Anti-Harassment Policy

This document sets out the Policy of Queensland Badminton Association Inc (QBA) in relation to Anti-Harassment as it applies to the areas of Management and People.

A. INTENT OF THE POLICY

This particular policy has been designed to:

1) Ensure QBA has in place practices and procedures, which protect QBA's members and others participating in its activities, including athletes, administrators, coaches, umpires and officials from any circumstances that may involve harassment.
2) Promote awareness of our netball philosophy on appropriate behaviour.
3) Ensure complaints can be dealt with quickly, responsibly and effectively.
4) Provide consistency of approach within QBA.
5) Deter harassment by education and understanding.
6) Promote compliance with laws.

B. POLICY BACKGROUND AND RATIONALE

Australian legislation is not consistent. Only in Queensland and New South Wales is there screening legislation. There is no screening legislation in WA.

There is demonstrable evidence that this policy is essential in sport and a priority that implementation is through to Club level.

The Australian and New Zealand Sports Law Association has adopted the definition of harassment immediately following.

General Harassment

***Harassment** consists of offensive, abusive, belittling or threatening behaviour directed at a person or people usually because they are different or perceived to be different from the harasser. The difference maybe in gender, race, disability, sexual orientation, age, power(relative to the harasser), religion or some other characteristics. It is behaviour that is unwelcome and that could reasonably be expected to upset the person or people at whom it is directed.*

For the purpose of this policy, sexual harassment is defined as follows:

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

Examples include, but are not limited to:

i) Abusive behaviour aimed at humiliating or intimidating someone in a less powerful position
ii) Jokes or comments directed at a person's body, looks, age, race, religion, sexual orientation or disability
iii) Unwelcome remarks including teasing, name calling or insults
iv) Innuendo, suggestive remarks or taunting
v) Homophobic comments and / or behaviour
vi) Uninvited touching, kissing, embracing, massaging
vii) Smutty and / or rude jokes and comments
viii) Staring, leering, ogling
ix) Persistent or intrusive questions about people's private lives
x) Repeated invitations to go out, especially after prior refusal
xi) Sexual propositions
xii) The use of promises or threats to coerce someone into sexual activity
xiii) The creation of a hostile or sexually offensive environment by constant inappropriate references to sexual matters, the display of sexually explicit material (posters, cartoons, graffiti) or by the use of offensive phone calls, emails, faxes, letters or roles
xiv) Sexual insults, taunts, name-calling.

Jokes and behaviour, which are genuinely enjoyed and consented to by everyone present, are NOT harassment.
Sexual interaction or flirting that is based on mutual attraction or friendship and which is consensual, or invited, is NOT sexual harassment.

C. HOW THE POLICY WORKS

1) This policy applies to all QBA members and all other people or organisations which by agreement or otherwise, are bound to comply with this policy (including contractors, Board members, employees, administrators, volunteers and attendees at functions of QBA).

2) This policy applies to behaviour occurring during the course of QBA business, activities, competitions and events, when the behaviour involves individuals associated with QBA and which negatively affects relationships within QBA.

3) This policy applies to the harassment occurring between or amongst any participant in the organisation. Harassment may occur, for example from:

- member to member
- member to non-member, or vice versa
- member to Board Director / Staff, or vice versa
- non-member to Board Director / Staff, or vice versa

4) Unlawful Harassment
Sexual harassment and various other forms of harassment are unlawful under Federal and State/Territory Anti-Discrimination Laws. People engaging in harassment can have legal action taken against them under these laws. In some cases, legal action can also be taken against the organisation for which they work or which they represent. For this reason, QBA has a legal responsibility to ensure that harassment does not occur in the course of any of its activities.

D. OUR RESPECTIVE ROLES IN MAKING THE POLICY WORK

QBA's role and contribution in making this policy work is to:

1) Prepare a policy statement on Anti-Harassment as a part of the QBA Membership Protection Policy

2) Take all reasonable steps necessary to ensure that everyone in the organisation knows:

- what harassment means
- that it is against the law
- that it will not be tolerated

This will be by:

- including a copy of the policy in Policy and Procedures Manual
- distributing the Policy to all Regions and Associations
- ensuring all Association and Club personnel are educated and trained with the policy
- including a copy of the policy on the QBA website
- notifying participants in all QBA activities and / or events that they will be required to comply with this policy (by statement on Entry Form)

3) QBA will appoint an Anti-Harassment Officer (AHO) who will be responsible for the day-to-day implementation of this policy, acknowledging the Board has ultimate responsibility for ensuring that QBA is free of harassment.

4) Monitoring and reviewing the policy at Board level every two years.

5) Implementing a consistent process for managing harassment complaints – dealing promptly, sensitively and confidentially with any such complaints.

6) Provide both formal and informal mechanisms for dealing with complaints.

7) Offering in the first instance, advice and assistance by the AHO.

8) QBA is to enable the AHO assistance as follows. She / He can:

- listen and provide moral support
- clarify whether the behaviour being experienced constitutes harassment, another form of unacceptable behaviour that requires other solutions, or legitimate supervisory behaviour
- or if it appears that the conduct is harassment, explain the course of action available to deal with the harassment, from informal measures through to formal complaints
- give information, where appropriate, on self-help measures such as suggesting that the harassed person approach the harasser and explain that the behaviour is unacceptable and upsetting accompany the person experiencing harassment to approach the harasser or to take other actions under informal or formal complaint procedures
- follow up with the person after appropriate action has been taken to ensure that they are satisfied with the resolution

9) Details on how to contact the AHO are available from QBA office or any Board member

10) While it is at the request of the person experiencing harassment, they may seek advice and support in the first instance from another trusted person, for example another employee, such as the Administration Officer or a QBA Board member
The Associations and Clubs roles and contributions is to:

- Comply with this policy.
- Offer support to anyone who may be being harassed and let them know where they can obtain help and advice.
- Maintain complete confidentiality if they provide information during the investigation of a complaint.
- Avoid gossiping or spreading rumours about harassment (outside giving information as part of a legitimate investigation process). Such behaviour can result in legal action for defamation.
- Ensure all significant personnel are familiar with the policy and required procedures at each level of the QBA network.
- Comply with this policy and ensure this information is made available within your particular level.

E. THE POLICY

QBA is committed to providing an environment free of harassment. QBA believes that anyone who works for QBA and / or represents QBA and everyone with whom QBA deals, has the right to be treated with respect and dignity. QBA will take all complaints of harassment seriously, and will ensure they are dealt with promptly, sensitively and confidentially. Disciplinary action may be taken against a person who is found in breach of this policy.

COMPLAINTS PROCEDURE

INFORMAL RESOLUTION

Informal resolution of complaints is the most common avenue for finding resolution. Informal solutions may occur to the complainant while talking to the AHO. These may then be carried out by the complainant with or without the assistance of the AHO. Resolution of complaints at this level allows for complete confidentiality for both parties and can sometimes result in an improved working relationship.

PROCESS

1) The person being harassed makes an initial approach to their choice of one of the following people, who may be able to provide information about whether the behaviour constitutes harassment and about options. These are:

- QBA AHO
- A Coach or Manager
- A Colleague
- An Official
- A QBA Board member

2) The person approached must clarify their role – as a mediator or just someone with whom the person can talk the matter through..

3) If the complainant does want them to help resolve the issue, then this must be done so in an impartial manner with respect to both parties. If the parties are unable to agree within 14 days on a mediator, the Board of QBA shall determine the mediator.

FORMAL RESOLUTION

The complainant may decide, however, after talking to the AHO, or after informal resolution has failed, to lodge a written complaint. All formal written complaints about harassment shall be lodged with the AHO.

On receiving the written complaint the AHO will attempt to resolve the matter between the complainant and the alleged harasser by mediation, unless this is clearly inappropriate in the circumstances. If mediation fails, or is not attempted within 30 days, the AHO will refer the matter to the Disciplinary Committee to conduct an investigation in relation to the complaint.

The purpose of the investigation shall be to establish whether harassment occurred and, if so, what action should be taken against the offender. In conducting the investigation, the Disciplinary Committee shall ensure adherence to the principles of natural justice.

PROCESS

The typical steps for an investigation consistent with the principles of natural justice are:

- the complainant is interviewed and the complaint is documented in writing
- the allegations are conveyed to the alleged harasser in full
- the alleged harasser is given the opportunity to respond
- if there is a dispute over the facts, statements from witnesses and other relevant evidence is gathered
- a finding is made as to whether the complaint has substance
- a report documenting the investigation process, the evidence, the finding and the recommended outcome/s is submitted to the Board member with responsibility for the anti-harassment policy.

Both parties are entitled to support through this process from their chosen support person / adviser

If the decision maker endorses the report, QBA then carries out the recommendations of the report. These may include such actions as an apology, counselling, a fine, dismissal or withdrawal of coaching / official accreditation.

Both the complainant and the respondent have the right to appeal against the findings of the investigator / panel or against the resulting recommended action if they have any concerns about the procedure, bias or fairness. An appeal panel made up of members other than those who conducted the original investigation handles appeals.

The appeal body can uphold the decision of the investigator / panel, reverse the decision of the investigator / panel, and / or modify any of the investigator / panel's recommendations for disciplinary action or remedial measures.

If the internal investigation, appeal and disciplinary procedures to not achieve a satisfactory outcome for the complainant, or if the complainant believes it would be impossible to get an impartial investigation within QBA, she / he may choose to approach the President to assist with a resolution.

EXTERNAL

A complainant may be dissatisfied with the outcome of harassment procedures within an organisation / sport as a whole, or may not wish to use procedures internal to the sport at all because of a lack of confidence in them. In this case, the complainant can utilize complaint procedures external to his / her organisation or sport.

Harassment of various kinds is unlawful under state and federal anti-discrimination laws in Australia, and complaints under these laws are dealt with by state and federal anti-discrimination bodies.

A person experiencing harassment can seek initial advice from one of these bodies without being obliged to make a complaint. If that body advises that the conduct being experienced appears to be a type of harassment that comes within its jurisdiction, the harassed person then makes the decision as to whether or not to lodge a formal complaint to the body.

Once a complaint is received, an investigation will be undertaken, If there appears to be a case that unlawful harassment has occurred, there will usually be an attempt to conciliate the complaint confidentially first. If this fails, or is inappropriate, the matter may proceed to a formal public hearing, where a finding will be made as to whether harassment occurred.

Various remedies may then be prescribed by the tribunal. These can include financial compensation for such things as distress, lost earnings or medical and counselling expenses incurred by the complainant.

It should be noted that an anti-discrimination body can decline to investigate a complaint, or dismiss a complaint at any point in the investigation, conciliation or public hearing stages.

DISCIPLINARY ACTION

The Disputes and Disciplinary Committee may take any action it considers appropriate against the offender if it has established on the balance of probabilities that the harassment has occurred, including but not limited to:

- Expelling or suspending the membership of the person (if he or she is a member)
- Providing the offender with a written warning
- Requiring the offender to attend counselling
- Such other action as it deems reasonable in all the circumstances
- A complainant can withdraw his or her complaint at any time. If the complaint is withdrawn, QBA is not required to pursue the complaint and / or investigation any further.

RIGHT TO APPEAL

1) The decision of the Disputes and Disciplinary Committee may be appealed to the Board by either the complainant or the alleged offender
2) There is only one right of appeal and the decision of the Board will be binding on all parties
3) The party wishing to appeal a decision of the Disciplinary Committee shall advise the President in writing within 48 hours of the Disciplinary Committee delivering its decision ("Notice of Intention to Appeal")
4) The person bringing the appeal must also provide the grounds of appeal in writing within 5 days of lodging the Notice of Intention to Appeal. If this is not complied with, the appeal shall be deemed to be withdrawn.

Upon compliance with the Notice of Intention to Appeal the Board shall hear the appeal. The Board may:

- Dismiss the appeal
- Uphold the appeal
- Reduce, increase or otherwise vary the penalty

DISCIPLINARY ACTION

In addition to the resolution procedures QBA may take disciplinary action against any person in accordance with the QBA rules. QBA can also take disciplinary action against anyone who victimises a person who has complained of harassment. The discipline would depend on the severity of the case and could involve counselling, compulsory education, a fine, suspension, dismissal or withdrawal of membership.

QBA will take similar disciplinary action against any person who is found to have made false, vexatious or frivolous allegations of harassment.

Apart from the complaint procedures set out in this policy, complainants may, at any time, contact the relevant state or federal anti-discrimination / human rights body for information or advice, or further action.