



中國香港大專體育協會有限公司

THE UNIVERSITY SPORTS FEDERATION OF HONG KONG, CHINA LIMITED

c/o 1039, Olympic House, 1 Stadium Path, So Kon Po, Causeway Bay, Hong Kong

## **Policy and Guidelines on Prevention of Sexual Harassment**

### **1. Introduction**

The University Sports Federation of Hong Kong, China Limited (USFHK Ltd.) is committed to equal opportunity in sports participation and employment. Any form of discrimination or harassment will not be tolerated. According to the Sex Discrimination Ordinance, sex discrimination and sexual harassment are prohibited by law. Its occurrence may bring adverse effect on the work of the USFHK staff members and the sports participation environment of its students. As such, the USFHK shall take any and all necessary steps to eliminate and prevent its occurrence involving members of the USFHK community.

The USFHK is committed to eliminating and preventing sexual harassment and will not condone any act of sexual harassment committed by its staff (including non-executive members of Council or Committees), coaches and students. A set of procedures on dealing with allegations or complaints of sexual harassment and for providing proper redress if and when harassment occurs is in place to work towards the elimination of harassment. By clearly stating its stance on sexual harassment, the USFHK will fairly handle and investigate any discipline behaviour which violates this policy in accordance with the procedures for handling sexual harassment complaints. Anyone who is found to have contravened this policy will be subject to disciplinary action. The USFHK is committed to the active pursuit of equal opportunity in all areas of its operation, which aims to cultivate a sense of justice, fairness and openness in its community in relation to equal opportunity, gender equality and the furtherance of mutual respect.

### **2. Definition**

2.1 Sexual harassment is discriminatory and unlawful. Section 2(5) of SDO, Cap.480 provides the definition of sexual harassment:

2.1.1 If any person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another person; or engages in other unwelcome conduct of a sexual nature in relation to that person, in circumstances in which a reasonable person, having regard to all the

circumstances, would have anticipated that he/she would be offended, humiliated or intimidated; or

- 2.1.2 The person, alone or together with other persons, engages in conduct of a sexual nature which creates a hostile or intimidating environment for another person.
- 2.2 Sexual harassment covers a wide range of situations:
- 2.2.1 **Regardless of gender:** sexual harassment may occur to any person, regardless of gender; all provisions in the SDO related to sexual harassment and in this policy are applicable to both men and women as well as sexual harassment to persons of the same sex.
  - 2.2.2 **Intention is irrelevant:** even if the act of sexual harassment is not intentional or there is no direct evidence to prove the intention, it amounts to sexual harassment once the act falls within the definition of sexual harassment. Hence, no matter whether the act is intentional or not, or even if the act is of a playful nature, it may amount to sexual harassment.
  - 2.2.3 **Single incident:** a single incident may amount to sexual harassment.
  - 2.2.4 **Power relationship:** Although sexual harassment incidents are usually related to a power relationship, i.e., a more powerful person harassing a less powerful person. It is also possible for a person weaker in power to harass a more powerful person, e.g., an employee harassing the employer.
- 2.3 Some examples of sexual harassment are given below:
- 2.3.1 Repeated attempts to make a date, despite being told "NO" each time.
  - 2.3.2 Comments with sexual innuendoes and suggestive or insulting sounds.
  - 2.3.3 Displaying sexually obscene or suggestive photographs or literature.

### **3. Handling Sexual Harassment**

- 3.1 A person who believes himself/herself to be a victim of sexual harassment should take action immediately. Do not ignore sexual harassment as the harasser may misinterpret a lack of action as approval or condonation of the behaviour. Making a delayed complaint could also cause difficulties to the investigation and the collection of evidence. The Federation shall ensure that no one will be punished because of lodging a complaint in good faith. There is also a time bar for lodging a complaint with the Equal Opportunities Commission (EOC) or to take legal action. If the person who is sexually harassed intends to lodge a complaint with EOC, he/she should take action within 12 months after the incident occurred. Otherwise, EOC will not handle the case unless there are justifiable reasons for the delay. Any decision to take legal proceedings to the District Court should be made within 2 years from the date of the incident.

- 3.2 Every person has a right to lodge a complaint on sexual harassment. A third party who witnesses sexual harassment could also report the incident. When a person is sexually harassed, he/she may take the following actions:
- 3.2.1 Speak up at the time. Tell the harasser that his/her act is unwelcome and should stop immediately.
  - 3.2.2 Keep a written record of the incidents, including the dates, time, location, witnesses and nature (what the harasser has said or done) and the complainant's own response.
  - 3.2.3 Tell someone he/she trusts and ask for emotional support and advice.
  - 3.2.4 Lodge a complaint to the Council Secretary and Executive Committee Chairperson of the Federation.
  - 3.2.5 Lodge a complaint with EOC and request investigation or conciliation. In case conciliation fails, the complainant may request EOC to provide legal assistance (telephone number: 2511-8211). For enquiries or complaints, please refer to EOC's website: <http://www.eoc.org.hk/eoc/graphicsfolder/complaint.aspx>.
  - 3.2.6 Consult a lawyer; report to the police or file a civil law suit against the harasser as the victim may deem fit.
  - 3.2.7 The Federation's internal mechanism for handling sexual harassment complaints does not affect the lodging of complaints with EOC, reporting of incident to the police or filing of lawsuit in the District Court.

#### **4. Mechanism for Handling Sexual Harassment Complaints**

- 4.1 The Federation has established both informal and formal mechanisms for handling sexual harassment complaints. The differences between the two mechanisms are summarized in the following table:

	<b>Informal mechanism</b>	<b>Formal mechanism</b>
Suitability	<ul style="list-style-type: none"> <li>- For relatively minor / single incidents of sexual harassment</li> <li>- When the complainant does not want to start the formal mechanism or wishes to maintain a work relationship with the complainee.</li> </ul>	<ul style="list-style-type: none"> <li>- For more serious or repetitive sexual harassment complaints</li> <li>- When sexual harassment continues or when it is not possible to resolve the conflict by the informal mechanism.</li> </ul>

Committee	- Conciliation Committee / a Conciliator	- Investigation Committee
Process	<ul style="list-style-type: none"> <li>- Explain the process / rules of the meeting (e.g. record, confidentiality)</li> <li>- Find out the complainant's allegations and demands</li> <li>- Explain the different complaint handling mechanisms to the complainant</li> <li>- Try to understand the incident from the complainee's perspective</li> <li>- Resolve the problem through conciliation and reach a settlement if possible</li> <li>- Does not involve an investigation</li> </ul>	<ul style="list-style-type: none"> <li>- Formally interview the complainant and collect a statement</li> <li>- Inform the complaine e about the complaint and give him/her the opportunity to respond to the allegation</li> <li>- Interview witnesses, if any</li> <li>- Collect evidence</li> <li>- Make a finding on the balance of probabilities (i.e. is it more likely than not that sexual harassment has occurred?)</li> <li>- Prepare a written report, giving an account of the investigation outcome, disciplinary actions (if any) and the considerations behind</li> <li>- Inform both the complainant and complaine e of the outcome</li> <li>- Take disciplinary actions and handle appeals (if any)</li> </ul>
Advantages	<ul style="list-style-type: none"> <li>- Potentially quicker to process and to solve the problem</li> <li>- Provides an opportunity to inform the complaine e of the organization's policy and of how their behaviour is affecting others</li> </ul>	<ul style="list-style-type: none"> <li>- Provides a formal record of complaint</li> <li>- Appropriate disciplinary measures / actions may be taken</li> </ul>
Disadvantages	<ul style="list-style-type: none"> <li>- Less easy to monitor</li> <li>- Details of the process and outcome may not be documented</li> <li>- Complaine es may feel that they have been treated unfairly as they have no chance to put the record straight</li> <li>- Effectiveness may be affected by the power dynamics between the parties</li> </ul>	<ul style="list-style-type: none"> <li>- Takes a longer time to process</li> </ul>

- 4.2 When a verbal or written complaint is received, the Federation will pass it to the Council Secretary and Executive Committee Chairperson for consideration. Depending on the seriousness of the complaint and the complainant's wish, either a Conciliation Committee / Conciliator or an Investigation Committee appointed by the Council Secretary and Executive Committee Chairperson will be formed to handle the complaint.
- 4.3 The membership composition of the committees should preferably consist of similar number of both genders. For conciliation, the person or the Committee in charge of the process should be agreed by both the complainant and the complainee, failing which the complaint shall be passed to the Investigation Committee.
- 4.4 If the complainant is a minor, he/she could be accompanied by a parent / guardian / relative to attend meetings related to the complaint.
- 4.5 The Conciliator / Conciliation Committee will keep a brief account of the steps taken to resolve a case. All proceedings of the Investigation Committee will be recorded in a detailed written report.
- 4.6 The Conciliator / Conciliation Committee may propose terms of settlement with the consent of both parties (e.g. requiring the alleged harasser to apologize, to attend counselling sessions, or to pay compensation). If case of sexual harassment is established by the Investigation Committee, the Federation may take appropriate disciplinary measures against the harasser (e.g. requiring the harasser to face dismissal or termination of employment contract, or to be suspended or dismissed from the Delegation depending on the nature of the cases).
- 4.7 Where the behaviours in sexual harassment cases also amount to criminal offences, such as indecent assault, and distribution or display of indecent and obscene articles, the Federation may consider referring the cases to the police on its own motion.
- 4.8 Considering that any delay in lodging a complaint could cause difficulty to the investigation and the collection of evidence, a victim should lodge a complaint within 12 months after the incident occurred. For cases with justifiable reasons, the Federation may at its own discretion consider handling delayed complaints.
- 4.9 If necessary, support and counselling can be offered to the complainant.
- 4.10 A flow chart on handling sexual harassment complaints is appended in the Appendix I & II for reference.

## **5. Principles of Handling Sexual Harassment Complaints**

The Federation shall handle sexual harassment complaints based on the following principles:

- 5.1 **Fairness:** enquiries and complaints should be handled in a just and impartial manner to ensure that the complainant and the alleged harasser are fairly treated, and both parties have chances to present their case.
- 5.2 **Confidentiality:** assurance should be given to complainants that all information and records related to a sexual harassment complaint must be confidential and will only be disclosed to relevant staff members handling the case and the alleged harasser on a need-to-know basis.
- 5.3 **Promptness:** complaints should be handled promptly because both the complainant and the alleged harasser are under pressure. The Federation pledges to deal with complaint cases without any delay.
- 5.4 **Transparent procedures:** the handling procedures related to sexual harassment complaints should be made known to Officers, staff, coaches, members and all other persons related to the Federation.
- 5.5 **Protection for complainants and witnesses:** complainants and witnesses should be protected against victimization, including retaliation. According to section 9 of the SDO, victimization means being treated less favourably after filing a complaint or acting as witness. Victimization is in itself an unlawful act of discrimination.
- 5.6 **Avoiding conflict of interest:** if the staff member who handles the enquiry / complaint case is closely related to the complainant or the alleged harasser (e.g. relatives), or the alleged harasser is the person-in-charge of handling sexual harassment complaints, the case should be handled by another person.
- 5.7 **Anonymity:** in the case of an anonymous complaint, the Federation shall consider the evidence and seriousness of the case before making inquiries or conducting investigations.
- 5.8 **Discretion:** empathy shall be shown to the feelings of complainants (e.g. avoiding asking the complainant to repeat his/her story, appointing investigators of the same sex to interview the complainant) to ensure that the complainant would not be unnecessarily distressed or humiliated. Complaint cases should be handled discreetly such that related parties would not be unnecessarily distressed.

## **6. Measures for Prevention of Sexual Harassment**

- 6.1 The Federation shall promulgate this set of policy and guidelines to all Coaches, Officials and Members to enhance their awareness of sexual harassment prevention. This set of policy and guidelines shall also be uploaded onto the Federation's website for reference and shall undergo review once every six years.
- 6.2 The Federation would provide regular training to staff members to enhance their awareness of sexual harassment prevention. Training would also be provided to staff members who need to handle complaints of sexual harassment.
- 6.3 In the recruitment of coaches, the Federation shall, before offering an appointment to a coach, require him/her to provide proof that he/she does not have any criminal conviction records against a specified list of sexual offences under the Sexual Conviction Record Check scheme. Upon appointment, a coach shall be required to sign an agreement to this set of policy and guidelines. The Federation shall also require all other potential employees who need to be in contact with children or mentally incapacitated persons at work to apply for the Sexual Conviction Record Check before offering appointment to them. If the aforementioned persons are from outside Hong Kong, they shall be required to provide proof issued by their previous country/region of residence to the effect that they do not have any criminal conviction records against sexual offences.
- 6.4 For enquiries or complaints, please feel free to contact the Federation Secretariat at telephone number 2504 8131 or email to [usfhk@hkolympic.org](mailto:usfhk@hkolympic.org).

## 處理性騷擾投訴流程圖 Flow Chart on Handling Sexual Harassment Complaints

投訴人可透過以下途徑作出投訴：

Complaints can be made by the following methods:

- 電郵 Email
- 電話 Phone call
- 書信 Letter



由董事局秘書及執行委員會主席負責處理

Council Secretary and Executive Committee Chairman will be in charge of receiving and handling the cases.

**Name: Dr. Michael TSE**

**Contact: 2817 3835**

**Email: [matse@hku.hk](mailto:matse@hku.hk)**

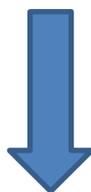
**Address:** Room 1039, Olympic House 1 Stadium Path, So Kon Po Causeway Bay Hong Kong (香港銅鑼灣掃桿埔大球場徑 1 號奧運大樓 1039 室)

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如有需要將轉介中國香港大專體育協會董事局處理

Cases will be reported to the Council of the University Sports Federation of Hong Kong, China for further handling if necessary.

## The University Sports Federation of Hong Kong, China Flowchart on Handling Sexual Harassment Complaints

