

HARASSMENT RESOURCE

DEFINITIONS

1. 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 sports environment.
2. Harassment may be focused on an individual's or group's race, colour, gender, physical characteristics, sexual orientation, disability or any other distinguishing characteristic.
3. Sexual harassment is any unwelcome behaviour of a sexual nature.
4. 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:

The New Zealand Federation of Roller Sports Inc. 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 mechanism.

LEGAL LIABILITY

Harassment is a form of discrimination. Sexual and racial harassment is illegal under the Human Rights Act 1993 for the 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.

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The NZFRS is implementing this policy to prevent complaints occurring and hence to act as a responsible employer of our paid and unpaid employees.

The Board of the New Zealand Federation of Roller Sports Inc. accepts that the elimination of harassment leads to a more stable, productive and successful organisation.

1. WHAT IS HARASSMENT?

1.1 Harassment is defined from the viewpoint of those being harassed. Whether the action was intended as harassment, or not, does not matter. Intention only matters when determining what disciplinary action is appropriate.

1.2 Harassment is not :

- Appropriate compliments;
- Behaviour based on mutual attraction
- Friendly banter which is mutually acceptable; or
- Constructive coaching and feedback.

1.3 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.

Examples of harassing behaviours include (but are not limited to)

- Written or verbal abuse or threats;
- The display of visual materials which are offensive;
- Unwelcome remarks, jokes, comments, innuendo or taunting about such things as a person's looks, body, attire, age, race, religion, gender, gender identity, or sexual orientation;
- Leering or other suggestive or obscene gestures;
- 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;
- Sending offensive texts, messages, social media content, emails, letters or phone calls (note that these fall under the Harmful Digital Communications Act, and may result in a hefty fine or jail time)
- Deliberately excluding people with the intention of isolating or hurting them; or
- Physical or sexual assault.
Photos taken without consent, or photos posted online or shared with others without consent. This also includes taking photos of children.
- Photos shared with intent to embarrass. Note that this falls under the Harmful Digital Communications Act

1.4 Sexual harassment is any unwelcome behaviour of a sexual nature. This includes:

- Threatening people to get them to co-operate in sexual activity;
- Making promises to people to get them to co-operate in sexual activity;
- Punishing people because they would not co-operate in sexual activity;
- Sexual behaviours that interfere with people's performance, or health;
- Sexual behaviours that create an intimidating, hostile or offensive environment;
- Behaviour of a repeated/significant nature that has a detrimental effect.

2. WAYS TO DEAL WITH HARASSMENT

If an individual within the organisation is being harassed, there are several courses of action available to them. They vary in degrees of formality, from self-help or information options, to more formal approaches. These options are described below:

2.1 *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.

2.2 *Informal*

This involves getting someone to help resolve the situation. This might be someone from within the club, regional or national organisation such as the coach, an administrator, official . They will need to talk to the individual 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.

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2.3 *Formal*

This involves writing a formal complaint to the New Zealand Federation of Roller Sports Inc 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 New Zealand Federation of Roller Sports Inc.

The complaint will be taken seriously and investigated fully, and appropriate actions will be taken. During this process the rights of all involved will be protected.

2.4 *Human Rights Commission*

If the individual is being harassed by someone who is employed by the sports organisation, either as a paid employee or as an unpaid employee, then the complaint can be taken to the Human Rights Commission

2.5 *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. This does not stop a formal complaint being taken to the sports organisation as well.

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3. PROCEDURES :

3.1

The New Zealand Federation of Roller Sports (Inc) will provide :

- information and advice on the issue of harassment and this policy;
- support for people who have been harassed or are involved in a harassment investigation; and
- assistance for people in resolving complaints at an informal level.

3.2

The New Zealand Federation of Roller Sports (Inc) will

- receive formal complaints;
- ensure that these complaints are investigated promptly, appropriately and fairly;
- convene a disciplinary committee when a complaint warrants it;
- monitor the overall incidence of complaints and advise the organisation accordingly.

3.3 *Appointment of an Investigator :*

When a formal complaint is laid, the Board will meet with the complainant to :

- discuss the complaint;
- 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 Board will then determine the most appropriate way of formally investigating the complaint.

This may include :

- The Board investigating the complaint;
- bringing in an outside investigator;
- appointing appropriate people from the sports organisation 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.

3.4 *The investigation process*

The investigator(s) will individually interview:

- the complainant;
- the respondent (the person accused of harassment; and
- any witnesses.

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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.

3.5 *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.

3.6 *Decision making*

If the complaint warrants it, a disciplinary committee will be formed 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.

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- 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:

- One or more Board Members
- two independent appointees appointed by the Board of the New Zealand Federation of Roller Sports

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.

3.7 *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.

3.8 *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. Care should be taken to ensure records are maintained in accordance with the Privacy Act 2020 (*ensure there are safeguards in place that are reasonable in the circumstances to prevent loss, misuse or disclosure of personal information*).

4. *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.

5. *Fivolous or vexatious complaints :*

If frivolous, vexatious or malicious complaints are made, the sports organisation will take appropriate disciplinary action against the person making the complaint(s). This will be treated as harassment and will not be tolerated.

6. *Support for the parties involved :*

The New Zealand Federation of Roller Sports (Inc) 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 (7) and defamation (8) clauses contained in this policy.

7. *Confidentiality*

The New Zealand Federation of Roller Sports (Inc) 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. On going confidentiality may also be required as part of the resolution of the complaint. All the individuals rights under the Privacy Act must be applied.

8. *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.