

BIATHLON CANADA HARASSMENT POLICY

June 20, 2014

POLICY STATEMENT

1. Biathlon Canada 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 that 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 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 offence 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.

Biathlon Canada is committed to providing a sport environment free of harassment on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, or pardoned conviction.

NB: *A special provision in criminal law permits a pardon. An individual must apply for a pardon. A criminal who has served her or his sentence is not considered "pardoned".*

2. This policy applies to all employees as well as to all directors, officers, volunteers, coaches, athletes, officials, and members of Biathlon Canada. Biathlon Canada 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 Biathlon Canada business, activities, and events. It also applies to harassment between individuals associated with Biathlon Canada but outside Biathlon Canada business, activities, and events when such harassment adversely affects relationships within Biathlon Canada's work 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. 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:
 - a. submitting to or rejecting this conduct is used as the basis for making decisions which affect the individual; or
 - b. such conduct has the purpose or effect of interfering with an individual's performance; or
 - c. such conduct creates an intimidating, hostile, or offensive environment.
7. Types of behaviour which constitute harassment include but are not limited to:
 - a. written or verbal abuse or threats;
 - b. the display of visual material which is offensive or which one ought to know is offensive;
 - c. unwelcome remarks, jokes, comments, innuendo, or taunting about a person's looks, body, attire, age, race, religion, sex, or sexual orientation;
 - d. leering or other suggestive or obscene gestures;
 - e. condescending, paternalistic, or patronizing behaviour which undermines self-esteem, diminishes performance, or adversely affects working conditions;
 - f. practical jokes which cause awkwardness or embarrassment, endanger a person's safety, or negatively affect performance;
 - g. unwanted physical contact including touching, petting, pinching, or kissing;
 - h. unwelcome sexual flirtations, advances, requests, or invitations; or
 - i. 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
 - a. for having filed a complaint under this policy; or
 - b. for having participated in any procedure under this policy; or
 - c. 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 Chair of the Human Resources and Compensation Committee (HR&Comp) and the Executive Director of Biathlon Canada are responsible for the implementation of this policy. In addition, the HR&Comp and the Executive Director of Biathlon Canada are responsible for:

- a. discouraging and preventing harassment within Biathlon Canada;
- b. investigating formal complaints of harassment in a sensitive, responsible, and timely manner;
- c. imposing appropriate disciplinary or corrective measures when a complaint of harassment has been substantiated, regardless of the position or authority of the offender;
- d. providing advice to persons who experience harassment;
- e. doing all in their power to support and assist any employee or member of Biathlon Canada who experiences harassment by someone who is not an employee or member of Biathlon Canada;
- f. making all members and employees of Biathlon Canada aware of the problem of harassment, and in particular, sexual harassment, and of the procedures contained in this policy;
- g. informing both complainants and respondents of the procedures contained in this policy and of their rights under the law;
- h. regularly reviewing the terms of this policy to ensure that they adequately meet the organization's legal obligations and public policy objectives;
- i. appointing officers and providing the training and resources they need to fulfill their responsibilities under this policy; and
- j. 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 Biathlon Canada has a responsibility to play a part in ensuring that the Biathlon Canada 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 Biathlon Canada who believes that a fellow member has experienced or is experiencing harassment is encouraged to notify a harassment officer appointed under this policy.

12. In the event that either the HR&Comp or the Executive Director are involved in a complaint which is made under this policy, the President of Biathlon Canada shall appoint a suitable alternate for the purposes of dealing with the complaint.

COACH/ATHLETE SEXUAL RELATIONSHIPS

13. Biathlon Canada takes the position that coach/athlete relationships are not acceptable at any level. Should a sexual relationship develop between athlete and coach, Biathlon Canada 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. Employees or members of Biathlon Canada 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 offence.

CONFIDENTIALITY

15. Biathlon Canada 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.

As such, Biathlon Canada recognizes the interests of both the complainant and the respondent in keeping the matter confidential.

16. Biathlon Canada 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.

OFFICERS

17. Biathlon Canada shall appoint at least two persons, one male and one female, who are themselves members or employees of the sport organization, to serve as harassment officers under this policy. If more than two officers are appointed, Biathlon Canada shall ensure a gender balance.
18. 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, harassment officers shall be directly responsible to the HR&Comp of Biathlon Canada.
19. Biathlon Canada shall ensure that harassment officers receive appropriate training and support for carrying out their responsibilities under this policy.

COMPLAINT PROCEDURE

20. 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.

21. If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the complainant should seek the advice of a harassment officer.
22. The harassment officer shall inform the complainant of:
 - a. the options for pursuing an informal resolution of his or her complaint;
 - b. the right to lay a formal written complaint under this policy when an informal resolution is inappropriate or not feasible;
 - c. the availability of counseling and other support provided by Biathlon Canada;
 - d. the confidentiality provisions of this policy;
 - e. the right to be represented by a person of choice (including legal counsel) at any stage in the complaint process;
 - f. the external mediation/arbitration mechanisms that may be available;
 - g. the right to withdraw from any further action in connection with the complaint at any stage (even though Biathlon Canada might continue to investigate the complaint); and
 - h. 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.

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

- a. The complainant and harassment 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. 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 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.

- 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 allow understanding of the complainant's concerns, 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. A second and different 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.

- 24. As soon as possible after receiving the written complaint, but within 21 days, the complainant's harassment officer shall submit a report to the HR&Comp and Executive Director, containing the documentation filed by both parties along with a recommendation that:

- a. 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 [

NOTE: At this point, the complainant may appeal this decision. If so, they then skip to section 35 below.

- b. The complaint should be investigated further.

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

25. In the event that the harassment officer's recommendation is to proceed with an investigation, the HR&Comp and Executive Director shall within 14 days appoint three members of Biathlon Canada to serve as a case review panel. This panel shall consist of at least one woman and at least one man. Harassment officers involved to this point with either the complainant or the respondent cannot be a part of this case review 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.
26. 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:
- a. The complainant and respondent shall be given 14 days notice, in writing, of the day, time and place of the hearing;
 - b. Members of the panel shall select a chairperson from among themselves;
 - c. A quorum shall be all three panel members;
 - d. 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;
 - e. The hearing shall be held in camera;
 - f. Both parties shall be represented at the hearing. If the respondent does not appear, the hearing will proceed;
NOTE: It is the choice of both the complainant and the respondent to be there in person or to be represented
 - g. The complainant and respondent may be accompanied by a representative or adviser; and
 - h. The harassment officer may attend the hearing at the request of the panel.
27. Within 14 days of the hearing, the case review panel shall present its findings in a report to the HR&Comp and Executive Director, which shall contain:
- a. a summary of the relevant facts;
 - b. a determination as to whether the acts complained of constitute harassment as defined in this policy;
 - c. recommended disciplinary action against the respondent, if the acts constitute harassment; and
 - d. recommended measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.

28. If the panel determines that the allegations of harassment are false, vexatious, retaliatory, or unfounded, their report shall recommend disciplinary action against the complainant.
29. A copy of the report of the case review panel shall be provided, without delay, to both the complainant and the respondent.
30. When determining appropriate disciplinary action and corrective measures, the case review panel shall consider factors such as:
 - a. the nature of the harassment;
 - b. whether the harassment involved any physical contact;
 - c. whether the harassment was an isolated incident or part of an ongoing pattern;
 - d. the nature of the relationship between complainant and harasser;
 - e. the age of the complainant;
 - f. whether the harasser had been involved in previous harassment incidents;
 - g. whether the harasser admitted responsibility and expressed a willingness to change; and
 - h. whether the harasser retaliated against the complainant.
31. In recommending disciplinary sanctions, the panel may consider the following options, singularly or in combination, depending on the severity of the harassment:
 - a. a verbal apology;
 - b. a written apology;
 - c. a letter of reprimand from the sport organization;
 - d. a fine or levy;
 - e. referral to counseling;
 - f. removal of certain privileges of membership or employment;
 - g. demotion or a pay cut;
 - h. temporary suspension with or without pay;
 - i. termination of employment or contract; or

j. expulsion from membership.

- 32 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 at the Head Office of the Association and access to them shall be restricted to the HR&Comp, Executive Director and President of Biathlon Canada. These files will be kept for a period of 6 years at which point they will be destroyed.
- 33 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

- 34 Where a person believes that a colleague has experienced or is experiencing harassment and reports this belief to an officer, the officer shall meet with the person who is said to have experienced harassment and shall then proceed in accordance with Paragraph 22.

APPEALS

35. Both the complainant and respondent shall have the right to appeal the decision and recommendations of the case review panel. If this becomes the choice of either the complainant or the respondent, they have 21 days from receipt of the panel's report in which to initiate the process as per the Biathlon Canada Dispute Resolution and Appeals Policy (Annex C).
36. Permissible grounds for an appeal are:
- a. the panel did not follow the procedures laid out in this policy;
 - b. members of the panel were influenced by bias; or
 - c. the panel reached a decision which was grossly unfair or unreasonable.
37. In the event that a notice of appeal is filed, the harassment officers involved to this point with either the complainant or the respondent cannot be a part of any appointed appeal panel.

REVIEW AND APPROVAL

42. This policy was approved by Biathlon Canada's Board of Directors on June 22, 1997 at the Board Meeting held in Ottawa, Ontario and then in August 2012 and June 2014.
43. This policy shall be reviewed by the HR&Comp and the Executive Director on an as-required basis.