



Hong Kong Triathlon Association

Guidelines on Prevention of Sexual Harassment

1. Introduction

The Hong Kong Triathlon Association (the Association) is the sole governing body in Hong Kong for triathlon, duathlon, aquathlon and related multi-sport activities. The Association recognises the rights of all stakeholders, including the right to enjoy a safe and supportive work/sport environment. Sexual harassment will not in any forms be tolerated.

The Association shall ensure that all Officials (including Officers, Committee Members, staff members and members who are involved in the business of the Association), and Members of the Hong Kong, China Delegation (including team delegate, team manager, medical officials, TriHK Staff, sports team officials and athletes) are able to work, conduct activities or deal with sports affairs under the safeguard of the Sex Discrimination Ordinance (SDO), Cap. 480. This set of policy and guidelines on prevention of sexual harassment gives the definition of sexual harassment, explains the principles and mechanism for handling sexual harassment complaints, and provides preventive measures for stakeholders to increase their awareness of sexual harassment prevention.

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 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 with 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:
 - 2.3.2 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 in the investigation and the collection of evidence. The Association 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:

Speak up at the time. Tell the harasser that his/her act is unwelcome and should stop immediately.

- 3.2.1 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.
- 3.2.2 Tell someone he/she trusts and ask for emotional support and advice.
- 3.2.3 Lodge a complaint to the Officers and the Senior Sports Executive (SSE) of the Association.
- 3.2.4 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>.
- 3.2.5 Consult a lawyer; report to the police or file a civil lawsuit against the harasser as the victim may deem fit.
- 3.2.6 The Association's internal mechanism for handling sexual harassment complaints does not affect the lodging of complaints with EOC, reporting of the incident to the police or filing of lawsuit in the District Court.

4 Mechanism for Handling Sexual Harassment Complaints

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

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

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

- 4.2 When a verbal or written complaint is received, the Association will pass it to the SSE for consideration. Depending on the seriousness of the complaint and the complainant's wish, either the Conciliation Committee / a Conciliator would be assigned by the SSE after consultation with the Executive Committee, or the Investigation Committee appointed by the Executive Committee will be formed to handle the complaint.
- 4.3 The membership composition of the committees should preferably consist of a 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 the settlement with the consent of both parties (e.g. requiring the alleged harasser to apologize, to attend counselling sessions, or to pay compensation). If a case of sexual harassment is established by the Investigation Committee, the Association 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 Association 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 in 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 Association 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 Annex for reference.

5 Principles of Handling Sexual Harassment Complaints

The Association 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 Association 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 Association.
- 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 a 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 Association 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 Association shall promulgate this set of policy and guidelines to all Officials and Members of the Hong Kong, China Delegation to enhance their awareness of sexual harassment prevention. This set of policy and guidelines shall also be uploaded onto the Association's website for stakeholders' reference and shall undergo review once every five years.
- 6.2 The Association would collaborate with EOC or other relevant organizations to provide seminars or workshops on the prevention of sexual harassment to stakeholders on a need basis.
- 6.3 The Association 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.
- 6.4 In the recruitment of coaches, the Association 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 Association 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 an 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.
- 6.5 The Association would inform all stakeholders the seriousness and unlawfulness of sexual harassment; all Members of Hong Kong, China Delegation would be required to sign an undertaking on this issue.
- 6.6 For enquiries or complaints, please feel free to contact the Association Secretariats at telephone number 2504 8282 or email to trihk@triathlon.com.hk

Hong Kong Triathlon Association
Flowchart on Handling Sexual Harassment Complaints

