levy;
 - referral to counselling;
 - removal of certain privileges of membership or employment;
 - demotion or a pay cut (in the case of employment);
 - temporary suspension with or without pay;
 - termination of employment or contract; or
 - revocation of membership in the TUC.
35. When the investigation does not result in the finding of harassment, a copy of the report of the case review panel's report shall be placed in the harassment officer's files. These files shall be kept confidential and access to them shall be restricted to the TUC's DRFTP, and harassment officers.
36. When 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 on appeal, this report shall be retained for a period of 10 years, unless new circumstances dictate that the report shall be kept for a longer period of time.

Procedure Where A Person Believes that A Colleague has Been Harassed

37. When a person believes that a colleague has experienced or is experiencing harassment and reports this belief to the harassment officer, the officer shall meet with the person who is said to have experienced harassment and shall then proceed in accordance with Section 22 of this policy.

Appeals

38. Both the complainant and respondent shall have the right to appeal the decision and the recommendations of the case review panel. A notice of intention to appeal, along with the grounds for the appeal, must be provided to the chair of the case review panel within 14 days of the complainant or respondent receiving the panel's report.
39. Permissible grounds for an appeal are:
 - the panel did not follow the procedures laid out in this policy;
 - members of the panel were influenced by bias;
 - the panel reached a decision which was grossly unfair or unreasonable.
40. In the event that a notice of appeal is filed, then the TUC DRFTP shall appoint a minimum of three members to constitute an appeal body. This appeal body shall consist of at least one man and at least one women. 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.
41. 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 appeal.
42. Within 10 days of its appointment, the appeal body shall present its findings to the TUC DRFTP. The appeal body shall have the authority to uphold the decision of the panel, to reverse the decision of the panel, and/or to modify any of the panel's recommendations for disciplinary action or remedial measures.
43. A copy of the appeal body's report shall be provided, without delay, to the complainant and respondent.
44. The decision of the appeal body shall be final.

Review and Approval

45. This policy was approved by the TUC Board of Directors on 5 January 2018
46. This policy shall be reviewed by the TUC DRFTP on an annual basis.
47. The DRFTP is Raissa Espiritu and the Harassment Officers are Paul Buksner (executivedirector@tuc.org) and Raissa Espiritu (governance@tuc.org).

Timelines Under the Harassment Policy

Steps in the Policy	Days	Cumulative Days
Written complaint submitted to harassment officer	0	0
Harassment officer investigates, submits report to DRFTP	21	21
DRFTP appoints case review panel	14	35
Panel convenes hearing	21	56
Panel presents findings/report to DRFTP	14	70
Report presented to complainant & respondent	0	70
Complainant/respondent file notice of intention to appeal with chair of review panel	14	84
DRFTP appoint appeal body	0	84
Appeal body reports to DRFTP	10	94
Report provided to complainant & respondent	0	94

Approved 5 January 2018