

DEVONPORT BASKETBALL CLUB



Anti discrimination, Harassment and Bullying Policy

Purpose

Devonport Basketball Club (DBC) is an Equal Opportunity Organisation. The club will be managed with a positive awareness of the spirit and intent of equal opportunity and the relevant anti-discrimination, harassment and bullying legislation. DBC considers discrimination, harassment and bullying as unacceptable behaviour. It will not be tolerated under any circumstances. DBC acknowledges that all members are entitled to work in an environment free from discrimination, harassment and bullying.

Policy

DBC aims to:

- Create a work environment that is free from discrimination, harassment and bullying;
- Treat any complaint regarding discrimination, harassment and bullying sympathetically;
- Investigate complaints of discrimination, harassment and bullying thoroughly and confidentially;
- Implement training and raise the awareness of the benefit of discrimination, harassment and bullying free workplace;
- Guarantee protection from victimisation and reprisals for making complaints;
- Promote appropriate standards of conduct at all times.

Any person found to have discriminated, harassed and or bullied another member or any person found to have victimized another member for making a complaint in relation to discrimination, harassment and bullying will face disciplinary action, which may include expulsion from DBC.

What is Discrimination?

Discrimination occurs when a person or group is disadvantaged on the basis of an identifiable characteristic where persons without that characteristic are not disadvantaged. Such discrimination will be unlawful where it occurs in an 'area of life' that is regulated by anti-discrimination legislation such as 'work' and it relates to prohibited ground. Prohibited ground include; sex, gender, marital status, family responsibilities, race, ethnic decent, religious beliefs, pregnancy, disability / impairment, political beliefs, union membership and irrelevant criminal records. There are 2 forms of discrimination under the relevant legislation, 'direct' and 'indirect'.

Direct Discrimination occurs when a person or group of people is treated less favorably because of a particular attribute where persons without that attribute are or would be treated more favorably in the same or similar circumstances. For discrimination to be unlawful, it must be based on prohibited ground such as those mentioned previously.

Indirect discrimination is subtle, and often hard to identify in practice. Indirect discrimination refers to practices or policies which, while appearing to treat everyone equally, actually operate indirectly to disadvantage one group or persons over another.

What is Harassment?

The term harassment generally refers to unwelcome or unsolicited conduct that intimidates, humiliates or offends the person at whom it is directed.

Sexual harassment is, essentially, unwelcome conduct of a sexual nature. Sexual harassment is unwelcome when it is not invited or solicited by the person on the receiving end of the conduct and, that person regards the conduct as undesirable or offensive. The Federal Sex Discrimination Act 1984 (Cth) provides that a person sexually harasses another if the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed or engages in other unwelcome conduct of a sexual nature in relation to the person harassed. Sexual harassment is generally deemed to have occurred in situations in which a reasonable person, having regard to all circumstances, could have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed.

Sexual harassment can involve physical, visual, verbal or non verbal conduct which includes:

- Unwelcome touching;
- Unwelcome and personally offensive remarks of a sexual nature;
- Repeated requests for dates/relationship after prior refusal;
- Offensive hand or body gestures;
- Offensive, humiliating or intimidating displays of sexually graphic material including posters, pictures, cartoons, graffiti or messages left on boards, desks, or lockers or sent directly to an individual. This includes material sent via e-mail or any other electronic means.

Sexual Harassment is not just unlawful whilst at this club. Behaviour that constitutes sexual harassment is illegal during any club related function and will be subject to disciplinary action.

Disability harassment: The federal Disability Discrimination Act 1995 prohibits harassment against a person with a disability, and/or his or her associate, in a similar way to the sexually harassment provisions in the Sex Discrimination Act 1984 (Cth).

Racial hatred and vilification legislation, in general terms, makes it unlawful for a person, by public act, to incite hatred, serious contempt or severe ridicule of a person or group of persons on the ground of their race.

Victimisation occurs when a person subjects, or threatens to subject, another person to harm/disadvantage on the basis that the person has made or intends to make a complaint of either discrimination or harassment. Victimisation of a person is prohibited under relevant anti-discrimination legislation.

What is Bullying?

Bullying is any type of behaviour, or series of similar or different behaviours, that unfairly or unreasonably puts down, belittles, undermines, controls, abuses, scares, intimidates, excludes, offends or embarrasses a person or persons. Depending on the particular circumstances, any of the following could be deemed as bullying:

- Shouting or swearing at someone
- Threatening to make or actively make a person's work or home life difficult
- Abusive, belittling or intimidating phone calls, emails, notes etc.
- Teasing, baiting or practical jokes
- Gossiping behind someone's back
- Ignoring or isolating someone
- Deliberately excluding someone from consultation / communication about relevant club issues.
- Standing in someone's way or deliberately blocking their path
- Inappropriate or unfair criticism or punishment

Note: The following behaviours are not bullying:

- Fair and appropriate supervisory or management instructions delivered in a fair and appropriate manner (e.g. without any belittling, sarcasm and or aggressive/abusive behaviour).
- Performance management or counselling and disciplinary proceedings conducted in a similarly fair manner.

What to do if you believe you have been a victim of discrimination, harassment and/or bullying.

DBC recognises that lodging a complaint in relation to discrimination, harassment and or bullying can be a difficult and uncomfortable task. The guidelines below endeavor to make such a task less difficult in an effort to keep all DBC activities and facilities free from discrimination, harassment and bullying.

DBC will ensure that a Complaints Officer is appointed and that this person is clearly identified to members. The role of the Complaints Officer is to primarily advise members of their legal rights and obligations relating to discrimination, harassment and bullying and to have a major role in the investigation and resolution of any complaints that are lodged. Within DBC the President is the Complaints Officer or in her absence, the Vice President.

DBC has also appointed Contact Officer(s). As a Contact Officer, the individual in most instances will be the first person with whom a member will be talking about their complaint. It is a responsibility of each Contact Officer to ensure that the following procedures are adopted when a member reports any form of discrimination, harassment or bullying. Within DBC, each executive member is a Contact Officer.

If you are faced with a situation in which you believe you are being discriminated against, harassed and or bullied you should act immediately and decisively. Initially, the suggested steps are as follows:

1. Don't delay telling the offender of your objection to the behaviour and that you don't want it repeated. If you do not feel comfortable confronting the alleged offender, go straight to step B & C.
2. Record what took place, who was involved, where the incidents occurred, any witnesses and any other observations?
3. In all instances, advise the most appropriate Contact Officer about the incident and provide him/her with the details as recorded in step B.
4. All allegations and associated details are to be referred to the Complaints Officer (via the contact officer). The Complaints Officer, together with the Contact Officer, will then investigate the incident(s) as per procedures documented below.

Investigation Procedure

The **Contact Officer** will:

1. Take the complaint seriously and put the complainant (staff member lodging the complaint) at ease by acknowledging that bringing forward a complaint is a difficult thing to do and that it is normal to feel uncomfortable.
2. Maintain a professional attitude and reassure the complainant that all allegations of discrimination, harassment, and bullying will be investigated thoroughly and confidentially.
3. Be non-judgmental...It is not the Contact Officers job to determine whether the complaint is valid. Their job is to gather the facts necessary to start an investigation into the allegations.
4. Conduct an interview/discussion in order to understand the situation and gather facts.
5. Ask questions in order to get the facts (e.g. "who, what, when, where, why, how.") Other specific questions to be asked:

- Are there any witnesses to the alleged acts of discrimination, harassment and or bullying?
 - Is any other member aware of the alleged acts?
 - Has any other member been discriminated, harassed or bullied by the alleged offender?
 - Is the complainant afraid of retaliation?
 - What does the complainant want to happen to resolve the problem?
6. Make accurate, written notes of the answers obtained at step 5. To assist in this regard, the Contact Officer will confirm with the complainant that the written notes accurately detail the particulars of the alleged incident(s).
 7. Immediately forward the complaint to the Complaints Officer.

The **Complaints Officer** will:

1. Review the notes provided by the Contact Officer and in need clarify information provided.
2. Contact the complainant to arrange a formal meeting to discuss the issue further.
3. Based on the outcome of the meeting, further investigation will be completed by the Complaints Officer, including interviewing relevant witnesses.
4. Having interviewed the relevant witnesses, the Complaints Officer will then interview the alleged offender.
5. Having interviewed the alleged offender and all evidence is to hand, the Complaints Officer will determine if the complaint can be substantiated.
 - If **substantiated**, the Complaints Officer will again contact the alleged offender to arrange a formal meeting to discuss and seek written response to allegations.
 - If **unable to substantiate**, the Complaints Officer will document that a complaint was received and an investigation took place, but it could not be determined if unlawful action(s) and or policy breaches actually occurred. Regardless of not being able to substantiate, the Complaints Officer will re-emphasize to all parties involved in the complaint, DBC's prohibition of discrimination, harassment or bullying in the workplace.
6. If substantiated and having considered the alleged offender's written response to the allegations, the Complaints Officer will determine the appropriate course of action which may include conciliation and or disciplinary action. Depending on the severity of the offender's actions, disciplinary action may include expulsion from the DBC.
7. Ensure complainant is satisfied with the outcome of the investigation:
 - If **satisfied**...consider matter closed
 - If **dissatisfied**...seek to understand complainant's dissatisfaction and re-confirm rationale of outcome.

What if a member tells a executive (or Contact Officer) directly about alleged discriminatory, harassment or bullying conduct by someone in the club, but they don't want to make a formal complaint? For example, they want to "deal with it" themselves without stirring trouble.

In such situations the member's wishes should be respected. However, if a Contact Officer knows of this situation occurring, a confidential meeting with the member should be held where they are informed of their rights, as per DBC policy and relevant legislation. The Contact Officer should then record basic details of these discussions so that follow up can be completed to ensure the situation has been effectively resolved. To this extent a meeting with the member (at an appropriate time) is to be scheduled to make sure that the alleged offensive behaviour is not continuing and that there has been no detrimental effect of club harmony or productivity. The Contact Officer should step in only if the situation remains unresolved.

What if it can't be determined that discrimination, harassment or bullying occurred?

Discriminatory conduct, and especially sexual harassment, often happens in private and with no witnesses. Regardless of a thorough investigation, there may be cases where it is impossible to tell what really happened. It may be a case of one member's word against another's with no other supporting evidence. In these circumstances there are still some steps that can be taken, even if it cannot be proven that discrimination, harassment or bullying actually took place. At the very least, the Complaints Officer should re-emphasise to all parties involved in the complaint DBC's prohibition of discrimination, harassment and bullying in the workplace. In addition it should be documented that a complaint was received and an investigation took place, but it could not be determined if unlawful action(s) actually occurred.

What records of Formal Complaints/Grievances are kept on file?

Once a case is finalised, all records (e.g. interview notes and statements) need to be kept on file for 7 years. If a grievance is subsequently lodged with the Human Rights and Equal Opportunity Commission or the Tasmanian Anti-Discrimination Commission, DBC will need access to the information in order to demonstrate the steps taken to deal with the matter.

What records of Informal Complaints/Grievances are kept on file?

Informal complaints/grievances may occur where a member wishes to seek advice but no further action or investigation. If informal measures have been used to resolve a situation, only limited records are required to be kept. Essentially the Contact Officer needs to keep a record so that they can follow up to ensure the situation has been effectively resolved. A brief summary of the alleged incident along with an agreed course of action should be recorded. If the grievance is subsequently formalized, this can be used to demonstrate that steps were taken to deal with the matter when it was first raised.

Important: It is inappropriate to keep potentially damaging records containing unsubstantiated claims against members, particularly if they have no knowledge that the record exists and have not been given the opportunity to refute it. A department where the incident occurred should be noted. Recording the name of the individual who has raised their concern should only be done with their specific consent.