

# **The Hong Kong Hockey Association**

## **Sexual Harassment Prevention and Handling Policy**



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### **Introduction**

The Hong Kong Hockey Association (hereinafter named the Association) strives to ensure all parties (including athletes, students, staffs, contract staffs, officials, volunteers, instructors, umpires, coaches, agents and personnel of service providers) can learn, work, engage in hockey activities, and provide service in a safe environment which is free from sexual harassments.

The Association adopts a "Zero- Tolerance Policy" against sexual harassment and aim on prevention. Any party has the right to lodge a complaint should such acts occur. The Association takes measures as far as reasonable and practicable to eliminate sexual harassment including setting up a written policy, and establishing a mechanism to handle sexual harassment complaints.

### **Application**

The Sexual Harassment Prevention and Handling Policy (hereinafter named the Policy) applies to all athletes, students, staffs, officials, volunteers, outside instructors, contract staffs, agents, personnel of service providers, umpires, and coaches. The Policy also applies to sexual harassment acts that happen to the above parties when they participate in hockey activities under the jurisdiction of the Association.

### **Definition of sexual harassment**

1) The following cases constitute sexual harassment:

(a) If any person:

- i) makes an unwelcome sexual advance or an unwelcome request for sexual favours to another person; or
- ii) makes an unwelcome act of a sexual nature to another person,

under circumstances which any reasonable person after considering all circumstances, would have anticipated the other person to be offended, humiliated, or intimidated; or

(b) If any person engages in an act of a sexual nature alone or together with other persons that creates a sexually hostile or intimidating work environment to another person.

2) "Act of a sexual nature" mentioned in paragraph 1(a)(ii) and 1(b) above includes making a statement of a sexual nature of another person, or in the presence of that person, in verbal, written, electronic, or other forms.

3) Although each case shall be determined on its own facts, the following are general examples of sexual harassment for reference:

(a) unwelcome sexual advances - for example: leering and making lewd gestures,

touching, grabbing, or deliberately brushing the body of another person;

- (b) unwelcome requests for sexual favours - for example: suggesting to another person that cooperating sexually or tolerating sexual advances may further his or her career, or allow him or her to gain a qualification;
  - (c) unwelcome acts of a sexual nature in verbal, non-verbal, or physical form - for example: sexually deteriorating or biased statements, persistent query on the sex life of another person; and
- 4) Acts of a sexual nature that creates a hostile or intimidating work environment - for example: making sexual or obscene jokes at the hockey ground, displaying sexually discriminating or offensive images or posters.
- (a) A series of incidents may constitute sexual harassment. But according to the circumstances, it is not necessary for there to be a series of incidents. A single incident may be sufficient to constitute sexual harassment.
  - (b) On the other hand, if a person encounters a collection of incidents in an environment that may not be offensive on a stand-alone basis, but when considered together amount to sexual harassment, then the person might be the victim of a hostile environment.
  - (c) If a person is subjected to unfair treatment or reprisal due to rejecting or lodging complaints against unwelcome acts of a sexual nature, it may constitute discrimination by way of victimization in accordance to section 9 of the Sex Discrimination Ordinance, which is an act of unlawful discrimination.
  - (d) Sexual harassment is not tied to gender. A person can be sexually harassed by a person of the same or different gender.

5) Suggested methods on handling sexual harassments:

A person may consider the following methods when he or she experience sexual harassment:

- Immediately clarify to the harasser that his or her actions are unwelcome and must be stopped.
- Make a written record of the details of the incident, including date, time, location, witnesses and the reaction of the victim.
- Lodge a complaint with the following persons of the Association
- Complaints against athletes or students: the complaint can be immediately lodged with coaches, umpires, or venue staffs, which would then be forwarded to the Council for processing.
- Complaints against coaches, umpires, venue staffs, volunteers, outside instructors, contract staffs, agents, personnel of service providers: the complaint can be lodged with the Honorary Secretary or any Vice President of the Association (Phone number: 2782 4932).

- Complaints against members of the Council: the complaint can be lodged with the President or any Vice President of the Council.
- A complaint may also be lodged with the Equal Opportunities Commission (hereinafter called the EOC) to request investigation and mediation. (Phone number of the EOC: 2511 8211)
- The case should be reported to the police immediately if it includes criminal elements.

Note: You will be providing personal data on a voluntary basis. Personal data collected by the Association will only be used for purposes which directly related to the case. It may be transferred to persons that the Association comes into contact for processing the case. The personal data may also be revealed to the persons authorised to review the verdict of the case when they collect data for the purpose.

## **Standards of The Hong Kong Hockey Association for Handling Sexual Harassment Complaints**

- ◆ Complainants shall provide their actual name, true identity, and a specific method of contact.
- ◆ The Association will investigate suspected sexual harassments on athletes or students even if the subjects had not lodged any complaints.
- ◆ All data and records related to sexual harassment complaints would be confidential, they shall only be revealed to the persons-in-charge of a complaint on a need-to-know basis.
- ◆ The Council of the Association will conduct preliminary investigations on complaints to determine if they have been lodged accordingly, and if they are under the jurisdiction of the Association.
- ◆ If a complaint is accepted, the Association will consult the complainant and the alleged harasser of their will to facilitate the decision on handling the complaint with the Informal Procedure or the Formal Procedure.
- ◆ To facilitate a valid and fair investigation, the Association will inform the alleged harasser of the context of the charges, allowing both the complainant and the alleged harasser an equal opportunity to represent their case.
- ◆ The Association will be fair and just when arranging mediations or when during investigations to ensure that both the complainant and the alleged harasser be fairly treated.
- ◆ The Association will protect complainants from harm for lodging complaints, and will ensure that all persons involved be fairly treated.
- ◆ An investigation will only focus on the facts of a complaint; the involved persons will not be required to provide details that are unnecessary.
- ◆ The persons in-charge of handling a complaint (hereinafter called the PIC) cannot be closely related to the complainant or the alleged harasser, nor have a conflict of interest with either party.
- ◆ When handling a complaint, should the collection of personal data become necessary, or when a request for the data or record of the case is received, the Association will observe the provisions and suggestions as per the Personal Data (Privacy) Ordinance, including clarifying the reason and method for the collection of personal data, and that such data will only be used for handling the relevant complaint or appeal.
- ◆ If the complainant or the persons who assisted in handling the complaint are subjected to reprisals due to the complaint, the Association will conduct an immediate investigation. Should the case be substantiated, proper action will be taken on the correspondents, including disciplinary action.
- ◆ If clear evidence proving that a complaint is dishonest in nature after investigation or disciplinary proceeding, the Council may be recommended to take disciplinary action on the malicious complainant.
- ◆ Unless for special reasons, complaints shall be lodged within 12 months of the sexual harassment.

### Classifications of sexual harassment complaints

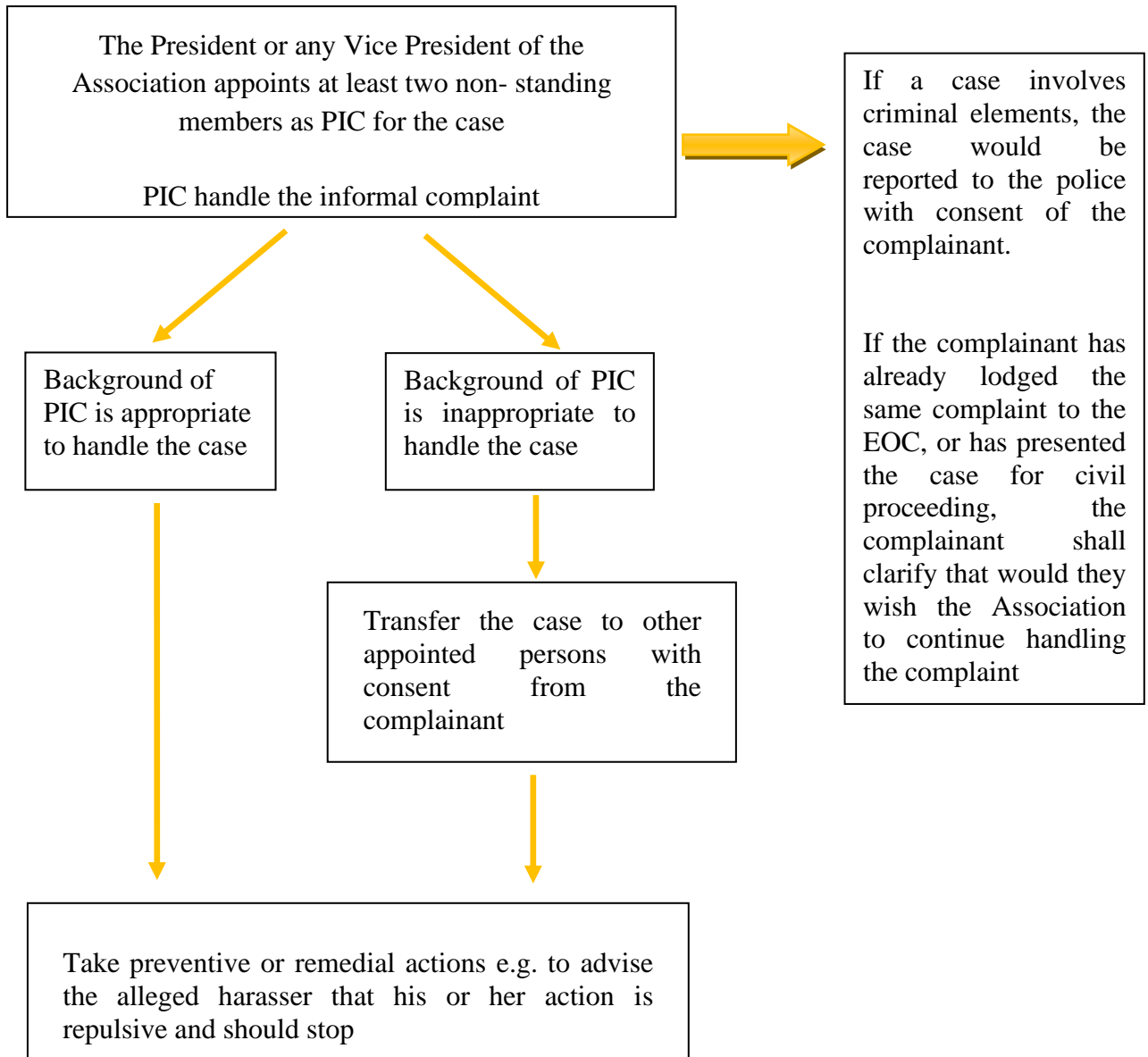
- (a) Two methods exist for handling sexual harassment complaints - formally or informally, depending on whether an investigation would be initiated. Both methods are proper and desirable, with the actual method taken based on the will of the complainant. To avoid misunderstanding on the part of the complainant, upon receiving the complaint, the PIC should explain both methods to the complainant, and ascertain does he or she requests an investigation into the complaint.
- (b) Under normal circumstances, the Informal Procedure is suitable for handling any single incidents. When handling informal complaints, the PIC would follow the procedures set out in Appendix I. The main objective of an informal complaint is to stop the alleged harassment as soon as possible and is not for determining if the allegations are true, there is no need for the thorough investigation of the details of the case. Therefore, the PIC would not initiate the Formal Procedure set out in Appendix II to ascertain the facts of the case.

If the complainant requests his/ her case to be investigated, the complaint would be handled according to Formal Procedure (Appendix II) to ascertain the facts.

**Procedure for Handling Informal Sexual Harassment Complaints**

1. If a complainant does not request an investigation on his or her case, the complaint will be handled using the Informal Procedure. Under normal circumstances, the Informal Procedure is suitable for handling minor and single incidents, but not for more severe and repeated cases of sexual harassment.
2. Experience shows that requesting the harasser to stop his or her harassment as soon as possible is an effective response. Informal action is particularly effective on harassers that did not know that their actions have been offensive. Informal action is effective for resolving sexual harassment cases for the following reasons:
  - (a) it allows prompt action to be taken to stop sexual harassment at the earliest possible stage;
  - (b) it minimizes the distress to the complainant and prevents tension from building up in the surroundings; and
  - (c) it allows the alleged harasser to take positive action to correct or change their behaviour.
3. After receiving an informal complaint, the President or any Vice President of the Council will appoint at least two non-standing members as the PIC for the case. The appointed members shall not be related to the complainant or alleged harasser in blood, nor shall they have conflict of interest. Should a PIC finds himself or herself unfitting for handling the case, he or she should transfer the case to be handled by other persons with consent from the complainant.
4. Under suitable situation or on request of the complainant, the consideration of the gender of the PIC shall be addressed.
5. Informal Procedures will not initiate any internal investigations or disciplinary actions.
6. If a case cannot be resolved by the Informal Procedure, the complainant can submit a written request for Formal Procedure, or lodge a complaint with the EOC, or report the case to the police.
7. If a case involves criminal elements, the Association would report the case to the police with consent from the complainant.
8. If the complainant has already lodged the same complaint to the EOC, or has presented the case for civil proceeding, the complainant shall clarify that would they wish the Association to continue handling the complaint.
9. The PIC should take preventive or remedial actions to handle the problem, for example: telling the alleged harasser on behalf of the complainant that his or her actions are repulsive and should stop.
10. The flowchart containing the key steps of the Informal Procedure is set out in Appendix I (a).

### Flowchart of Handling Procedure for Informal Sexual Harassment Complaints





Procedure for Handling Formal Sexual Harassment Complaints

1. Upon receiving a formal sexual harassment complaint, the President or any Vice-President of the Association will appoint three non-standing members to be the PIC of the case.
2. The PIC shall establish an Investigation Panel (hereinafter called the Panel) and initiate the investigation. One of the PIC should be the Head of Panel, and another PIC should be the Panel Secretary. In addition, the Head of Panel may appoint other members of the Association outside of the Council as Panel Members. The Panel should have no more than seven persons.
3. Panel Members shall not be closely related to the complainant or the alleged harasser, nor have conflict of interest. Should a Panel Member find himself or herself unsuitable for handling the complaint, he or she should transfer the complaint to other persons with consent from the complainant.
4. Under suitable situation or on request of the complainant, the consideration of the gender of the PIC shall be addressed.
5. If the case is considered to contain criminal elements, for example: constitute indecent assault, the Panel should inform the complainant of his or her right to report the case to the police. Should the complaint be transferred to the police, the investigation should be suspended and the PIC shall immediately inform the President of the Association through the Secretariat.
6. The Panel should file the received complaint to facilitate the monitoring of the progress of the handling of the complaint by the President of the Association. All relevant documents and records shall be properly preserved.
7. The panel should initiate the investigation as far as predictable and as soon as possible based on the principles of the Policy and the Formal Procedure. The alleged harasser should also be informed of the initiation of the investigation. The investigation should include the following:
  - (a) Meeting the complainant
    - The nature of the complaint should be determined which include a signed written statement from the complainant.
  - (b) Meeting the alleged harasser
    - The details of the accusation should be given to the alleged harasser in written. A meeting should be arranged for his/ her explanations or views. The content of the meeting should be recorded in written and signed by the alleged harasser as acknowledgement.
  - (c) Provisions for the meetings:
    - As sexual harassment consists of sensitive questions, the complainant and/or alleged harasser who are below the age of 18 are provided the right to request for companions during the process of the meetings. Companions may be an adult relative, a legal guardian, or a registered

social worker.

- As far as predictable, all reasonable measures should be taken to prevent the complainant and the alleged harasser from appearing at a same meeting.
- The Panel Secretary shall record the investigation in a manner that is deemed suitable by the Head of Panel.

(d) Meeting witnesses

- Contents of all meetings should be recorded in written, with the acknowledgment of each of the witnesses in signature.

(e) Verdict and decision:

- Both parties shall be given a chance to explain their case in detail, and comment on the accusation or response of the other party. The Panel will analyse all information and acknowledge the related facts.
  - The degree of evidence required is based on the severity of the complaint, and the verdict should be based on the principle of the balance of probabilities.
  - When determining if an act constitutes sexual harassment, all records and the overall circumstances should be considered.
  - Under necessary circumstances, the Panel may seek legal advice from pro bono lawyers or other professionals.
  - The result of the investigation should be presented to the Council for its consideration of the decision on further actions and whether to take suitable disciplinary action.
8. The Panel should complete the investigation within two months upon receiving the complaint, and provide a response to the complainant. If the investigation cannot be completed within two months, the Panel will notify the complainant and the alleged harasser separately. If the investigation cannot be completed within three months, the President of Association shall be informed through the Secretariat.
  9. During the investigation, if the Panel finds that the same complaint has been lodged to be handled by other statutory bodies or the police, the investigation should be suspended. The Panel should inform the President of the Association through the Secretariat. The investigation should continue after the procedure is completed.
  10. During the investigation, if the Panel finds that the same complaint is under civil proceeding in the District Court, it should suspend the investigation so as not to influence the legal proceeding. The Panel should inform the President of the Association through the Secretariat. The investigation should continue after the civil proceeding is complete.

11. The duty of the Panel is to acquire and inspect all information and evidence to determine if acts of sexual harassment had occurred. The Panel may suggest whether to take disciplinary action on the involved persons in the report presented to the Council.
12. After the Panel has inspected all information and evidence related to the complaint, if the complaint is found to be frivolous, vexatious, based on wrong understanding, or lacks evidence, and that if the complainant does not wish to initiate or continue investigation, the investigation can be terminated. The Panel should inform the Council through the Secretariat. The complainant and the alleged harasser should be notified of the reason behind the decision.
13. After coming to a conclusion for the investigation, the Panel should come to a verdict on if the complaint is substantiated as soon as possible.
14. After receiving the report and suggestions from the Panel, the Council should as soon as possible inform the complainant and the alleged harasser if the complaint is substantiated, the actions that will be taken and disciplinary action be taken if applicable. If the complaint is unsubstantiated, both parties should be informed of the reason and the result of the investigation.
15. If the complainant or the alleged harasser wishes to appeal for the verdict, the appeal shall be lodged in written to the President of the Association within 14 working days upon the reception of the verdict, along with detailed reasons for the appeal.
16. The President of the Association shall create and appoint an Appeal Committee (consisting of one or more standing members of the Council) to review the grounds of the appeal and the report of the Panel.
17. Under normal circumstance, the Appeal Committee shall inform the appellant of its verdict within three weeks. The verdict of the Appeal Committee will be final.
18. If clear evidence proving that a complaint is dishonest in nature after investigation or disciplinary proceeding, the Council may be recommended to take disciplinary action on the malicious complainant.
19. All anonymous complaints shall not be entertained, but the Council may look into the opinions and criticisms from anonymous complaints to facilitate finding rooms for improvement for the Policy or the procedures.
20. Disciplinary Action:
  - (a) The Association will take suitable disciplinary action according to the circumstances if any person is found and proven to have violated the Policy, including reprimand, temporary or permanent termination of his or her status as a student or coach. The Association also has the right to transfer the case to the EOC or the police.
  - (b) The Association will take suitable disciplinary action according to the circumstances on any staff, contract staff, volunteer, outside instructor,

agent, personnel of service provider who is found and proven to have violated the Policy, including verbal or written warning, interdiction, or dismissal. The Association also has the right to transfer the case to the EOC or the police.

21. In accordance to the Sex Discrimination Ordinance section 76 and 86(1), the complainant can bring the alleged harasser to the District Court for civil proceeding for claims before the end of the period of 24 months beginning from the happening of the alleged harassment incident. The details may be inquired from the EOC (Phone number: 2810 2059) or lawyers on the initiative of the complainant.
22. The flowchart containing the key steps of the Formal Procedure is set out in Appendix II (a).

Flowchart of the Procedure for Handling Formal Sexual Harassment Complaints

