



## Harassment and Violence Policy

### Policy Statement

It is the policy of the Toronto Windsurfing Club (“TWC” or the “Club”) to provide a work and sporting environment where the dignity of the individual is respected and all participants in Club activities are free from harassment, including sexual harassment, and from any form of violence.

TWC recognizes that:

- Every employee, member, student and guest is entitled to a climate free of harassment, including sexual harassment, and violence; and
- Harassment, including sexual harassment, and violence compromises the integrity of all relationships and can diminish both personal well-being and sport performance.

### Application

This policy (the “Policy”) applies to all employees as well as all directors, officers, volunteers, coaches, officials, members, students and guests of the Club. It applies to harassment and violence which may occur during the course of all Club business, activities and events.

### Definitions

This Policy adopts the definition of harassment contained in the *Human Rights Code R.S. O. 1990 c. H. 19* (the “Code”) and the definition of workplace harassment and workplace violence contained in the *Occupational Health and Safety Act R.S.O. 1990, c. O.1* (the “Act”).

The *Code* defines harassment as follows:

*“Harassment” means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.*

The *Code* further defines harassment in employment as follows:

*Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.*

Any type of harassment related to the above-noted prohibited grounds or analogous grounds shall constitute harassment and shall not be tolerated by TWC whether it involves an employee or not.

The *Code* further defines sexual harassment as follows:

- (a) a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or*
- (b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.*

The *Act* defines workplace harassment as:

- (a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or*
- (b) workplace sexual harassment*

The *Act* further defines workplace sexual harassment as:

- (a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or*
- (b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.*

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, member or student as placing a condition of a sexual nature on employment, or on any opportunity for training or promotion.

Types of behaviour which constitute sexual harassment include, but are not limited to:

- Unwelcome remarks, jokes, innuendoes 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 or rejection of such conduct is used as the basis for decisions affecting employment, promotion, 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.

The Act defines workplace violence as follows:

*“workplace violence” means,*

*(a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,*

*(b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,*

*(c) a statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.*

TWC adopts this definition of workplace violence with necessary modifications to any form of violence and it shall apply to all employees, members, students and guests. The above definition therefore shall be read as follows in its more general application to all parties to whom this policy applies:

- (a) the exercise of physical force by a person against another person while engaged in any TWC-related activities that causes or could cause physical injury to the person receiving the exercise of physical force,
- (b) an attempt to exercise physical force against a person, while engaged in any TWC-related activities that could cause physical injury to the person receiving the attempted exercise of physical force,
- (c) a statement or behaviour that is reasonable for a person to interpret as a threat to exercise physical force against that person, while engaged in any TWC-related activities, that could cause physical injury to the person receiving the threat.

## **Confidentiality**

TWC recognizes that it can be extremely difficult to come forward with a complaint of harassment, sexual harassment or violence and that it can also be devastating to be wrongly accused of such behaviours. TWC recognizes the interests of both the complainant and the respondent in keeping the matter as confidential as possible.

TWC will not disclose the name of the complainant or the circumstances related to the situation to any person except where disclosure is necessary for the purpose of investigating the allegations of prohibited behaviour and/or taking disciplinary action.

## **Roles and Responsibilities**

TWC will make every effort to ensure that no employee, member, student nor guest is subjected to harassment, sexual harassment or violence. TWC will not require a formal written complaint to be submitted before commencing an investigation. In the event that any member of the TWC Board of Directors becomes aware of a complaint of harassment, sexual harassment, or violence, it shall commence an investigation.

The TWC Board of Directors (the “Board”) will take such disciplinary action as it deems appropriate against any person under its discretion who subjects any employee, member, student or guest to harassment, sexual harassment or violence.

A person who has the authority to prevent or discourage harassment of any kind may be considered responsible for failing to exercise their authority to do so, and consequently shall be subject to such disciplinary actions as may be deemed appropriate by the Board. Any member or employee who learns of any allegation(s) which, if proven true, could constitute harassment, sexual harassment or violence has an obligation to report it to the Board. If the respondent is a member of the Board, the person reporting the allegation(s) may report it to any other member of the Board who shall then be responsible for putting the matter before the entire Board forthwith.

The ultimate responsibility for dealing with a harassment complaint or knowledge of harassment rests with the Board.

The Board or its designate will:

- Inform any person to whom this Policy applies of the terms of this Policy;
- Provide clarification of what constitutes harassment, sexual harassment or violence (“Prohibited Behaviour”) as the case may be;
- Inform any person to whom this Policy applies of the procedures for handling harassment complaints;
- Initiate an investigation without waiting for an individual complaint when Prohibited Behaviour is reported or known to be taking place;
- Upon receipt of a complaint, or upon learning of allegations of Prohibited Behaviour, TWC will inform the person accused of Prohibited Behaviour (the “Respondent”) and the person subject to the Prohibited Behaviour (the “Complainant”) in writing as to what actions, including the steps in an investigation, are to take place. TWC will also inform the Respondent and Complainant of the outcome of the investigation in writing once it is completed.

### **Complaint Procedure**

1. A person who experiences harassment, sexual harassment or violence is encouraged to make it known to the Respondent that the behaviour is unwelcome, offensive and contrary to this Policy.

2. If confronting the Respondent is not possible, or if after confronting the Respondent the Prohibited Behaviour continues, the Complainant should request a meeting with any member of the Board.
3. Once contacted by the Complainant, the role of the Director is to take the complaint to the Board which will designate a TWC member in good standing (“Designated Official”) to serve in a neutral, unbiased capacity in receiving complaints and assisting with their informal resolution. If the Designated Official determines that they are unwilling or unable to act in this capacity, the Board shall designate a different TWC member to be the Designated Official.
4. There are three possible outcomes to this meeting of Complainant and Designated Official:
  - a. It may be determined that the conduct does not constitute harassment or violence as defined in this Policy, in which case this conclusion will be reported to the Board who may agree and the matter will be closed, or may disagree and determine that a more formal investigation will be conducted;
  - b. 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
  - c. The Complainant may decide to insist on an investigation.

### **Investigation Process**

1. In the event the matter proceeds to an investigation, TWC shall appoint the investigator who may be a member of TWC or who may be an independent third party. Regardless of who it appoints, the investigator ought to have some experience with conducting investigations.
2. Although the Complainant is encouraged to submit a complaint in writing, the investigator will meet with the Complainant as soon as possible, whether in person, by telephone or video conference and hear the Complainant’s concerns.
3. The investigator will then provide a brief summary of those concerns which shall consist of concise statements of the allegations which, if proven true, could constitute Prohibited Behaviour. The summary will not constitute the Complainant’s statement, but shall only be a summary of the allegations. The purpose of this summary is so that the Respondent may know the case against them in order to have a meaningful opportunity to defend themselves.

4. The investigator will confirm the accuracy and completeness of this summary with the Complainant and provide that summary along with any documentary evidence in support of the Complainant's allegations to the Respondent.
5. The investigator shall allow the Respondent adequate time to prepare for an interview with the investigator, or the Respondent may respond in writing only.
6. All documented complaints and responses will be treated as confidential to protect all parties involved.
7. Once the investigator has heard the evidence of both the Complainant, Respondent and any witnesses the investigator deems relevant, the investigator shall submit a written report containing their findings of fact and their determinations as to whether or not any of the facts found constitute a breach of this Policy.
8. Upon receiving the investigator's report, the Board shall determine the appropriate action(s) and shall advise the Complainant and Respondent of the outcome of the investigation in writing. The content of the written outcome of the investigation need not reproduce the entire contents of the investigation report but shall at a minimum set out the investigator's conclusions about what behaviours complained of constituted a breach of this Policy.

### **Review and Approval**

Harassment & Violence Policy – Version 1

Approved September 27, 2020