



## **Ontario 5 Pin Bowlers' Association**

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### **HARASSMENT POLICY**

*Note: For convenience, this policy uses the term “complainant” to refer to the person who experiences harassment, even though not all persons who experience harassment will make a formal complaint. The term “respondent” refers to the person against whom a complaint is made.*

#### **Policy Statement**

The Ontario 5 Pin Bowlers' Association (O5PBA) is committed to providing a sport and work environment in which all individuals are treated with respect and dignity. Each individual has the right to participate and work in an environment which promotes equal opportunities and prohibits discriminatory practices.

Harassment is a form of discrimination. Harassment is prohibited by the Canadian Charter of Rights and Freedoms and by human rights legislation in every province and territory of Canada.

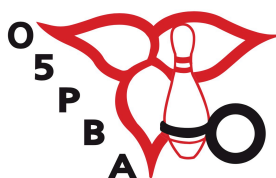
Harassment is offensive, degrading, and threatening. In its most extreme forms, harassment can be an offense under Canada's Criminal Code.

Whether the harasser is a director, supervisor, employee, coach, official, volunteer, parent or athlete, harassment is an attempt by one person to assert abusive, unwarranted power over another.

The O5PBA is committed to providing a sport environment free of harassment on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, or pardoned conviction.

*Note: A special provision in criminal law permits a pardon. An individual must apply for a pardon. A criminal who has served her or his sentence is not considered "pardoned".*

This policy applies to all employees, as well as to all directors, officers, volunteers, coaches, athletes, officials, and members of the O5PBA. The O5PBA encourages the reporting of all incidents of harassment, regardless of who the offender may be.



This policy applies to harassment, which may occur during the course of all O5PBA business, activities, and events. It also applies to harassment between individuals associated with the O5PBA, but outside O5PBA business activities or events, when such harassment adversely affects relationships within the O5PBA's work and sport environment.

Notwithstanding this policy, every person who experiences harassment continues to have the right to seek assistance from their provincial or territorial human rights commission, even when steps are being taken under this policy.

### **Definitions**

Harassment takes many forms, but can generally be defined as comment, conduct, or gesture directed toward an individual or group of individuals, which is insulting, intimidating, humiliating, malicious, degrading, or offensive.

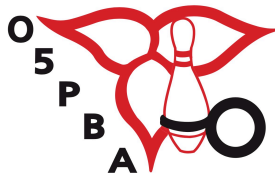
For the purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature when:

- Submitting to or rejecting this conduct is used as the basis for making decisions which affect the individual.
- Such conduct has the purpose or effect of interfering with an individual's performance.
- Such conduct creates an intimidating, hostile, or offensive environment.

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

- Written or verbal abuse or threats.
- The display of visual material which is offensive or which one ought to know is offensive.
- Unwelcome remarks, jokes, comments, innuendo, or taunting about a person's looks, body, attire, age, race, religion, sex, or sexual orientation.
- Leering or other suggestive or obscene gestures.
- Condescending, paternalistic, or patronizing behaviour which undermines self-esteem, diminishes performance, or adversely affects working conditions.
- 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.
- Physical or sexual assault.

Sexual harassment occurs in the form of behaviour by males toward females, between males, between females, or as behaviour by females toward males.



For the purposes of this policy, retaliation against an individual

- for having filed a complaint under this policy; or
- for having participated in any procedure under this policy; or
- for having been associated with a person who filed a complaint or participated in any procedure under this policy,

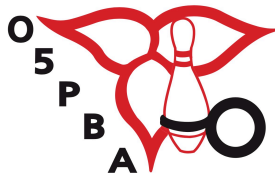
will be treated as harassment, and will not be tolerated.

### **Responsibility**

The O5PBA Executive Committee is responsible for the implementation of this policy. In addition, the Executive Committee is responsible for:

- Discouraging and preventing harassment within the O5PBA.
- Investigating formal complaints of harassment in a sensitive, responsible, and timely manner.
- Imposing appropriate disciplinary or corrective measures when a complaint of harassment has been substantiated, regardless of the position or authority of the offender.
- Providing advice to persons who experience harassment.
- Doing all in their power to support and assist any employee or member of the O5PBA who experiences harassment by someone who is not an employee or member of the O5PBA.
- Making all members and employees of the O5PBA aware of what harassment is, and in particular, sexual harassment, and of the procedures contained in this policy.
- Informing both complainants and respondents of the procedures contained in this policy and of their rights under the law.
- Regularly reviewing the terms of this policy to ensure they adequately meet the organization's legal obligations and public policy objectives.
- Appointing officers and providing the training and resources they need to fulfill their responsibilities under this policy.
- Appointing unbiased case review panels and appeal tribunals, as well as providing the resources and support they need to fulfill their responsibilities under this policy.

Every member of O5PBA has a responsibility to play a part in ensuring that the O5PBA sport environment is free from harassment. This means not engaging in, allowing, condoning, or ignoring behaviour contrary to this policy. In addition, any member of the O5PBA who believes that a fellow member has experienced, or is experiencing harassment, is encouraged to notify one or more of the Executive Committee.



### **Coach/Athlete Sexual Relationship**

The O5PBA takes the view that an intimate sexual relationship between coaches and adult athletes (except married or common-law couples), while not against the law, can have harmful effects on the individual athlete involved, on other athletes and coaches and on the O5PBA's public image. The O5PBA takes the position that such relationships (except married or common-law couples) are unacceptable for coaches coaching at the Provincial or National Team levels. Should a sexual relationship develop between an athlete and coach, the O5PBA will investigate and take action, which could include reassignment, or if this is not feasible, a request for resignation.

### **Disciplinary Action**

Employees or members of the O5PBA against whom a complaint of harassment is substantiated may be severely disciplined, up to and including employment dismissal or termination of membership in cases where the harassment takes the form of assault, sexual assault, or a related sexual offense.

### **Confidentiality**

The O5PBA understands that it can be extremely difficult to come forward with a complaint of harassment and that it can be devastating to be wrongly convicted of harassment. The O5PBA recognizes the interests of both the complainant and the respondent in keeping the matter confidential.

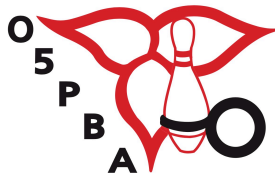
The O5PBA shall not disclose to outside parties the name of the complainant, the circumstances giving rise to a complaint, or the name of the respondent unless such disclosure is required by a disciplinary or other remedial process.

### **Harassment Officer**

The O5PBA shall appoint at least two persons, one male and one female, who are themselves members or employees of the sport organization, to serve as officers under this policy. If more than two officers are appointed, the O5PBA shall ensure a gender balance.

The role of Harassment Officer is to serve in a neutral, unbiased capacity and to receive complaints, assist in informal resolution of complaints and investigate formal written complaints. In carrying out their duties under this policy, the Harassment Officers shall be directly responsible to the Executive Committee of the O5PBA.

The O5PBA shall ensure that officers receive appropriate training and support for carrying out their responsibilities under this policy.



## **Complaint Procedure**

A person who experiences harassment is encouraged to make it known to the harasser that the behaviour is unwelcome, offensive, and contrary to this policy.

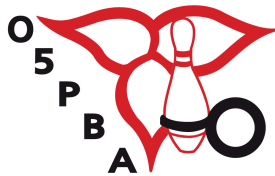
If confronting the harasser is not possible, or if after confronting the harasser the harassment continues, the complainant should seek the advice of the Harassment Officer.

The Harassment Officer shall inform the complainant of:

- The options for pursuing an informal resolution of his or her complaint.
- The right to lay a formal written complaint under this policy when an informal resolution is inappropriate or not feasible.
- The availability of counselling and other support (at their own expense).
- The confidentiality provisions of this policy.
- The right to be represented by a person of choice (including legal counsel) at any stage in the complaint process (at their own expense).
- The external mediation/arbitration mechanisms that may be available.
- The right to withdraw from any further action in connection with the complaint at any stage (even though the O5PBA might continue to investigate the complaint).
- Other avenues of recourse, including the right to file a complaint with a human rights commission or, where appropriate, to contact the police to have them lay a formal charge under the Criminal Code.

There are four possible outcomes to this initial meeting of complainant and Harassment Officer:

- (a) The complainant and Harassment Officer agree that the conduct does not constitute harassment. If this occurs, the Harassment Officer will take no further action and will make no written record.
- (b) The complainant brings evidence of harassment and chooses to pursue an informal resolution of the complaint. If this occurs, the Harassment Officer will assist the two parties to negotiate a solution acceptable to the complaint. If desired by the parties and if appropriate, the Harassment Officer may also seek the assistance of a neutral mediator. If informal resolution yields a result, which is acceptable to both parties, the Harassment Officer will make a written record that a complaint was made and was resolved informally to the satisfaction of both parties, and will take no further action. If informal resolution fails to satisfy the complaint, the complainant will reserve the option of laying a formal written complaint.
- (c) The complainant brings evidence of harassment and decides to lay a formal written complaint. If this occurs, the Harassment Officer will assist the complainant in drafting a formal written complaint, to be signed by the complainant, and a copy given to the respondent without delay. The written complaint should set out the



details of the incident(s), the names of any witnesses to the incident(s), and should be dated and signed. The respondent will be given an opportunity to provide a written response to the complaint. The Harassment Officer may assist the respondent in preparing this response.

- (d) The complainant brings evidence of harassment, but does not wish to lay a formal complaint. If this occurs, the Harassment Officer must decide if the alleged harassment is serious enough to warrant laying a formal written complaint, even if it is against the wishes of the complainant. When the Harassment Officer decides that the evidence and surrounding circumstances require a formal written complaint, the Harassment Officer will issue a formal written complaint and, without delay, provide copies of the complaint to both the complainant and the respondent.

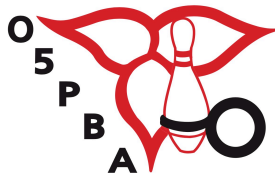
As soon as possible after receiving the written complaint, but within 21 days, the Harassment Officer shall submit a report to the O5PBA Executive Committee, containing the documentation filed by both parties, along with a recommendation that:

- No further action be taken because the complaint is unfounded or the conduct cannot reasonably be said to fall within this policy's definition of harassment; or
- The complaint should be investigated further. A copy of this report shall be provided, without delay, to both the complainant and the respondent.

In the event that the Harassment Officer's recommendation is to proceed with an investigation, the O5PBA Executive Committee shall, within 14 days, appoint three members of the O5PBA to serve as a case review panel. This panel shall consist of at least one woman and at least one man. To ensure freedom from bias, no member of the panel shall have a significant personal or professional relationship with either the complainant or the respondent.

Within 21 days of its appointment, the case review panel shall convene a hearing. The hearing shall be governed by such procedures as the panel may decide, provided that:

- The complainant and respondent shall be given 14 days' notice, in writing, of the day, time and place of the hearing.
- Members of the panel shall select a chairperson from among themselves.
- A quorum shall be all three panel members.
- Decisions shall be by majority vote. If a majority vote decision is not possible, the decision of the chairperson will be the decision of the panel.
- The hearing shall be held in camera.
- Both parties shall be present at the hearing to give evidence and to answer any questions of the other party and of the panel. If the complainant does not appear, the matter will be dismissed, unless the complainant decided not to lay a formal complaint, but the officer concluded that the evidence and surrounding circumstances were such as to require a formal written complaint. If the respondent does not appear, the hearing will proceed.



- The complainant and respondent may be accompanied by a representative or adviser.
- The harassment officer may attend the hearing at the request of the panel.

Within 14 days of the hearing, the case review panel shall present its findings in a report to the O5PBA Executive Committee, which shall contain:

- A summary of the relevant facts.
- A determination as to whether the acts complained of constitute harassment as defined in this policy.
- Recommended disciplinary action against the respondent, if the acts constitute harassment.
- Recommended measures to remedy or mitigate the harm or loss suffered by the complainant, if the acts constitute harassment.

If the panel determines that the allegations of harassment are false, vexatious, retaliatory, or unfounded, their report shall recommend disciplinary action against the complainant.

A copy of the report of the case review panel shall be provided, without delay, to both the complainant and the respondent.

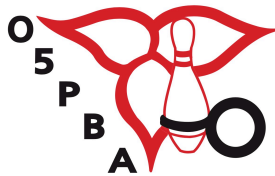
When determining appropriate disciplinary action and corrective measures, the case review panel shall consider factors such as:

- The nature 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 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.

In recommending disciplinary sanction, the panel may consider the following options, singly or in combination, depending on the severity of the harassment:

- A verbal apology.
- A written apology.
- A letter of reprimand from the sport organization.
- A fine or levy.
- Referral to counselling.
- Removal of certain privileges of membership or employment.
- Demotion or a pay cut.





- Temporary suspension with or without pay.
- Termination of employment or contract.
- Expulsion from membership.

Where the investigation does not result in a finding of harassment, a copy of the report of the case review panel shall be placed in the Harassment Officer's files. These files shall be kept confidential and access to them shall be restricted to the O5PBA Executive Committee.

If the investigation results in a finding of harassment, a copy of the report of the case review panel shall be placed in the personnel or membership file of the respondent. Unless the findings of the panel are overturned upon appeal, this report shall be retained for a period of ten years, unless new circumstances dictate that the report should be kept for a longer period of time.

### **Procedure where a Person Believes that a Colleague has been Harassed**

Where a person believes that a colleague has experienced or is experiencing harassment, and reports this belief to an officer, the officer shall meet with the person who is said to have experienced harassment and shall then proceed in accordance with paragraph three under "Complaint Procedure" noted above.

### **Appeals**

#### ***Appointment – Tribunal or Appeal Board***

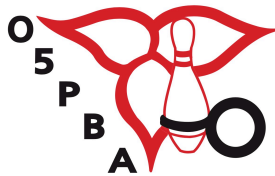
The members of a tribunal shall be appointed by the Board of Directors of the O5PBA. The tribunal shall consist of three persons, and all persons need not be members of the O5PBA.

On appointment of a Tribunal the Board of Directors shall ensure the following:

- That no association exists between a party of the appeal and a tribunal member, either actual or apparent.
- That no tribunal member has been involved in any preliminary stage of the decision or matter under appeal.
- That no tribunal member has a pre-set attitude or apparent interests in the result of the appeal.
- "Apparent" herein is defined as "in appearance" or "reasonable likelihood".

An appeal board, if appointed, shall be appointed in like fashion as delineated above save and except "tribunal" shall read "appeal board".





***Tribunal or Appeal Board Procedures (as set out in Schedule H of the O5PBA Constitution)***

Any notice for request for appeal shall be given in writing to the secretary of the O5PBA and shall include the grounds and/or reasons for appeal.

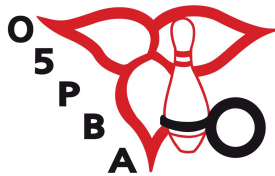
Any notice for request for appeal shall be made within five (5) days of the sanction or intervention or decision being appealed and notice shall mean date of postmark if mailed by registered mail or receipt of notice if delivered otherwise and all notices shall be to the head office of the O5PBA, and addressed on the envelope as follows:

“Appeal”  
c/o Secretary  
Ontario 5 Pin Bowlers’ Association  
5-19 Ringwood Drive, Suite 129  
Stouffville, Ontario L4A 0N2

Within ten (10) days of receipt of notice for request for appeal a tribunal shall be appointed; a date shall be set for a hearing which date shall be within fifteen (15) days of appointment of the tribunal; and notice to all parties of such date of hearing by the tribunal shall be telephoned and confirmed by registered mail.

The tribunal hearing shall proceed as scheduled unless both parties to the appeal consent to an extension. The extension may not be for more than ten (10) days past the original date set for a tribunal hearing.

- The parties to an appeal shall be the member appealing, and the O5PBA represented by the member making the original sanction or intervention being appealed.
- The grounds and/or reason for appeal referred to in Article 6.2.01 shall be of sufficient particularity that the opposite party may respond in writing.
- The tribunal shall ensure that the appealing party has a response and that the responding party has the grounds of appeal at least three (3) days before the scheduled hearing.
- In the absence of a response in writing the tribunal may allow the appeal or may extend the date of hearing up to ten (10) days.
- In the continued absence of a response in writing such that the appealing party does not have the response three (3) clear days prior to the hearing, the appeal shall be granted.
- If the tribunal determines that the grounds for appeal are not of sufficient particularity of grounds of appeal they may extend the date of hearing up to ten (10) days.



- In the continued absence of particularity of grounds of appeal such that the responding party cannot respond to the appealing party three (3) clear days prior to the hearing, the appeal shall be refused.

At the tribunal hearing either party may present information, witnesses, documents and/or personal statements and either party may cross-examine or request any information of either party or any witness or any member of the O5PBA.

- (i) The tribunal shall decide on the basis of materials presented during the hearing the facts of the alleged misconduct being appealed and shall file same in writing as part of the tribunal decision.
- (ii) The tribunal shall make a decision in relation to the appeal with reasons therefore and in writing.
- (iii) The tribunal shall deliver to each party and the O5PBA its written decision within ten (10) days of the tribunal hearing.
- (iv) Notwithstanding sub-article (ii) to (iii) of this article a tribunal may render a verbal decision forthwith at hearing provide sub-articles (i) to (iii) of this article are properly completed thereafter.
- (v) The date on which the tribunal shall be deemed to have rendered its decision shall be the date on which such decision is posted by registered mail to the parties, notwithstanding a tribunal action under sub-article (i) hereof.
- (vi) An appeal board may make a determination of any matter included in the written submissions for leave to appeal or without a hearing

### **Review and Approval**

This policy shall be reviewed and approved by the O5PBA Executive Committee on an annual basis.