



## **CORK HARASSMENT AND DISCRIMINATION POLICY**

### **POLICY STATEMENT:**

1. It is the policy of CORK to provide a work and sporting environment where the dignity of the individual is respected and free from harassment and fear of harassment including sexual harassment.
2. CORK encourages diversity in its work and sporting environment. All individuals are entitled to an environment that is free from discrimination and harassment.
3. CORK recognizes that:
  - a) Every director, officer, volunteer, coach, athlete, official, judge, employee, and member of CORK are entitled to a climate free of harassment and discrimination; and
  - b) Harassment or discrimination can compromise the integrity of the employment and sporting relationships and endanger personal well-being and performance.
4. A person who has the authority (any person in a supervisory role has the authority) to prevent or discourage harassment and discrimination of any kind may be considered responsible for failing to exercise their authority to do so, and consequently be subject to such disciplinary actions as may be deemed appropriate by CORK.
5. A person who witnesses harassment or discrimination is encouraged to take appropriate steps and actions to report the matter to an individual in a supervisory capacity.
6. CORK will make every reasonable effort to provide an environment free of harassment and discrimination.
7. Harassment and discrimination are serious offences and CORK will take such disciplinary action as it deems appropriate against any person who subjects anyone, such as an employee or member to harassment, sexual harassment or discrimination.

For incidents involving Workplace Violence, refer to the Workplace Violence Policy. For incidents involving Complaints or Disputes, refer to the Complaints Policy.

### **APPLICATION:**

1. This policy applies to all directors, officers, volunteers, coaches, athletes, parents, guardians, officials, judges, employees, and members of CORK. It applies to harassment which may occur during the course of all CORK business, activities, and events. In the event that action is taken under a Sail Canada policy such as the Sail Canada Code of Conduct, the CORK policy becomes secondary, but any action taken or not taken under the Sail Canada policy does not preclude action to be taken under CORK policy.
2. For the purposes of this policy, CORK work and sporting environment includes all places where CORK activities and business occurs and includes buildings, parking lot perimeters, race courses, ramps, virtual meetings and off-site locations where CORK events or activities may take place.
3. There will be a statement that all must abide by CORK policies on the CORK website, in the policy section and in the participant and volunteer registration section.

## **DEFINITION:**

Discrimination means any unfair treatment based on race, ancestry, place of origin, colour, ethnic origin, religion, citizenship, creed, age, sex, sexual orientation, record of offences, marital status, family status, language, or disability.

Harassment is a form of discrimination. It includes behaviour or comments by an individual directed at and is offensive to another and which the person knew would be unwelcome and is based on race, ancestry, place of origin, colour, ethnic origin, religion, citizenship, creed, age, sex, sexual orientation, record of offences, marital status, family status, language, or disability.

### **The following would be considered harassment:**

Any inappropriate or objectionable conduct, comment, display, action, or gesture that adversely affects a person's psychological or physical well-being and that the harasser knows or ought reasonably to know would cause a person to be humiliated or intimidated.

Any behaviour that degrades, demeans, humiliates, or embarrasses a person, and that a reasonable person knows or should know would be unwelcome. It includes actions (i.e. touching, pushing), gestures, comments (i.e. jokes, name-calling), or displays (i.e. posters, cartoons). Harassment can result from a single significant incident or from a number of smaller incidents.

Such behaviours may originate from an individual or a group and may be directed at a single person or a group of persons.

Harassment can rise from any type of interaction including face-to-face encounters, talking about another person or spreading rumours to others, via written communications, including email and social networking sites.

Making remarks, jokes, or innuendos that demean, ridicule, intimidate, or offend;

Displaying or circulating offensive pictures or materials in print or electronic form;

Bullying;

Repeated offensive and intimidating phone calls or emails.

### **The following would be considered sexual harassment:**

Sexual harassment is any conduct, comment, gesture or contact of a sexual nature:

- That is likely to cause offense or humiliation to any person or that might, on reasonable grounds, be perceived by that employee or member as placing a condition of a sexual nature on employment, task, assignment or on any opportunity for training or promotion.
- Unwelcome remarks, jokes, innuendos, or taunting of a sexual nature about a person's body, attire, age, marital status, and/or which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance
- Unwelcome or intimidating invitations or requests with sexual overtones whether indirect or explicit

- Leering or other gestures
- Unwelcome physical contact such as touching, patting or pinching
- Unwelcome display of objects or pictures of a sexual nature, and/or offensive or ought to be known to be offensive
- Sexual advances, request for sexual favours, or other verbal or physical conduct of a sexual nature
- Written or verbal abuse or threats thereof
- Physical or sexual assault
- Submission to such conduct is made explicitly or implicitly a term or condition of employment or being named to a team
- Submission to or rejection of such conduct is used as the basis for decision affecting employment, promotion, task, assignment or movement within the organization/team and/or
- Such conduct has the purpose or effect of humiliating an individual or substantially interfering with the work or sporting performance or in creating an intimidating, hostile or offensive environment
- Making or threatening retaliation after a negative response to sexual advances or for reporting or threatening to report sexual harassment

**The following would be considered racial harassment:**

Threats, degrading comments or slurs.

Derogatory posters, photographs, cartoons, drawings or gestures.

Written communication that could offend individuals in a particular group, such as references to racial or ethnic stereotypes or caricatures.

Making or threatening retaliation for reporting or threatening to report racial harassment or for participating in an investigation or a harassment complaint.

**CONFIDENTIALITY:**

CORK will protect the confidentiality of those individuals involved in a harassment case to the extent possible and consistent with the need to investigate and resolve the matter.

Every person at CORK is responsible for acting in compliance with this policy. Every report will be taken seriously and investigated. Appropriate disciplinary action will be taken for those individuals who violate this policy and for those who condone such conduct.

**Guidelines for addressing incidents under the Harassment and Discrimination Policy.**

**ROLES AND RESPONSIBILITIES:**

1. Principle:  
The primary responsibility for dealing with a harassment case rests with the CORK Executive

2. The CORK Executive or its designate will:
  - a) Inform any person under its direction of CORK's Harassment and Discrimination Policy;
  - b) Inform any person under its direction of procedures as contained in this policy, for handling harassment complaints;
  - c) Take action when harassment behaviour is known to be taking place.
  - d) Upon receipt of a formal harassment complaint;
    - Inform the complainant, the alleged harasser and their supervisors if appropriate, in writing as to what action or investigation is to take place; and
    - Inform the complainant, the alleged harasser and their supervisors if appropriate of the outcome of any action or investigation, in writing.
3. Executive Director will:
  - a) Provide informal advice or guidance to employees, supervisors and coaches as required or requested on matters of harassment

### **COMPLAINT PROCEDURE:**

1. A person who experiences harassment is encouraged to make it known to the harasser that the behaviour is unwelcome, offensive, and contrary to the policy.
2. If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the complainant should request a meeting with the next higher authority or official.
3. Once contacted by a complainant the role of the official is to serve in a neutral unbiased capacity in receiving complaints and assisting their informal resolution. If the official or complainant consider that they are unable to act in this capacity, the complainant shall be referred to another official.
4. There are three possible outcomes to this meeting of complainant and official:
  - It may be determined that the conduct does not constitute harassment as defined in this policy, in which case the matter will be closed unless the complainant decides to file a formal written complaint;
  - The complainant may decide to pursue an informal resolution of the complaint, in which case the official will assist the two parties to negotiate an acceptable resolution of the complaint; or
  - The complainant may decide to lay a formal written complaint. The written complaint must be submitted with the original signature of the complainant. No electronically produced complaint will be accepted. All documented complaints will be treated as confidential to protect all parties involved. The official shall receive the written complaint, provide a copy to the respondent, who shall be given an opportunity to respond in writing.
5. Once the respondent's statement is received, the official shall provide copies of both written statements to the Board Chair (or to the Secretary if the Chair is involved in the complaint). Within 7 days of receiving the written statements, the CORK Executive shall appoint a non-biased three-member Panel.

### **HEARING:**

1. As soon as possible but in any event within 14 days of being appointed, the Panel shall convene a hearing. In view of the limited time in which CORK carries out events, it may be impractical to have both parties physically present at a hearing, in which case electronic participation may be acceptable so long as it does not disadvantage either party to the complaint. The hearing shall be governed by such procedures as the Panel may decide, provided that:
  - The complainant and respondent shall be given 10 days written notice of the day, time and place of the hearing;
  - Members of the Panel shall select from among themselves a Chairperson;
  - A quorum shall be all three Panel members;
  - Decisions shall be by majority vote.
  - Both parties should participate in the hearing to give evidence and to answer questions of the other party and of the Panel. The complainant and respondent may be accompanied by a representative or adviser. Should the complainant and/or respondent choose to have legal counsel, they shall be responsible for any costs incurred.
2. As soon as possible but in any event within 14 days of the hearing, the Panel shall present its findings in a report to the Board Chair (or Executive Officer who appointed the Panel) with a copy provided to both the complainant and respondent. This report shall contain:
  - A summary of the relevant facts;
  - A determination as to whether the acts complained of constitute harassment as defined in this policy; and
  - If the acts constitute harassment, recommend disciplinary action against the respondent and recommend measures to remedy or mitigate the harm or loss suffered by the complainant.
3. If the Panel determines that the allegations of harassment are false, vexatious, retaliatory or frivolous, their report shall recommend disciplinary action against the complainant.

#### **DISCIPLINE:**

1. When recommending appropriate disciplinary action, the Panel shall consider factors such as:
  - The nature and severity 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 the 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
  - Whether the harasser retaliated against the complainant
2. In recommending disciplinary sanctions, the Panel may consider the following options, singly or in combination, depending on the nature and severity of the harassment:
  - Verbal apology
  - Written apology
  - Letter of reprimand from the organization
  - Referral to counselling

- Removal of certain privileges of membership, employment or participation in CORK events
- Termination of employment or contract
- Expulsion from membership
- Any measure stated in the CORK Code of Conduct
- Any measure stated under rule 69.1 of the Racing Rules of Sailing during an event at CORK
- Informing law enforcement as necessary

## **REPORTING INCIDENTS OF HARASSMENT AND DISCRIMINATION**

Any incident of harassment and discrimination that occurs during a CORK event or during CORK business will be reported to Sail Canada in accordance with their guidelines. The responsibility to report the incident to Sail Canada is the Executive Committee's.

## **RECORD KEEPING**

1. CORK will keep records of all complaints or incidents of workplace harassment for a period of two years and will include:
  - a) A copy of the complaint or details about the incident;
  - b) A record of the investigation including notes;
  - c) A copy of witness statements, if taken;
  - d) A copy of the investigation report, if any;
  - e) A copy of the results of the investigation that were provided to the worker who reported workplace harassment and the alleged harasser; and
  - f) A copy of any corrective action taken to address the complaint or incident of workplace harassment.
2. The documents associated with a workplace harassment complaint, incident and/or investigation must not be disclosed unless necessary to investigate an incident or complaint of workplace harassment, take corrective action or otherwise as required by law.
3. For the Occupational Health and Safety Act purposes, records must be kept for at least one year from the conclusion of the investigation.

## **APPEALS**

Both the complainant and respondent shall have the right to appeal the decision and recommendation of the Panel. A notice of intention to appeal, along with grounds for the appeal, must be provided within 14 days of the complainant or respondent receiving the Panel's report. It must be sent to the person identified in the internal dispute resolution process as defined below.

1. 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.
2. Process:
  - a) Settlement of these disputes should be reached through an appeal procedure that conforms to the principles of fairness, justice and due process.

- b) The appeal must be provided to the appropriate higher authority in accordance with the chart below. The head of that authority shall convene a meeting of the appropriate body specified in the chart. The person whose decision is being appealed shall not be a member of the reviewing panel. It is expected that an appeal should be decided within thirty days of receiving the written basis of the appeal.
- c) The general process is as follows:

An appeal of a decision by a member(s) of:	Appeal must be sent to:	Appeal will be reviewed by:
CORK Staff	Board Chair	Executive Committee
a Director	Board Chair	Executive Committee
Executive Committee	Board Chair	Board of Directors

- d) The Board of Directors is the final authority of CORK.

### **Unsubstantiated Complaints**

If a person, in good faith, files a harassment complaint and the investigation does not reveal that harassment occurred, that complaint will be dismissed, and no record of it will be put in the accused harasser's file. As long as the complaint was made in good faith, there will be no consequences to the person who complained, and no record in their file.

### **Complaints Made in Bad Faith**

In the rare event that the complaint was made in bad faith – in other words, the person making it had absolutely no basis and deliberately and maliciously filed the complaint – that person will be disciplined and a record of the incident will be put in their file.

Consequences for someone who complains in bad faith will be the same as for a case of harassment and will depend on the seriousness of the situation.

### **No Reprisal**

All persons involved in the processing of a complaint will ensure that the complainant is neither penalized nor subjected to any prejudicial treatment as a result of making the complaint. Disciplinary action will be taken against any person who takes any reprisal against a person who reports harassment.

Reprisal includes any retaliation because a person has complained of or provided information about an incident of workplace harassment; or pressured a person to ignore or not report an incident of harassment.

### **POLICY REVIEW:**

This policy will be reviewed every three years or as required by the CORK Executive to ensure it meets the needs of the organization regarding prevention of Harassment and Discrimination.

Approved 2021-02-08