

## 1.1. WHAT IS HARASSMENT?

- 1.1.1. Harassment is any behaviour by a person to whom these Regulations apply which is offensive, abusive, belittling or threatening and is directed at any other person or group of people and which refers to a particular characteristic of that person or group of people.
- 1.1.2. Whether or not the behaviour is "Harassment" is to be determined from the point of view of the person receiving the Harassment. The recipient must consider the behaviour to be unwelcome. It does not matter whether or not the person harassing intended to offend. The behaviour must also be assessed objectively in that it must be the type of behaviour which a reasonable person would find unwelcome.
- 1.1.3. Harassment can be expressed or implied, physical, verbal or non-verbal. Examples include, but are not limited to:
  - (a) Abusive behaviour aimed at humiliating or intimidating;
  - (b) Jokes or comments directed at a person's body, looks, age, race, religion, sexual orientation or disability (this may also be Discrimination);
  - (c) Unwelcome remarks including teasing, name calling or insults (for example to judges or other officials);
  - (d) Innuendoes or taunting;
  - (e) Offensive emails, letters, notes;
  - (f) Displaying offensive materials e.g. posters, computer screen savers;
  - (g) Sexual propositions (see also Sexual Harassment).
- 1.1.4. Harassment includes:
  - (a) Sexual Harassment
  - (b) Discrimination and
  - (c) Abuse.
- 1.1.5. Under these Regulations Sexual Harassment means:
  - (a) an unwelcome sexual advance, or
  - (b) an unwelcome request for sexual favours, or
  - (c) unwelcome conduct of a sexual nature (including a statement, orally or in writing, of a sexual nature)in circumstances where a reasonable person would have anticipated that the person being harassed would be offended, humiliated or intimidated.
- 1.1.6. Sexual harassment is often, but need not be, behaviour which either:
  - (a) Involves blackmail or a quid pro quo, in that the harassment is accompanied by a direct or implied threat, promise or benefit. For example: - a coach who implies that a player's selection in a team is dependent on compliance with a sexual proposition; or
  - (b) For example: - a coach who creates a hostile or sexually permeated environment in that the harassment consists of crude remarks, jokes, the display of offensive material or making the environment uncomfortable.
- 1.1.7. Examples of Sexual Harassment may include:
  - (a) Uninvited touching, kissing, embracing, massaging,
  - (b) Staring, leering, ogling,
  - (c) Smutty jokes and comments,
  - (d) Persistent or intrusive questions about people's private lives,
  - (e) Repeated invitations to go out, especially after prior refusal,
  - (f) Sexual propositions,
  - (g) The use of promises or threats to coerce someone into sexual activity,
  - (h) The display of sexually explicit material e.g. internet use, computer screen savers,
  - (i) Getting undressed in front of others of the opposite sex,

- (j) Invading the privacy of others while showering or toileting,
  - (k) Photographing others while undressing, showering or toileting,
  - (l) Sleeping in close quarters with children without other adults present,
  - (m) The use of offensive emails, letters, faxes, notes,
  - (n) Sexual insults and name calling.
- 1.1.8. Sexual Harassment may be a criminal offence. Examples of such an offence would be indecent assault, rape, sex with a minor, obscene telephone calls or letters. If you have any doubt that an offence may have been committed you should notify the Police.
- 1.1.9. Abuse is also Harassment. Under these Regulations it includes:
- (a) physical abuse (e.g. assault);
  - (b) emotional abuse, (e.g. blackmail, repeated requests or demands);
  - (c) neglect in relationships (i.e. failure to provide the basic physical and emotional necessities of life);
  - (d) abuse of power which the harasser holds over the harassed.
- Examples of relationships in (c) that involve a power disparity include a coach-player, manager-player, employer-employee, doctor-patient. People in such positions of power need to be particularly wary not to exploit this power.
- 1.1.10. Examples of Abuse include:
- (a) Bullying and humiliation of players by coaches;
  - (b) Abuse and insults directed by players or parents at opposing participants;
  - (c) Abuse of umpires by players and coaches;
  - (d) Physical intimidation of other players while in competition;
  - (e) Practical jokes which cause embarrassment or which endanger others' safety.
- 1.1.11. Some forms of abuse may constitute a criminal offence, for example assault. If you have any doubt that an offence may have been committed you should notify the Police.
- 1.1.12. Harassment is an offence under these Regulations and will be dealt with in accordance with these Regulations.

## 1.2. WHAT IS DISCRIMINATION?

- 1.2.1. Discrimination is treating or proposing to treat a person less favourably than someone else in certain areas of public life on the basis of an attribute or personal characteristic they have.
- 1.2.2. The attributes or characteristics are:
- (a) Age;
  - (b) Disability – this includes loss of bodily function (e.g. deaf or blind), presence of disease (e.g. hepatitis or HIV), loss of part of the body, disfigurement, malfunction of part of the body, psychological disease, slow learning difficulties;
  - (c) Marital status – this covers whether the person is single, married, de facto, married but living separately from one's spouse, divorced, or widowed;
  - (d) Parental/Carer status – this includes whether the person is a step parent, adoptive parent, foster parent or guardian and also includes whether the person is childless or is a carer (e.g. of children, or other dependents);
  - (e) Physical features – this includes a person's weight, size, height and other physical features;
  - (f) Political belief/activity;

- (g) Pregnancy – this includes whether the person is with child, has the supposed signs or symptoms of pregnancy (e.g. large stomach, morning sickness);
  - (h) Race;
  - (i) Religious belief/activity;
  - (j) Sex or gender;
  - (k) Sexual orientation.
- 1.2.3. The areas of public life in which discrimination under these Regulations are not permitted are in:
- (a) employment (including unpaid employment) by NNZ, a Regional Entity or a Netball Centre;
  - (b) the provision of goods and services by NNZ, a Regional Entity or a Netball Centre;
  - (c) the selection or otherwise of any person for competition (domestic or international) by or on behalf of NNZ, a Regional Entity or a Netball Centre;
  - (d) the entry or otherwise of any player or other person to any competition held by or under the auspices of NNZ, a Regional Entity or a Netball Centre (note the exception in paragraph 3.6.9 of these regulations);
  - (e) membership (including the rights and privileges of membership) of NNZ, a Regional Entity or a Netball Centre.
- 1.2.4. Not only is Discrimination unlawful, but NNZ also considers it is wrong. It denies people a chance by judging them on the basis of stereotypes or having assumptions about what they can or cannot achieve.
- 1.2.5. Discrimination also includes indirect discrimination. This is where a person imposes or intends to impose a requirement, condition or practice which on its face is not discriminatory, but it has the effect of discriminating against a person(s) with a particular attribute.
- 1.2.6. Discrimination also includes victimisation. This is where a person is subject to or suffers any detriment or unfair treatment, because that person has or intends to pursue their legal rights under any legislation or these Regulations.
- 1.2.7. Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination, is also Discrimination.
- 1.2.8. In addition to the description of Discrimination in paragraphs 3.6.1 to 3.6.7, any behaviour or conduct which is discrimination under the *Human Rights Act 1993* or the *Employment Relations Act 2000* is discrimination for the purposes of these Regulations.
- 1.2.9. Discrimination **is** permitted if one of the exemptions under the *Human Rights Act* applies. These include the following:
- (a) in relation to participating in any competitive sporting activity (such as a netball) discrimination on the basis of a person's sex **is** permitted if the strength, stamina and physique of the competitors is relevant. However this exception cannot be used to discriminate against the coaching, umpiring or administering of a competitive sporting activity (eg netball);
  - (b) for reasons of health and safety, Discrimination because of a person's disability is permitted if there would be a risk of harm to that person or to others if they were to take part in the competitive sporting activity, and it is not reasonable to take that risk (for example a risk of infecting others with an illness).
- 1.2.10. Discrimination is an offence under these Regulations (see Part 3.8) and will be dealt with in accordance with these Regulations.