

# Legal

## **An Action Plan for Playing through the Harassment Zone**

by Gail Forsythe

Operating a golf course can be a dream come true. Beautiful grounds, enthusiastic golfers, and dedicated employees - a business owner's formula for a hole in one! Golf course operation can also be challenging, rewarding and risky. This article is about reducing risks.

For example, most golf course owners or operators are pro-active when it comes to safety. They watch for dangerous hazards on the course. Management also expects employees to speak up if a sand trap turns into dangerous quicksand!

Employees usually know that it is acceptable, and necessary, to bring hazardous situations to management's immediate attention. In these circumstances, employees have to know that management can be trusted to rectify the problem and not "shoot the messenger". Employees are not normally terminated, ridiculed or subject to retaliation if they speak up about a dangerous hazard on the course.

No one wants to see a golfer or an employee injured while enjoying a golf game or working on the course. Savvy golf course owners and operators know that law suits and unfavourable media exposure are a formula for financial and business disaster. It is good business to prevent and quickly resolve dangerous hazards on the course and in the clubhouse. Being proactive protects golfer and employee safety.

Prudent managers would not instruct an employee to remain silent about a potentially dangerous hazard on the course. Nor would a golf course owner instruct a designer to create a course that lacks diversity. Diversity and safety create a rewarding and meaningful golfing experience.

This logic should apply equally to the prevention of other work-related safety concerns; namely, the emotional and physical damage caused by inappropriate, harassing or discriminatory conduct. Ironically, logic disappears when employers and employees are faced with these more personal "hazards" in the workplace. When it comes to harassment or discrimination, the real trap occurs when people put their heads in the sand instead of being proactive.

Owners and operators have a legal duty to provide both a safe golf course and a safe work environment. "Safe" includes freedom from discriminatory or harassing conduct. The courts are also making it clear that employers have a legal duty to intervene and stop harassing conduct. Courts have held employers financially responsible for years of income loss suffered by harassed employees. Such a claim could easily cost a golf course owner or operator \$200,000 in damages, legal costs, and loss of management productivity.

The first step is to acknowledge that human rights issues are important to the successful operation of the clubhouse and the golf course. If asked, most owners or operators would say: "harassment-not at my golf course! We don't tolerate that sort of thing." This response is often sincere and based on the belief that "everything is fine because we have never had a complaint".

Experience demonstrates that this belief is probably inaccurate as well as risky. The reality is that employees remain silent even though they experience harassment or discrimination on a regular basis. Silence, and in some cases, ignoring problems, lulls management into a false sense of security.

This false sense of security is quickly shattered if employees are given the opportunity to express their concerns without the risk of losing their jobs or being labeled a "trouble maker". For example, 80 percent of one group of surveyed employees reported ongoing, upsetting and disruptive harassment in their work environment. Employee complaints included power abuse (personal harassment), racial discrimination and sexual harassment. Before this survey was conducted, management proudly announced that "we have no problems with harassment in our workplace". Management was operating with its head in the sand.

A golf course operator or owner may find it difficult to accept that problems of this magnitude can exist without an employee "speaking up". There are reasons for employee silence. These include fear of:

- embarrassment
- inadequacy
- blame
- anger from management and
- co-workers
- retaliation
- being regarded as a "trouble maker"
- being fired.

It is in every golf course owner's best interests to be informed of employee concerns regarding inappropriate, harassing or discriminatory behavior in the workplace. It makes good business sense to avoid the financial drain and loss of productivity that occurs when employees or golfers are harassed or discriminated against at your course. It makes even more sense to avoid the costly lawsuits, human rights complaints, and media embarrassment associated with complaints that can be prevented. Preventative action, and fair complaint resolution processes, are the keys to avoiding these risks.

Building awareness about the importance of addressing workplace harassment requires a plan of action. An action plan should include:

- educating all managers and employees
- stating, and acting on, your commitment to a healthy workplace
- implementing a policy that includes a fair process
- appointing an external neutral to resolve complaints
- arranging annual employee surveys
- Authorizing independent investigations when necessary
- training policy advisors

An action plan can assist managers and employees to overcome the common and false beliefs that:

- preventative education "creates" complaints;
- workplace discrimination is not a serious issue for golf course operators or owners;
- preventative measures are too "expensive" (how about having to pay thousands of dollars in legal fees if one complaint is improperly handled?)
- a harassment policy "is not necessary"
- "we won't be able to have fun anymore"; or
- we will be "forced" to hire "less qualified" people.

Dangerous hazards on the course may not be obvious. With careful attention to detail, management can identify these hazards and prevent injury. Harassment in the workplace also may not be obvious. For example, management may fail to recognize sexist jokes as a serious form of harassment. Or it may fail to accommodate an employee's disability or religious or medical needs.

Take charge of your golf course-both on the fairways and greens and in the clubhouse. Initiate your action plan to create a safe and healthy workplace today. Take action before a human rights tribunal, a court, or the media do so for you!

**Note: This article is intended for general educational purposes only. It should not be relied upon as legal advice or a legal opinion. Consult a lawyer for specific legal advice.**