



## Workplace Harassment and Discrimination Policy

### Update May 15, 2019

In keeping with Bobsleigh Canada Skeleton's (BCS) commitments as set out in this BCS's Workplace Harassment and Discrimination Policy (Policy), Ms. Ashley Lattal has been appointed as an independent third party resource under this Policy.

Ms. Lattal may be contacted directly by any person who is subject to this Policy at the following address: [ashley@lattallaw.com](mailto:ashley@lattallaw.com)

For the avoidance of doubt, this is an *additional* resource available to any person subject to this Policy, but does not preclude contacting any other persons as set out herein.

#### Preamble

#### Workplace Harassment and Discrimination Policy

1. Bobsleigh CANADA Skeleton ("BCS") is committed to creating and maintaining a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in an environment that promotes equal opportunities and prohibits discriminatory practices.
2. This Policy applies to BCS workers ("Workers"), and it supplements the BCS Policy on the Universal Code of Conduct to Prevent and Address Maltreatment in Sport ("UCCMS").
3. This Policy shall be interpreted and applied in a manner consistent with the UCCMS. In the event that this Policy conflicts with the BCS Policy on the UCCMS, the BCS Policy on the UCCMS shall govern and this Workplace Harassment and Discrimination Policy shall not limit or detract from the BCS Policy on the UCCMS.

#### Aim

4. BCS is committed to providing a work environment free of workplace harassment and discrimination.

#### General Policy

5. In keeping with this policy, BCS encourages the reporting of all incidents of workplace harassment regardless of who the harasser may be and is committed to a process that is widely published in the bobsleigh/ skeleton community, available to all Workers, and easy to follow and implement.
6. Notwithstanding this policy, any person who experiences workplace harassment continues to have the right to seek assistance from the provincial human rights commission.

7. **Person in Authority:** A person in authority is any BCS participant in a position of authority over, or trusted by a Worker who may be experiencing workplace harassment or discrimination, and can include such persons as team leaders, coaches, trainers, medical or paramedical personnel, volunteers and supervisors.

8. **Complainant:** For the purposes of this Policy, a Worker who experiences workplace harassment or discrimination is referred to as the “complainant” even where no formal complaint is filed.

### **Examples of Workplace Harassment**

9. Workplace harassment can take many forms but often involves conduct, comment or display that is insulting, intimidating, humiliating, hurtful, demeaning, belittling, malicious, degrading or otherwise cause offence, discomfort or personal humiliation or embarrassment to a person or a group of persons. Examples of workplace harassment may include:

- a. Hostile verbal and non-verbal communications;
- b. Unwelcome remarks, jokes, innuendo or teasing linked to a person’s looks, body, attire, race, age, religion, sex, sexual orientation, etc.;
- c. Condescending, paternalistic or patronizing behaviour which undermines self-esteem, diminishes performance or adversely affects working conditions;
- d. Practical jokes that cause awkwardness or embarrassment, endanger a person’s safety or negatively affects performance;
- e. Any form of hazing;
- f. Use of terminology that reinforces stereotypes;
- g. Acts of retaliation designed to punish an individual who has reported workplace harassment or discrimination;
- h. Threats of retaliation designed to dissuade an individual from reporting workplace harassment or discrimination;
- i. Racial or ethnic slurs.

10. Reasonable discipline in training is an indispensable part of high performance sport and should not be confused with workplace harassment or discrimination. However it is of vital importance that those in authority:

- a. Set and communicate non-discriminatory performance standards, selection criteria, rules and regulations to all participants;
- b. Be consistent in corrective or punitive action;
- c. Use non-discriminatory terminology;
- d. Address individuals by names and avoid the use of derogatory slang or offensive terms.

11. In this policy sexual harassment includes unwelcome sexual remarks or advances, requests for sexual favours or other verbal or physical conduct of a sexual nature when:

- a. Submitting to or rejecting the conduct is used as the basis for making decisions which affect the individual;
- b. Refusal to comply with a sexual-oriented request results in actual denial of an opportunity, or an expressed or implied threat of denial of opportunity for such refusal;
- c. Such conduct has the purpose or effect of interfering with an individual’s performance;
- d. Such conduct creates an intimidating, hostile or offensive environment.

12. Sexual harassment may occur in the form of such conduct by males toward females, between males, between females or by females towards males. Some examples of behaviour which may be sexual harassment include:

- a. Sexually degrading words to describe a person;
- b. Criminal conduct such as stalking and physical or sexual assault or abuse;
- c. The display of visual material which is offensive;
- d. Unwelcome sexual flirtations, sexual remarks, advances, requests or invitations whether direct or explicit;
- e. Unwanted inquiries or comments about an individual's sex life or sexual orientation;
- f. Derogatory or degrading remarks about a person's sexuality or sexual orientation.

### **Responsibilities of the People in Charge**

13. Prevention and intervention are key to achieving a work environment free of workplace harassment and discrimination. The BCS must represent a positive role model. BCS participants should:

- a. Communicate the BCS's objective to create and maintain a work environment free of workplace harassment and discrimination and with a view to discouraging workplace harassment;
- b. Exercise good judgment and initiate appropriate action under this policy, if they become aware or ought to know that workplace harassment or discrimination may have occurred;
- c. Follow-up consultation with BCS management if workplace harassment or discrimination is suspected or rumoured, appreciating that individuals who experience workplace harassment or discrimination are often reluctant to report it.

14. The Executive, Board Members, the CEO are expected to contribute positively to the development of an environment in which workplace harassment does not occur.

The Board of Directors is responsible for:

- a. Ensuring that investigation of formal complaints of workplace harassment is conducted in a sensitive, responsible and timely manner;
- b. Imposing appropriate disciplinary or corrective measures when a complaint of workplace harassment has been substantiated, regardless of the position or authority of the offender;
- c. Supporting and assisting any Worker who experiences workplace harassment by someone who is not an employee or member of the BCS;
- d. Ensuring that this policy is posted on the website and the information is contained in a Handbook;
- e. Appointing case review panels and appeal bodies and providing the resources and support they need to fulfill their responsibilities under this policy;
- f. Maintaining records as required under this policy.

15. A complainant may request the assistance of the CEO in understanding this Policy. The CEO shall inform the complainant of, among other things:

- a. The options to pursue an informal resolution of his/ her complaint;

- b. The right to make a formal written complaint under this policy when an informal resolution is inappropriate or not feasible;
- c. The availability of support provided by BCS;
- d. The confidentiality provisions of this policy;
- e. The right to be represented by a person of choice at any stage in BCS's internal complaint process including legal counsel at the complainant's own expense;
- f. The right to withdraw from any further action in connection with the BCS complaint at any stage (even though the BCS complaint might continue to be investigated);
- g. Other avenues including OSIC, the human rights commission/tribunal, or where appropriate, the police (to have them lay a formal charge under the **Criminal Code**).

### **Coach/ Athlete Sexual Relations**

16. BCS takes the view that intimate sexual relations between coaches and adult athletes, while not against the law, can have harmful effects on the individual athlete involved, on other athletes and coaches and on BCS's public image.

BCS therefore takes the position that such relationships are unacceptable for coaches coaching or assisting in any way with a BCS National or Development Team. Should a sexual relationship develop between an athlete and a coach, BCS will investigate, in accordance with this policy and take action, where appropriate which could include reassignment or if this is not feasible or appropriate, a request for resignation or dismissal from employment. A report or complaint may also be made with the OSIC where appropriate, in accordance with BCS's Policy on the UCCMS.

### **Confidentiality**

17. BCS understands that it can be extremely difficult to come forward with a complaint of workplace harassment and that it can be devastating to be wrongly accused of workplace harassment. BCS recognizes the interests of both the complainant and the respondent and, to the extent practicable and appropriate under the circumstances will maintain confidentiality through the process. However, if required by the UCCMS or by law to disclose information, BCS will do so.

### **Complaints and Reports of Workplace Harassment or Discrimination**

18. BCS encourages the reporting of suspected workplace harassment or discrimination.

19. Workers must report workplace harassment or discrimination when they know or ought to know that *another* Worker is being subjected to workplace harassment or discrimination (except in limited circumstances set out in the UCCMS).

### Complaints and Reports to the Office of the Sport Integrity Commissioner

20. Workplace harassment or discrimination may amount to a violation of the UCCMS. For example, sexual harassment is a form of "Sexual Maltreatment", which is a Prohibited Behaviour under the UCCMS. For more information regarding the UCCMS, please refer to the BCS Policy on the UCCMS.

21. When a complaint or report relates to behaviour that violates the UCCMS, the complaint or report must be made directly to the Office of the Sport Integrity Commissioner ("OSIC") (which is the organization responsible for administering, investigating, and enforcing matters under the UCCMS).



22. Currently, OSIC receives complaints and reports through its online complaint intake form (<https://osic-bcis.i-sight.com/portal>). More information about the complaint process is available on the OSIC website (<https://sportintegritycommissioner.ca/process/overview>), and the Canadian Sport Helpline (<https://abuse-free-sport.ca/helpline>) is available for initial triage and assistance with complaint filing.

23. Complaints and reports to the OSIC are investigated and addressed by the OSIC or the Director of Sanctions and Outcomes ("DSO"), as applicable, in accordance with OSIC policies and procedures.

24. BCS will ensure that any sanctions or other measures imposed by the DSO, the Safeguarding Tribunal or the Appeal Panel, including Provisional Measures and any final outcomes, are implemented and respected within the limits of BCS's jurisdiction.

#### Complaints and Reports to BCS

25. Complaints and reports about workplace harassment or discrimination should also be made to BCS. The following sections will establish the practices and procedures that apply to complaints and reports made to BCS. A complaint made to BCS (as opposed to OSIC) will be referred to hereinafter as a "BCS complaint".

#### *The Complaint*

26. Although anyone may report workplace harassment or discrimination, only persons affected by the alleged workplace harassment or discrimination or by the President on behalf of Bobsleigh CANADA Skeleton may make a complaint to the BCS.

27. A complaint to BCS shall be in writing and signed by the complainant or by the President if the complaint is brought on behalf of Bobsleigh CANADA Skeleton or to any other member of the Board of Directors of BCS if the BCS complaint involves the President.

28. The BCS complaint should include particulars of the workplace harassment or discrimination, including details of the incident or incidents, including dates, times, locations, description of action, account of dialogue, the name of the perpetrator(s) and any witnesses or names of other individuals who may also have experienced workplace harassment or discrimination. The complaint should detail any corrective action taken to date.

29. The parties to a BCS complaint are Bobsleigh CANADA Skeleton, the respondent(s) and the complainant(s).

#### *Processing the Complaint*

30. The person responsible for processing the BCS complaint (hereinafter the "**Bobsleigh CANADA Skeleton Official**") shall be the President of Bobsleigh CANADA Skeleton, or where a BCS complaint involves conduct by the President, an alternate appointed by BCS Board of Directors. The President (or alternate) may delegate part or all of the President's (or alternate's) responsibilities under these guidelines (including the OSIC in appropriate circumstances), except to a person against whom the BCS complaint has been made.

#### *Complaint Investigation*



31. The Bobsleigh CANADA Skeleton Official may decide not to deal with a BCS complaint:
  - a. If in the opinion of the Bobsleigh CANADA Skeleton Official the facts alleged in the BCS complaint would be insufficient, if proven, to establish workplace harassment or discrimination under the Bobsleigh CANADA Skeleton Policy or
  - b. If in the opinion of the Bobsleigh CANADA Skeleton Official, the investigation of the BCS complaint would not advance the purpose of the Bobsleigh CANADA Skeleton Policy in the circumstances, because of a significant delay between the alleged events and the time of the BCS complaint.
32. In all other cases the Bobsleigh CANADA Skeleton Official shall investigate the BCS complaint or appoint and provide terms of reference to an investigator who shall investigate the BCS complaint and make findings of fact.
33. Before the investigation begins Bobsleigh CANADA Skeleton Official shall advise each respondent of the BCS complaint and shall provide each complainant and respondent a copy of the written BCS complaint, the Bobsleigh CANADA Skeleton Policy and these guidelines, and the investigation terms of reference, if any.
34. Before the investigation report is issued, each respondent shall have a reasonable opportunity to respond to the allegations. If a respondent declines to do so, or does not respond within the time frame provided, the investigator's report may nonetheless be issued.
35. All participants, including the respondent's must cooperate fully in any investigation under these guidelines.
36. The Bobsleigh CANADA Skeleton Official may consult with the investigator during the course of the investigation, may review the investigation report in draft and may provide additional terms of reference to, or request clarification from the investigator.
37. Where a complaint or report has been made not only to BCS but also OSIC, an investigation conducted or arranged by the OSIC may serve as BCS's investigation (in appropriate circumstances). In those circumstances, the investigation will be governed by OSIC practices and procedures instead of the investigation practices and procedures outlined in this section regarding complaints and reports to BCS.

#### *Assistance to Respondents*

38. A respondent may request assistance of Bobsleigh CANADA Skeleton in understanding these guidelines. Bobsleigh CANADA Skeleton shall refer the respondent to counseling upon request, costs will be incurred by the respondent, and may explore the possibility of alternative forms of dispute resolution with the respondent.
39. Should a respondent choose to retain legal counsel at any stage of a complaint or appeal, it shall be at the respondent's own expense.

#### *Determination Following Investigation*

1. The Bobsleigh CANADA Skeleton Official shall determine whether workplace harassment or discrimination has been established in light of the findings of fact contained in the investigation report and if so, the nature and particulars of the workplace harassment or discrimination.

[Adopted by BCS: February 20, 2023]

Settlement

2. A BCS complaint may be settled at any stage. A resolution agreement should be in writing and signed by all parties.

Mediation

3. Bobsleigh CANADA Skeleton may provide a mediator, if the Bobsleigh CANADA Skeleton Official views mediation as appropriate and if the complainant and respondent are willing to enter a mediation agreement.

Disciplinary Sanctions

4. Within seven (7) days of receipt of the investigation report, the Board of Directors shall consider the recommendations of the Bobsleigh CANADA Skeleton Official and make a decision as to the appropriate sanction that shall be contained in the final report.

5. When determining and recommending appropriate disciplinary action and corrective measures for complaints that were made to BCS but not OSIC, the Bobsleigh CANADA Skeleton Official shall consider all appropriate sanctions based on all relevant and appropriate factors including, but not limited to, the factors identified in the UCCMS.

6. Where a complaint or report has been made not only to BCS but also OSIC, BCS will ensure that all sanctions or other measures imposed by the DSO, the Safeguarding Tribunal or the Appeal Panel, including Provisional Measures and any final outcomes, are implemented and respected within the limits of BCS's jurisdiction.

- a. The complainant will be informed of the outcome of the proceedings and of any discipline or other action taken by the Board of Directors

Grounds for Appeal by Respondent(s)

- a. A respondent(s) may appeal to the Board of Directors, the Bobsleigh CANADA Skeleton Official's determination of a BCS complaint only on the following grounds:
  - i. That the investigation was conducted in an unfair or biased manner contrary to the rules of natural justice (except where the investigation was conducted or arranged by OSIC);
  - ii. That the findings of fact contained in the investigation report are insufficient to support a determination that workplace harassment or discrimination has been established (except where the investigation was conducted or arranged by OSIC).
- b. In an appeal by the respondent, the complainant shall be entitled to participate.
- c. There shall be no appeal from any finding of fact contained in the investigation report.

Grounds for Appeal by Complainants

- a. A complainant may appeal to the Board of Directors, the Bobsleigh CANADA Skeleton Official's determination of a BCS complaint only on the following grounds:
  - i. That the investigation was conducted in an unfair or biased manner contrary to the rules

- of natural justice;
- ii. That the findings of fact contained in the investigation report ought to have resulted in a determination that workplace harassment or discrimination has been established (except where the investigation was conducted or arranged by OSIC).
- b. In an appeal by the respondent, the complainant shall be entitled to participate.
- c. If the complainant is not satisfied with the outcome of the investigation or appeal, the complainant will be reminded of the continuing right to file a complaint with the provincial Human Rights Commission.

Notice of Appeal

- a. The notice of appeal must be made in writing to Bobsleigh CANADA Skeleton within fourteen (14) days of the appellant receiving notice of the Bobsleigh CANADA Skeleton's decision with respect to sanctions, and must state the specific grounds for the appeal.
- b. A copy of the notice of appeal shall be promptly provided to the President of Bobsleigh CANADA Skeleton, if they are not involved as a participant in the case and the Bobsleigh CANADA Skeleton Official involved with the case and to every person entitled to participate as a respondent to the appeal.
- c. No member of the Board of Directors who had any involvement in the complaint or who otherwise is in conflict of interest, shall participate in the deliberations or decisions in the appeal.
- d. The Appeal will be heard in compliance with the Bobsleigh CANADA Skeleton Appeal Policy.
- e. The Appeal Committee shall present its findings in a report to the Board of Directors within ten (10).days.
- f. The Board of Directors shall have the right to accept, reject or vary the recommendations of the Appeal Committee and issue a written report that shall be the final decision of BCS.
- g. A copy of the written report shall be provided, without delay to the complainant and respondent and shall be retained in the files together with the Bobsleigh CANADA Skeleton Official's report and documentation.

Confidentiality

56. To the extent possible, reports, complaints, witness statements and other documents produced under these guidelines shall be held in confidence by Bobsleigh CANADA Skeleton. However Bobsleigh CANADA Skeleton may make no absolute guarantees of confidentiality. Circumstances in which information may be shared include:

- a. When criminal conduct may be involved;
- b. When It is felt to be necessary to protect others from workplace harassment or discrimination;
- c. When required to ensure fairness or natural justices in the procedures contemplated by these guidelines;
- d. In the course of an investigation by a law enforcement agency;
- e. To protect the interests of Bobsleigh CANADA Skeleton;
- f. When required to comply with the UCCMS and the practices and procedures of OSIC and the DSO;
- g. When required by law.