



Hong Kong Sailing Federation Policy and Guidelines on Prevention of Sexual Harassment (Revised in April 2021)

1. Introduction

Hong Kong Sailing Federation (the Federation) 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 Federation is committed to providing a safe and harassment-free environment for the athletes, coaches, employees, Council and Committee Members, and other participants of the sailing or other activities of the Federation. 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 the Sex Discrimination Ordinance (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 or 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 behavior. 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 President (president@sailing.org.hk) or Secretary General (hksf@sailing.org.hk).
- 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 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. When a verbal or written complaint is received, the Federation would, depending on the seriousness of the complaint and the complainant's wish, pass it to either a Conciliation Committee or an Investigation Committee formed by the Federation. The purpose of a Conciliation Committee is to assist the alleged harasser and the victim to reach a settlement. All proceedings of an Investigation Committee will be recorded in a written report.
- 4.2. If a case of sexual harassment is established, the Federation may take appropriate disciplinary measures against the harasser (e.g. verbal or written warning, requiring the harasser to make apologies, to attend counselling sessions, to pay compensation, to face dismissal in serious cases, or to be suspended or dismissed from the Federation's sailing squad depending on the nature of the cases).
- 4.3. Where the behaviors 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.
- 4.4. 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 to handle delayed complaints.

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 will be kept confidential and will only be disclosed to relevant staff members, management and Committee 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. **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 favorably after filing a complaint or acting as witness. Victimization is in itself an unlawful act of discrimination.
- 5.5. **Avoiding conflict of interest:** if the staff member or other person 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.
- 5.6. **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. If the complainant is a minor, he/she could be accompanied by a parent/guardian/relative to attend meetings related to the complaint.
- 5.7. **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 so that related parties would not be unnecessarily distressed.

6. Measures for Prevention of Sexual Harassment

- 6.1. The Federation shall promulgate this policy and guidelines to the athletes, coaches, employees, and members the Federation to enhance their awareness of sexual harassment prevention. This policy and guidelines shall also be uploaded onto the Federation's website for stakeholders' reference and shall undergo review once every five years.
- 6.2. Stakeholders may refer to the International Olympic Committee's website for the Consensus Statement on "Sexual Harassment and Abuse in Sport" and measures for prevention of sexual harassment.
- 6.3. The Federation would collaborate with EOC or other relevant organizations to

provide seminars or workshops on prevention of sexual harassment to stakeholders on a need basis.

- 6.4. In the recruitment of coaches, the Federation would advise all recognized teaching centers, before offering an appointment to a coach, to 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. 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 Federation would inform all stakeholders the seriousness and unlawfulness of sexual harassment.
- 6.6. For enquiries, please feel free to contact the Federation Secretariat at telephone number 2504 8159 or email to admin@sailing.org.hk