**HUMAN RESOURCES MANAGEMENT POLICIES**

**SECTION 1: COMPLAINTS & DISCIPLINARY POLICIES**

**POLICY 3: NON-HARASSMENT POLICY**

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| **Policy Rationale** |  |
| **Policy** | Badminton New Zealand is committed to providing a harassment-free environment where all people involved in badminton are treated with respect and dignity and can contribute and participate to their full potential.  This benefits athletes/players, the coaches and officials, Badminton NZ and badminton in general. We will do our best to prevent harassment by:   * Ensuring that this policy is drawn to the attention of all employees, coaches, officials, parents and players; * Responding promptly, appropriately and fairly to any complaints that are brought to our attention; * Appointing and training appropriate Harassment Contact People who can be approached for information and advice; and * Regularly reviewing our policy, procedures and practices.   **Definitions**  Harassment is any unwelcome comment, conduct or gesture directed toward an individual or group of individuals which is insulting, intimidating, humiliating, malicious, degrading or offensive, and is either repeated or of such a significant nature, that it adversely affects someone’s performance, contribution or environment.  Harassment may be focused on an individual’s or group’s race, colour, gender, physical characteristics, sexual orientation, disability or any other distinguishing characteristic.  Sexual harassment is any unwelcome behaviour of a sexual nature.  In most cases, harassment (including sexual harassment) is an attempt by one person to inappropriately exert power over another person. Harassment ranges from mild conduct such as gestures or comments to conduct which may be physical, forceful and violent.  **Responsibilities**  Badminton NZ is responsible for taking all reasonable steps to prevent harassment in our organisation and for ensuring our policy and procedures are well known throughout the organisation. This means we will take all reasonable steps to ensure that everyone in the organisation understands:   * What harassment means * That it is against the law * That it will not be tolerated * That complaints will be dealt with through identified procedures. These will provide both formal and informal mechanisms.   **Legal Liability**  Harassment is a form of discrimination. Sexual and racial harassment is illegal under the Human Rights Act 1993 for both paid and unpaid employees. Sexual harassment is specifically included in the Employment Contracts Act 1991, which covers paid employees. High level harassment such as rape or assault is also a criminal offence.  Under the Human Rights Act and the Employment Contracts Act, it is generally the employer who is held liable for harassment. Badminton NZ is implementing this policy to prevent complaints occurring and hence to act as a responsible employer for our paid and unpaid employees  The Chief Executive of Badminton NZ accepts that the elimination of harassment leads to a more stable, productive and successful organisation.  **Ways to Deal with Harassment**  If any employee feels they are being harassed there are several courses of action available to them. They vary in degrees of formality, from self-help or informal options, to more formal approaches. These options are described below:  1. Self help  This involves letting the offender know that the harassing behaviour is unacceptable and must stop. This may resolve the matter quickly and in a low-key manner. This can be done in a number of ways including:   * Telling the person directly what behaviour is not liked and asking them to stop it; * Writing a letter on a “private and confidential” basis to the person identifying the behaviour and asking them to stop it; * Taking a support person / friend to tell the person that their behaviour must stop.   2. Informal  This involves getting someone to help resolve the situation. The initial Harassment Contact Person at Badminton NZ is the Office Manager. The Office Manager will talk to the complainant about what happened and what is required to fix the situation. They will then talk about the complaint to the person identified. If there is agreement on what happened and what will fix the situation, then the issue can be resolved confidentially between the immediate parties.  3. Formal  This involves writing a formal complaint to the organisation outlining:   * Who the complaint is about; * What happened (including time, date, place, what was said and/or done, how often this had been said and/or done); * How it was responded to; what impact the behaviour has had; * Whether anyone else witnessed the behaviour; what is the desired outcome of the complaint; * Why, if the incident occurred more than one year ago, there has been a delay in lodging the complaint; and * Requesting confidentiality/approval before any action by the organisation.   This complaint should be addressed to the Chief Executive. In the event that the complaint is directed against the Chief Executive, the complaint shall be addressed to the Office Manager who will contact a suitable Board Member as appropriate.    The complaint will be taken seriously and investigated fully, and appropriate actions will be taken. (The next section explains the process.) During this process the rights of all involved will need to be protected.  **Appointment of an Investigator**  When a formal complaint is laid with the Chief Executive, he or she will meet with the complainant to discuss the complaint and ensure that the complainant understands what will be involved in a formal investigation. The complainant may choose not to proceed. The complainant may choose to have a support person with them for this meeting.  The Chief Executive will then determine the most appropriate way of formally investigating the complaint. This may include:   * one of the Harassment Complaints Officers investigating the complaint; * bringing in an outside investigator; * appointing appropriate people from Badminton NZ to investigate the complaint; or * a combination of the above.   An investigator will be appointed as soon as is possible, but at least within 21 days of the complaint being received.  **The Investigation Process**  The investigator(s) will individually interview:   * the complainant; * the respondent (the person accused of harassment); and any witnesses.   Both the complainant and the respondent are entitled to have a support person or advisor with them during this process. Complainant, respondent and witness Will be advised of the necessity for confidentiality and the consequences of breaches.    The respondent will be interviewed again at the completion of all other interviews to give him or her the opportunity to respond to the information collected by the investigator(s).  The investigator will then prepare a factual report. This will be based on civil law standard which is 'on balance of probabilities' not the criminal law standard of 'beyond reasonable doubt'. The report will include:   * the basis of the complaint; * the response of the respondent to the allegation(s); a summary of any information provided by witnesses; * any reasons why one person's evidence is preferred over another's; and the details of the investigation; * any recommendations of resolution of the complaint; and * when appropriate, any recommendations to the organisation about how to prevent this type of thing happening again.   **Rights of The Respondent**  The respondent must be given the opportunity to:   * understand the principles of natural justice (an unbiased investigation/hearing where both sides have the right to be heard, but the respondent has the right to have the final say in response to the evidence); * know what the complaint is about; who it is made by; who other accusers may be; respond to the complaint and have their account heard; * have time to respond; and * have support to respond.   **Decision Making**  If the complaint warrants it, the Harassment Complaints Officer who received the complaint will convene a disciplinary committee within 21 days. The Committee will:   * receive the investigator's report; * consider the report; * provide both the complainant and the respondent with the opportunity to respond to it and comment on what they feel is appropriate action; * determine if and what disciplinary sanctions are appropriate; * determine if and what remedies are appropriate for the complainant; and * determine if any changes are needed to the organisation's harassment policy and procedures or to the way the policy and procedures are put into practice.   The disciplinary committee shall comprise:   * the Chief Executive who received the complaint; * two independent appointees appointed by the Board of Badminton NZ.   N.B. This disciplinary committee should be of mixed gender in the case of sexual harassment.    The Committee may ask the investigator to attend to answer any questions Committee members may have. If the complainant or the respondent choose to respond to the findings, they may bring their support people with them.  If the Chief Executive who received the complaint was directly involved in the investigation, a Board Member should take their place on the disciplinary committee.  **Possible Disciplinary Sanctions**  These may include:   * a verbal or written apology; * a letter of reprimand; * a fine or levy; * referral to counselling; * removal of certain privileges of membership or employment; * a change in role or duties; * exclusion from teams travelling overseas; * temporary suspension with or without pay; * expulsion from membership; * termination of employment or contract; * any other measures that the disciplinary committee determines are appropriate; or * a combination of any of the above.   N.B Authority to involve the above sanctions must already be available to the organisation, by virtue of constitution or other operation of law.  **Human Rights Commission**  If the individual is being harassed by someone who is employed by Badminton NZ, either as a paid employee or as an unpaid employee, then the complaint can be taken to the Human Rights Commission, or as a personal grievance under the ECA. They will investigate and/or conciliate complaints where there are grounds for believing that the organisation did not respond appropriately to the complaint, or where the organisation does not have satisfactory policies, procedures and/or practices in place to respond to a complaint.  **Police**  Complaints of a criminal nature, such as sexual assault or sexual abuse of children, should be reported to the police and with the consent of the individual. The person may choose to inform the Office Manager that this has been done. This does not stop a formal complaint being taken to Badminton NZ as well.  **Record Keeping**  Organisations need to keep a confidential record of formal complaints that have been upheld. This record should include a record of the investigation, the decision of the disciplinary committee and what action was taken.  NB: Organisations need to take care to ensure records are maintained in accordance with the Privacy Act.  **Retaliation**  For the purposes of the policy and procedures, retaliation against an individual for having:   * filed a complaint under this policy; or * participated in any procedure under this policy; or * 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.  **Frivolous or Vexatious Complaints**  If frivolous, vexatious or malicious complaints are made, Badminton NZ will take appropriate disciplinary action against the person making the complaint(s). This will be treated as harassment and will not be tolerated.  **Support for The Parties Involved**  Badminton NZ will ensure that both the complainant and the respondent have access to appropriate support. Possible support includes family members, friends, elders from their community, church representatives, counsellors or Harassment Contact People. The support person or people are also bound by the confidentiality and defamation clauses contained in this policy.  **Confidentiality**  Badminton NZ understands that it can be extremely difficult to come forward with a complaint of harassment and that it can be devastating to be wrongly accused of harassment. All people involved in the investigation of harassment complaints are required to keep it confidential during the course of the investigation. Ongoing confidentiality may also be required as part of the resolution of the complaint. All the individual’s rights under the Privacy Act must be applied.  **Defamation**  To minimise the risk of defamation or unfair treatment, it is important that complaints are made honestly and only discussed with those people who have a need to know. The complainant should be made aware of the law of defamation and the consequences if breached. |
| **Review Protocol** | Policy Owner:  Policy Reviewed By:  Date Reviewed:  Next Review Date: |