

## **YOA HARASSMENT POLICY AND PROCEDURES**

1. Orienteering is an international sport in which all individuals are treated with respect and dignity. Each individual has the right to participate in an environment which promotes equal opportunities and prohibits discrimination on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, or pardoned conviction.

\* Harassment is a form of discrimination prohibited by the Canadian Charter of Rights and Freedoms and legislation in every province and territory

\* Yukon Orienteering Association is committed to providing a sport environment free of harassment.

2. This policy applies to directors, officers, volunteers, coaches, athletes, officials, and members of Yukon Orienteering Association. It is the responsibility of members of the Association to report all incidents of harassment, regardless of who the offender may be.

3. This policy applies to harassment which may occur during the planning or activities at all Yukon Orienteering Association events. It also applies to harassment between individuals associated with Yukon Orienteering Association when such harassment adversely affects relationships within the work and sport environment.

4. In addition to this policy, every person who experiences harassment continues to have the right to seek assistance from their provincial or territorial human rights commission.

### **DEFINITIONS**

5. Harassment takes many forms but can generally be defined as comment, conduct, or gesture directed toward 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 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.

7. 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 and 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, advances, requests, or invitations; or
- \* physical or sexual assault.

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

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

- \* for having filed a complaint under this policy; or
  - \* for having participated in any investigation; 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

10. The executive of the Yukon Orienteering Association and coaches are responsible for the implementation of this policy. They shall take steps to:

- \* discourage and prevent harassment within Yukon Orienteering Association;
- \* investigate 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;
- \* provide advice to persons who experience harassment;
- \* do all in their power to support and assist anyone involved in Yukon orienteering who experiences harassment;
- \* make prospective members of Yukon Orienteering Association aware of this policy (via the Spring Newsletter, list it on the YOA website, and provide suggestions to minimize or prevent this behaviour in orienteering.;
- \* inform both complainants and respondents of the procedures contained in this policy and of their rights under the law;
- \* annually review this policy to ensure that they adequately meet the organization's legal obligations and objectives;
- \* appoint advisors 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.

11. Every member of Yukon Orienteering Association has a responsibility to play a part in ensuring that the Yukon Orienteering Association 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 Yukon Orienteering Association who believes that a fellow member has experienced or is experiencing harassment is encouraged to notify a harassment advisor appointed under this policy.

12. In the event that either the designated harassment adviser or member of the executive of the Yukon Orienteering Association are involved in a complaint which is made under this policy, the Yukon Orienteering Association president shall appoint a suitable alternate for the purposes of dealing with the complaint.

#### COACH/ATHLETE SEXUAL RELATIONSHIPS

13. Yukon Orienteering Association takes the view that intimate sexual relationships between coaches and adult athletes, while not against the law, can have harmful effects on the individual athlete involved, on other athletes and coaches and on Yukon Orienteering Association's public image. Yukon Orienteering Association therefore takes the position that such relationships are unacceptable for coaches]. Should a sexual relationship develop between athlete and coach, the Yukon Orienteering Association will

investigate and take action, which could include reassignment, or if this is not feasible, a request for resignation, or dismissal from employment.

#### DISCIPLINARY ACTION

14. Members of Yukon Orienteering Association against whom a complaint of harassment is substantiated will be asked to terminate their membership and not participate further in activities of the Association. In cases where the harassment takes the form of assault, sexual assault, or a related sexual offence they may also be liable for prosecution.

#### CONFIDENTIALITY

15. Yukon Orienteering Association understands that it is extremely difficult to come forward with a complaint of harassment and also that it is devastating to be wrongly convicted of harassment. Yukon Orienteering Association recognizes the interests of both the complainant and the respondent in keeping the matter confidential.

16. Yukon Orienteering Association 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 such disclosure is required by a disciplinary or other remedial process.

#### ADVISORS AND OFFICERS

17. Yukon Orienteering Association executive shall appoint at least one male and one female, who are themselves members of the association, to serve as harassment advisor(s) under this policy.

18. The role of harassment advisors 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, harassment advisors shall be directly responsible to the Yukon Orienteering Association and shall be free to consult at any time with harassment officers at Sport Yukon.

19. The executive of the Yukon Orienteering Association shall ensure that harassment advisors receive appropriate support for carrying out their responsibilities under this policy.

20. Harassment officers are persons who have received training which enables them to provide guidance to harassment advisors and to convene case review panels and hear formal complaints. These officers may or may not be associated with a particular organization.

## 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 behaviour continues, the complainant should seek the advice of a harassment advisor.

23. The harassment advisor shall inform the complainant of:

- \* the option of 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 counselling and other support;
- \* 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 Yukon Orienteering Association 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 a formal charge laid.

24. There are four possible outcomes to this initial meeting of complainant and harassment advisor.

(a) The complainant and harassment advisor agree that the conduct does not constitute harassment.

\* If this occurs, the harassment advisor 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 advisor will assist the two parties to negotiate a solution acceptable to the complaint. If desired by the parties and if appropriate, the harassment advisor may also seek the assistance of a neutral mediator.

\* If informal resolution yields a result which is acceptable to both parties, the harassment advisor 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.

(c) The complainant brings evidence of harassment and decides to lay a formal written complaint

\* If this occurs, the harassment advisor 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 advisor 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 advisor 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 advisor decides that the evidence and surrounding circumstances require a formal written complaint, the harassment advisor 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 harassment advisor shall submit a report to the Yukon Orienteering Association, 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.

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

26. In the event that the harassment advisor's recommendation is to proceed with an investigation, the Yukon Orienteering Association [director responsible for this policy] and senior staff member shall within 14 days refer the case to a harassment officer who

shall convene a case review panel. This panel shall consist of the harassment officer and 2 other persons. There must be at least one woman and at least one man on the panel. 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, the case review panel shall convene a hearing. The hearing 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.

- \* The harassment officer shall be the chairperson of the panel.

- \* 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 confidential (held 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. If the complainant does not appear, the matter will 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 will proceed.

- \* The complainant and respondent may be accompanied by a representative or adviser.

- \* The harassment advisor 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 Yukon Orienteering Association [director responsible for this policy] and senior staff member, which shall contain:

- \* a summary of the relevant facts;

- \* a determination as to whether the acts complained of constitute harassment as defined in this policy;

- \* recommended disciplinary action against the respondent, if the acts constitute harassment; and

- \* recommended measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.

29. If the panel determines that the allegations of harassment are false, vexatious, retaliatory, or unfounded, their report shall 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 advisor's files. These files shall be kept confidential and access to them shall be restricted to the Yukon Orienteering Association [director responsible for this policy], the senior staff member, and 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 an advisor, the advisor shall meet with the person who is said to have experienced harassment and shall then proceed in accordance with Section 23.

#### 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;
- \* members of the panel were influenced by bias; or
- \* the panel reached a decision which was grossly unfair or unreasonable.

38. In the event that a notice of appeal is filed, the Yukon Orienteering Association [director responsible for this policy] and senior staff member shall together appoint a minimum of three members to constitute the appeal body. This appeal body shall consist of at 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 advisor and the case review panel, and the notice of appeal.

40. Within ten days of its appointment, the appeal body shall present its findings in a report to the Yukon Orienteering Association [director responsible for this policy] and senior staff member. 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.

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 APPROVAL

43. This policy was approved by Yukon Orienteering Association executive on March 17, 1999.

44. This policy shall be reviewed by Yukon Orienteering Association executive on an annual basis.