



ONTARIO TENNIS ASSOCIATION

HUMAN RESOURCES POLICIES & PROCEDURES

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POLICY STATEMENT

The objective of this policy is to provide a work environment that fosters mutual respect and working relationships free of abuse. Some behaviours that are defined as abuse can also constitute harassment when the behaviour breaches human rights or appropriate relationship boundaries. The Ontario Human Rights Code states that prohibited grounds of discrimination are those that are based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status or handicap.

This policy applies to all employees of the Ontario Tennis Association (OTA), as well as to all directors, officers, consultants, volunteers, coaches, athletes and officials associated with specific OTA activities (collectively referred to in this policy as "members" of the OTA).

The OTA prohibits and will not condone any form of abuse or neglect, whether physical, emotional or sexual, of any participant of any age in any of its programs. The OTA expects every employee and member to take all reasonable steps to safeguard the welfare of OTA participants and to protect them from any form of maltreatment. The OTA encourages the reporting of all incidents of abuse, regardless of who the offender may be.

Allegations of abuse or neglect will be dealt with in accordance with the OTA's complaint procedures as set out in this policy.

This policy applies to abuse occurring during the course or in conjunction with any OTA business, activities or events.

Notwithstanding this policy, every person who experiences abuse continues to have the right to seek assistance from the police, their provincial child protection authority, and their provincial human rights commission, even when steps are being taken under this policy.

GUIDELINES

1. Abuse is any form of physical, emotional and/or sexual mistreatment or lack of care which causes physical injury or emotional damage. Abuse may be perpetrated by an adult or a child, and the victim may be an adult or a child.
2. Child abuse raises distinct issues and triggers unique legal obligations. A common characteristic of all forms of abuse against children and youth is an abuse of power or authority and/or breach of trust



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by an adult over a child. In Ontario, a person is considered a child, for purposes of triggering a legal obligation to report child abuse, if this person is under 18 years of age

- Physical abuse occurs when a person purposefully injures or threatens to injure another person. This may include slapping, hitting, shaking, kicking, pulling hair or ears, throwing, and shoving, grabbing, hazing or excessive exercise as a form of punishment.
- Emotional abuse is a chronic attack on a person's self-esteem. It is psychologically destructive behaviour. It can take the form of, among other things, name-calling, threatening, ridiculing, berating, intimidating, isolating, hazing or ignoring the person's needs.
- Sexual abuse is when a person, without their consent, is used by another person for his or her own sexual stimulation or gratification. Children under 14 are deemed not to consent to sexual touching by an adult. Children under 18 are deemed not to consent to sexual activity by an adult who is in a position of authority or trust. There are different types of sexual abuse, some of which involve physical contact, and some of which do not. Sexual abuse that does not involve physical contact includes making obscene remarks, voyeurism, showing pornography, forcing a person to watch sexual acts, asking sexually intrusive questions or making sexually intrusive comments, and forcing a person to pose for sexual photographs or videos.
- Neglect is chronic inattention to the basic necessities of life such as clothing, shelter, nutritious diets, education, good hygiene, supervision, medical and dental care, adequate rest, safe environment, moral guidance and discipline, exercise and fresh air. This may occur in tennis when injuries are not adequately treated or players are made to play with injuries, equipment is inadequate or unsafe, no one intervenes when team members are persistently harassing another player, or road trips are not properly supervised.
- Abuse and neglect may be inflicted directly or indirectly, and through any means of communication, including through electronic communications.

RESPONSIBILITY

- The OTA President and the OTA Executive Director are responsible for the implementation of this policy. In addition, they are responsible for:
 - ensuring that the Board appoints an **OTA Abuse & Harassment Officer**, herein referred to in this document as "**Officer**";



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- discouraging and dealing with abuse within the OTA;
 - ensuring that formal complaints of abuse are investigated in a sensitive, responsible, and timely manner;
 - imposing appropriate disciplinary or corrective measures when a complaint of abuse has been substantiated, regardless of the position or authority of the offender;
 - providing advice to persons who experience abuse;
 - doing all in their power to support and assist any employee or member of the OTA who experiences abuse by someone who is not an employee or member of the OTA;
 - making all employees and members of the OTA aware of the problem of abuse, including, sexual abuse, and of the procedures contained in this policy;
 - informing both complainants and respondents of the procedures contained in this policy; and
 - regularly reviewing the terms of this policy to ensure that they adequately meet the organization's legal obligations and public policy objectives.
2. Every employee and member of the OTA has a responsibility to play a part in ensuring that the OTA sport environment is free from abuse, by complying with this policy.
 3. Employees or members of the OTA against whom a complaint of abuse is substantiated may be severely disciplined, up to and including employment dismissal or termination of membership.

CONFIDENTIALITY

1. The OTA understands that it can be extremely difficult to come forward with a complaint of abuse and that it can be devastating to be wrongly convicted of abuse. The OTA recognizes the interests of both the complainant and the respondent in keeping the matter confidential.
2. However, abuse allegations must be dealt with in a forthright and fair manner. This includes an obligation to share relevant information with child protection authorities and police, and to be fair to the alleged abuser by providing sufficient information about the allegation that concerns them to enable them to respond properly. In many cases, this will mean that anonymity is not feasible or fair. However, employees and members can be assured that the OTA will take all possible steps to preserve confidentiality to the extent reasonably possible. Where information pertaining to allegations is disseminated, the status of the allegations as being allegations only should be articulated.

REPRISALS AND FALSE ALLEGATIONS



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1. A person who makes a complaint of abuse, whether under this policy or otherwise, should not be penalized for doing so. Retaliation against an individual for having filed a complaint or for having participated in any procedure under this policy will not be tolerated and will be treated as a disciplinary offence.
2. The making of false, frivolous or malicious allegations of abuse by another person will likewise be treated as a disciplinary offence.

REFERENCE POLICIES

N/A

COMPLAINT PROCEDURE

1. Individuals who believe they have been subjected to abuse, which includes discrimination or harassment, should immediately report the incident to the Officer. All complaints will be promptly and thoroughly investigated. The OTA will treat such complaints as confidentially as possible, releasing information only to those with a need or right to know.
2. Any person who observes or becomes aware of any discrimination or harassment should immediately advise the Officer. No person should assume that the OTA is aware of the problem.
3. A person who experiences harassment is encouraged to make it known to the harasser that the behavior is unwelcome, offensive, and contrary to this policy.
4. If confronting the harasser is not reasonably possible or if after confronting the harasser the harassment continues, the complainant should seek the advice of the Officer.
5. The 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 counseling and other support provided by the OTA;
 - the confidentiality provisions of this policy;
 - the right to withdraw from any further action in connection with the complaint at any stage (even though the OTA might continue to investigate the complaint); and



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- 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.
6. There are four possible outcomes to this initial meeting of complainant and the Officer.
- a) *The complainant and officer agree that the conduct does not constitute harassment.*
 - If this occurs, the 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 Officer will assist the two parties to negotiate a solution acceptable to the complainant, or may assist the complainant with informal means of resolving the complaint. If desired by the parties and if appropriate, the Officer may also seek the assistance of a neutral mediator.
 - If an informal resolution yields a result, which is acceptable to both parties, the 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 may reserve the option of laying a formal written complaint.
 - If an informal resolution is not achieved, and the complainant does not file a written complaint, a record of his or her dealings with the Officer will be kept by the Officer. Such record will be confidential.
 - c) *The complainant brings evidence of harassment and decides to lay a formal written complaint.*
 - If this occurs, the 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 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 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.



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- When the Officer decides that the evidence and surrounding circumstances require a formal written complaint, the Officer will issue a formal written complaint and, without delay, provide copies of the complaint to both the complainant and the respondent. In such cases, the procedures in Sections 7 to 16 below shall apply.
7. As soon as reasonably possible after receiving the written complaint, but in any case within 21 days, the Officer shall submit a report to the Executive Director of the OTA and the President, containing the documentation filed by both parties along with a recommendation (and reasons for the 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 abuse or harassment; or
 - The complaint should be investigated further.
 - A copy of this report shall be provided and reviewed without delay, to both the complainant and the respondent.
 8. In the event that the Officer's recommendation is to proceed, the OTA President and the Executive Director shall within 14 days appoint three OTA Board members and/or employees to serve as a case review panel. The OTA may also appoint up to two members to the panel from outside the OTA. 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. In the event the respondent is the OTA President or the Executive Director, the Chair of the Executive Committee and the Officer shall make the above appointment.
 9. Within 21 days of its appointment, unless the parties and the review panel agree otherwise, the case review panel shall convene a hearing. The hearing shall be conducted in a manner that is fair to both parties, and shall be governed by such procedures as the review 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 review panel shall select a chairperson from among themselves.
 - A quorum shall be all three-panel members.
 - Decisions shall be by majority vote..
 - The hearing shall be in camera.
 - Both parties shall be present at the hearing to give evidence and to answer questions of the other party and of the panel. Each shall have the right to present evidence and to question and cross-examine witnesses.



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- If the complainant does not appear, the matter may 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 may proceed in any event.
 - A representative or adviser may accompany the complainant and respondent.
 - The Officer shall attend the hearing at the request of the panel.
10. Within 14 days of the hearing, the case review panel shall present its findings in a report to the OTA President and the Executive Director which shall contain:
 - a summary of the relevant facts found by the case review panel, based on the evidence presented at the hearing;
 - a determination as to whether abuse or harassment as defined in this policy has occurred as alleged in the complaint;
 - recommend disciplinary action against the abuse or respondent, if harassment is found to have occurred; and
 - recommend measures to remedy or mitigate the harm or loss suffered by the complainant, if abuse or harassment is found to have occurred.
 11. If the panel determines that the allegations of abuse or harassment are false, vexatious, retaliatory, or unfounded, their report may recommend disciplinary action against the complainant.
 12. A copy of the report of the case review panel shall be provided, without delay, to both the complainant and the respondent.
 13. When determining appropriate disciplinary action and corrective measures, the case review panel shall consider factors such as:
 - the nature of the abuse or harassment;
 - whether the abuse or harassment involved any physical contact;
 - whether the abuse or harassment was an isolated incident or part of an ongoing pattern;
 - the nature of the relationship between complainant and the respondent;
 - the age of the complainant;
 - whether the respondent had been involved in previous abuse or harassment incidents;
 - whether the respondent admitted responsibility and expressed a willingness to change;
 - and whether the respondent retaliated against the complainant.
 14. In recommending disciplinary sanctions, the panel may consider the following options, singly or in combination, depending on the severity of the harassment:



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- a verbal apology;
- a written apology;
- a letter of reprimand ;
- a fine or levy;
- referral to counseling;
- removal of certain privileges of membership or employment;
- demotion or a pay cut;
- temporary suspension with or without pay;
- termination of employment or contract; or
- expulsion from membership

15. Where the investigation does not result in a finding of abuse or harassment, a copy of the report of the case review panel shall be placed in the Officer’s files. These files shall be kept confidential and access to them shall be restricted to the OTA President, the Executive Director and the Officer.
16. Where the investigation results in a finding of abuse or 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.
17. The foregoing procedures are not applicable to cases of suspected Child Abuse and Serious Violence (dealt with below)

PROCEDURES FOR ADDRESSING SUSPECTED CHILD ABUSE

General Principles

1. The child protection authorities and/or police have prime responsibility for the investigation of allegations of child abuse and neglect. This means that any internal OTA investigation will generally be deferred or modified, pending the completion of a related child protection or police investigation. The OTA will work cooperatively with the appropriate child protection authority and police and will share all information relevant to an investigation, to the extent permitted by law.

Receiving a Complaint from a Child



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- An initial disclosure of alleged child abuse must be received and responded to appropriately. Trauma may result from responses that seek to minimize or discount truthful disclosures. Some basic “dos and don’ts” for receiving a child’s disclosure are:

DO	DON'T
Listen to the child.	Lead or suggest answers to the child.
Tell the child who must be notified.	Promise the child not to tell anyone.
Reassure the child that the conduct described is not the child’s fault and that the child has done the right thing by disclosing.	Criticize the child for how or when disclosure has been made.
Speak to the child in private.	Bring the suspected perpetrator in to confront the child.
Determine the immediate safety needs of the child, involving the child in this decision.	Return the child to a risk laden situation.

- Where an employee or member of the OTA has reasonable grounds to suspect that a child has suffered or is at risk of likely suffering child abuse, he or she must report those suspicions and the information on which they are based directly to the provincial or territorial child protection authority. The reporting person may request that one or more representatives of the OTA be present while he or she is making the report to the child protection authority.
- The employee or member must also immediately notify the Executive Director or, if the Executive Director is not available, the President.
- The Executive Director must immediately notify the child’s parents or guardians, unless it would be inappropriate to do so in the circumstances. It may be appropriate in some cases to seek the advice of the child protection authority prior to contacting the child’s parents or guardians.
- The reporting person may need to ask questions of the child or of the child’s parent to clarify the nature of the complaint. Questioning should occur only until the point that the person has a reasonable suspicion that the child has been abused. Any further questioning constitutes investigation, which is the responsibility of the child protection authority or the police. Employees and members of the OTA must avoid interfering with the child protection or police investigation.



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7. The reporting person must document in writing all details of the report and provide a copy to the Executive Director. The Executive Director must write to the child protection authority confirming that the suspicion has been reported, and keep a copy of the letter.
8. The Executive Director shall consult with the child protection authority as to the best way to address the child's continued involvement in OTA activities, if appropriate, and shall follow up with the child protection authority to determine the outcome of the investigation.
9. The OTA shall ensure that support structures are in place for children who disclose alleged abuse.

When an Employee or Member is Suspected

10. Where an employee or member of the OTA is suspected of conduct that may constitute child abuse, the Executive Director must be notified immediately and provided with all relevant information regarding the suspicion. Where the Executive Director is suspected of such conduct, the President must be notified.
11. The subject matter of a complaint should not be discussed with the alleged perpetrator until specific instructions are received from the investigating police or child protection authority.
12. Generally, where abuse has been alleged against an employee or member, the individual should be removed from situations involving unsupervised access to children, pending determination as to whether abuse occurred. Depending on the circumstances, removal may involve reassignment to other duties, suspension with or without pay (if an employee), or immediate termination if, for example, abuse is admitted.
13. The employee or member's status should be reassessed upon completion of any police or child protection investigation, after any criminal charges are laid, after any criminal case is completed, and upon completion of any internal OTA investigation.
14. Any employee or member of the OTA may initiate disciplinary proceedings against a suspected perpetrator of child abuse. However, any Discipline Committee struck must determine whether to defer its investigation or disciplinary proceedings until the child protection or police investigation is complete.
15. Regardless of whether an employee or member of the OTA initiates disciplinary proceedings, the Executive Director must consider whether an internal OTA investigation should be conducted, or



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internal disciplinary proceedings commenced, and determine the appropriate timing of any investigation or proceedings. A criminal conviction or finding of guilt will justify disciplinary action, including termination of employment or membership. The need for a full internal investigation by the OTA may thereby be unnecessary. However, an internal investigation may be required where no criminal investigation or prosecution is initiated, or where criminal charges are withdrawn, stayed or dismissed. This is a recognition that criminal charges involve a different burden of proof, and that different rules of admissibility are applicable in a disciplinary context.

16. Any internal investigation conducted by the OTA and any resulting disciplinary proceedings in connection with alleged abuse should be informed by the desirability of:
- Avoiding or reducing trauma to the child;
 - Respecting the confidentiality and privacy interests of all affected parties, to the extent possible; and
 - Ensuring fairness to the OTA employee or member against whom a complaint has been made.

When a Child is Suspected

17. Where an employee or member of the OTA who is a child is suspected of conduct that may constitute child abuse, the procedures outlined above apply, with necessary modifications. The child protection authority should be contacted about both the victim and the alleged perpetrator, and the parents of both the victim and the alleged perpetrator should be notified.
18. The Executive Director should review the available information to determine whether the alleged perpetrator may continue to participate in OTA activities pending investigation of the matter. Advice of the child protection authority or the police may be sought in this regard.
19. A decision to permit the alleged perpetrator to continue to participate may be made if it is determined, after appropriate consultation, that the alleged perpetrator’s continued involvement is unlikely to be detrimental to the physical or mental well-being of the alleged victim or witnesses or other employees or members, and is in the alleged perpetrator’s best interests. Reasonable conditions may be imposed.

PROCEDURES FOR ADDRESSING SERIOUS VIOLENCE



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1. Incidents of abuse other than child abuse can appropriately be divided into two categories: serious incidents of violence, and less serious incidents. In determining the seriousness of an incident, the totality of the circumstances should be considered, including:
 - The nature of the conduct perpetrated;
 - Whether the conduct would amount to a criminal offence;
 - The impact, including physical and emotional harm, upon the victim and the OTA community;
 - The motivation or underlying causes for the conduct;
 - The ages of the alleged perpetrator and victim;
 - Whether the conduct is isolated or reflects a pattern of misconduct; and
 - Whether the alleged perpetrator acted alone or with others.
2. Uttering threats of serious bodily harm or death, criminal intimidation, assault causing serious bodily harm, sexual assault, arson, robbery, stalking, extortion, gang or group related violence, and hate motivated violence, will almost always be regarded as serious.
3. Fighting not resulting in bodily harm, some violent acts such as throwing objects, some threats and intimidation, and some inappropriate but not criminal behaviour may be regarded as less serious.

Serious Incidents of Violence

4. All serious incidents of violence shall be reported to the police and to the Executive Director or, if the Executive Director is not available, to the President.
5. If a child is involved, the parents or guardians of the child must be contacted with the least possible delay. However, reporting to the police should not be delayed because of the unavailability of a parent or guardian.
6. If, in the course of an investigation, the police need to speak to an employee or member of the OTA regarding alleged abuse, the OTA will cooperate after being informed of the nature of the request.
7. Any employee or member of the OTA may initiate disciplinary proceedings against a suspected perpetrator of a serious incident of violence. However, any Discipline Committee struck must determine whether to defer its investigation or disciplinary proceedings until the police investigation is complete.



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8. Regardless of whether an employee or member of the OTA initiates disciplinary proceedings, the Executive Director must consider whether an internal OTA investigation should be conducted, or internal disciplinary proceedings commenced, and determine the appropriate timing of any investigation or proceedings.
9. Any internal investigation conducted by the OTA and any resulting disciplinary proceedings in connection with alleged abuse should be informed by the desirability of:
 - Avoiding or reducing trauma to the victim;
 - Respecting the confidentiality and privacy interests of all affected parties, to the extent possible; and
 - Ensuring fairness to the OTA employee or member against whom a complaint has been made.

Less Serious Incidents

10. Where a less serious incident of abuse is alleged, the allegations must be reported to the most senior employee of the OTA present at the location of the incident or, if no employee is present, to an employee of appropriate seniority who is familiar with the alleged perpetrator and/or the victim. The employee must determine whether, in all the circumstances, the incident should immediately be reported to the Executive Director for investigation, or whether the incident may properly be investigated and dealt with on the spot by the employee.
11. If the incident is reported to the Executive Director, he or she must consider whether an internal OTA investigation should be conducted, or internal disciplinary proceedings commenced, and determine the appropriate timing of any investigation or proceedings. Such an investigation will generally be informal and expeditious, given the nature of the allegations.
12. If the incident is investigated and dealt with on the spot by the senior employee, the employee must provide a written report to the Executive Director immediately thereafter, explaining the facts and the manner in which the incident was dealt with by the employee. If appropriate, the Executive Director may initiate a further investigation or disciplinary proceedings.



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LIMITATION PERIOD :

Should you be involved in or witness an incident of abuse or harassment as described in this policy, you have one (1) year from the date on which the incident occurs in which to file a report to the Officer.

APPROVALS

President		Date:
on behalf of the Board of Directors		Date: