

# Nelson Bay Football Club Incorporated



## HARASSMENT POLICY

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### 1.0 POLICY ON HARASSMENT

The Zone Association and its Members (Clubs) are strongly committed to providing a work and sport environment that is free from harassment; harassment shall not be tolerated.

### 2.0 HARASSMENT (GENERAL)

Harassment consists of offensive, abusive, belittling or threatening behaviour directed at a person or group, usually because the person or group is different or perceived to be different from the harassing person. The difference may be in gender, race, disability, sexual orientation, age, power (relative to the harasser) or some other feature. Harassment is behaviour which is unwelcome and which would be reasonably expected to be upsetting to the person or group to whom it is directed. Harassment in football sport must not be confused with legitimate comment and advice (including relevant negative comment or feedback) by supervisors or coaches on work done or athletic performance or on the work or football related behaviour of an employee or player. Feedback differs from harassment in that it is intended to assist the employee or player to improve performance or the standard of his/her behaviour.

### 3.0 TYPES OF HARASSMENT

#### 3.01 SEXUAL HARASSMENT

##### 3.01.01

Sexual harassment is behaviour that has a sexual element that is unwelcome and that can be reasonably expected in the circumstances in which it occurs to offend, humiliate or intimidate the person or group to whom it is directed.

##### 3.01.02

Sexual harassment may involve physical contact, verbal remarks or non-verbal conduct of a sexual nature; it may be explicit or implicit. It may take many different forms, including (but not limited to):

- o uninvited touching, kissing, embracing, massaging;
- o smutty jokes and comments;
- o propositions, promises or threats in return for sexual favours;
- o the creation of a hostile or sexually permeated environment by constant inappropriate references to sexual matters, persistent or intrusive questions about a person's private life, the display of sexually explicit material (posters, cartoons, graffiti) or by the use of offensive e-mail messages;
- o sexually graphic material;
- o staring, leering, ogling;
- o sex-based insults, taunts, name-calling;
- o Repeated invitations to go out, especially after prior refusal.

##### 3.01.03

Behaviour that may be acceptable socially or in private life may well be quite inappropriate in a sporting context.

- 3.01.04** Sexual harassment may also involve indecent exposure, sexual assault, obscene telephone calls or letters – these are criminal offences and should be reported to the police.
- 3.01.05** An important point to understand is that sexual harassment is not as much about sex or sexual attraction as it is about a person inappropriately exercising power over another person. Sexual harassment is about abuse of power.
- 3.01.06** Sexual harassment is an abuse of power particularly relevant in the coach/player relationship. Coaches have considerable personal power over a player. As all forms of abuse have at their centre the exploitation of a power differential, the coach/player relationship can be a cause for concern.

### **3.02 SEX BASED HARASSMENT**

- 3.02.01** Sex-based harassment is unpleasant behaviour directed at a person simply because of his/her sex.
- 3.02.02** Examples of sex-based harassment include (but are not limited to):
  - sex-based insults, taunts, name-calling;
  - comments that a person cannot or should not participate in particular grade of football or do a particular job because of biological or emotional differences allegedly affecting the person's capacity to do so;
  - displays and behaviour which set out to offend or exclude women or men from a particular grade of football or particular work area.

### **3.03 RACIAL HARASSMENT**

- 3.03.01** Racial harassment is unpleasant treatment directed at those who look different, have an accent or belong to a particular culture or religion.
- 3.03.02** Examples of racial harassment include (but are not limited to):
  - jokes or hostile comments about food eaten;
  - inferences that all members of a racial or cultural group have a particular negative characteristic, such as laziness, drunkenness, greed or sexual promiscuity.

### **3.04 SEXUAL ORIENTATION**

- 3.04.01** Harassment on the grounds of sexual orientation is unpleasant treatment of homosexual or bisexual persons or of persons assumed to be homosexual or bisexual.
- 3.04.02** Examples of sexual orientation harassment include (but are not limited to):
  - taunts and negative comments about a person's sexual orientation;
  - taunts and negative comments about a person's assumed sexual practices;
- 3.04.03** In severe cases of sexual orientation harassment, this can mean threats and acts of violence against a homosexual person. These constitute criminal offences and should be dealt with by the police.

## **4.0 IMPACT OF HARASSMENT**

### **4.01 IMPACT**

Harassment can occur at any level and may be experienced by either men or women. However, because of the unequal power relations between the sexes in our society, women and girls are more often the recipients of this behaviour, particularly of sexual harassment.

### **4.02 EFFECTS OF HARASSMENT**

Harassment, particularly sexual harassment, which is not properly addressed, can have any or all of the following effects (but not limited to these):

- interfere with and affect an individual's health;
- reduce productivity and effectiveness;
- reduce job and sporting opportunities;
- create significant family and personal problems;
- result in a complete withdrawal from sporting and social activities;
- create a hostile or unpleasant environment;
- create low morale in an organization;
- increase turnover of staff and volunteers;
- increase an organisation's liability, insurance and legal costs;
- diminish the reputation and image of the organization in the community.

#### **4.03 MULTI-FACETED HARASSMENT**

A person may be the recipient of more than one form of harassment. It is possible for harassment based on racial or ethnic background or disability to be overlaid by sexual harassment. Those persons responsible for dealing with such incidences should recognize the 'double disadvantage' which the recipients of such behaviour suffer. The need to act quickly, effectively and sensitively is even more important in such situations.

### **5.0 LEGAL POSITION OF HARASSMENT**

#### **5.01 AUSTRALIAN LAW**

Under Australian Law, harassment of an individual on the basis of sex, race, colour, religion, disability, marital or family status, pregnancy or sexual orientation constitutes discrimination. Relevant Commonwealth legislation includes:

**5.01.01** Racial Discrimination Act 1975

**5.01.02** Sex Discrimination Act 1984

**5.01.03** Disability Discrimination Act 1992

#### **5.02 STATE/TERRITORY LAW**

Harassment on some or all of these grounds is also prohibited by antidiscrimination laws which now exist in all States and Territories.

#### **5.03 PROVISIONS ON RACIAL HARASSMENT IN ANTI-DISCRIMINATION LAW**

A number of provisions of the Racial Discrimination Act 1975 cover racial harassment.

Section 9 (1) states:

"It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin of a person which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, or an equal footing of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life."

#### **5.04 PROVISIONS ON SEXUAL HARASSMENT IN SEX DISCRIMINATION ACT**

Sexual harassment is defined in section 28A of the Sex Discrimination Act (1984):

"... a person sexually harasses another person (the 'person harassed') if:

(a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or

(b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed; in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated. 'Conduct of a sexual nature' includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing."

#### **5.05 VICARIOUS LIABILITY**

It is general legal principle that an individual is personally liable for his/her own unlawful acts. However, employers can be held liable for wrongs committed by employees in the course of work, even if there is no deliberate contribution to the wrongful act on the part of the employer. Similarly, organizations on whose behalf a person is acting can be held liable for the behaviour of that person. This is referred to as vicarious liability. This means that if an employee harasses athletes or other staff in the workplace, the employer can be held legally responsible and may be liable to pay damages. It also means that if someone representing a sporting organization, even in a voluntary capacity, harasses a player, a staff member or anyone else encountered in the course of carrying out that role, the organization can be held liable.

### **6.0 INTIMATE RELATIONSHIPS**

A particular area of concern with regard to coach/player relationships is the issue of consenting sexual relationships between coach/manager (officials) and player. Not every intimate relationship between an official and an athlete is based on an abuse of power; however, such relationships are a danger area as this may constitute harassment. This is due to the usually great disparity between an official and a player in terms of authority, maturity, status and dependence, even if the athlete has reached the age of consent. Intimate relationships between officials and adult athletes, while not against the law, can have harmful effects on the individual player involved, on the other players and officials, coaches and on the image of the sport. Because there is always a risk that the relative power of the official/coach has been a factor in the development of such relationships, officials/coaches are advised to avoid sexual relationships with athletes altogether, regardless of their age. Other professionals who have responsibility for the physical and mental well-being of their clients, such as doctors and counsellors, have adopted and work to similar ethical requirements. On the question of an official's/coach's responsibility when a sexual relationship is initiated by an athlete, officials should take personal responsibility to discourage such relationships, explaining the ethical basis for such action. Officials are responsible for setting and maintaining appropriate boundaries between themselves and their athletes. It must be pointed out that the law is always the minimum standard for behaviour and that sex with a minor is illegal.

## **7.0 POLICY CHECKLIST**

### **7.01 POLICY CHECKLIST**

It is recommended that an anti-harassment policy contains the following:

- a statement setting out what persons and situations are covered by the policy
- an outline of the organisation's objectives and strategies regarding harassment
- explanation of the options available for dealing with harassment – an effective, understandable and manageable internal complaint mechanism which fairly balances the rights of both the complainant and the alleged harasser. The mechanisms should include options for informal and formal resolution of complaints.
- a declaration of the sport organisation's commitment to take appropriate disciplinary action whenever a complaint of harassment is substantiated
- a parallel provision for taking disciplinary action against those who bring false, vexatious or frivolous charges of harassment
- assurances of confidentiality to both complainant and respondent
- information on where individuals can get help, advice or make a complaint