

# THE HONG KONG FOOTBALL ASSOCIATION LIMITED

## Policy and Guidelines on Prevention of Sexual Harassment

### 1. Introduction

- 1.1 With the mission and vision of leading the Hong Kong Football Association Limited (“**HKFA**”) to promote and develop football for everyone in Hong Kong, HKFA recognises the rights of all stakeholders to be respected and equally treated, including the right to enjoy a safe and supportive work/ sporting environment. HKFA is committed to eliminating and preventing sexual harassment, and will not tolerate any form of sexual harassment under any circumstances.

### 2. Objectives

- 2.1 The objectives of this set of Policy and Guidelines on Prevention of Sexual Harassment (“**this Policy**”) include:-
- 2.1.1 Ensuring all relevant persons of HKFA, including members of the management, employees, coaches and referees (including persons seeking to be employed by HKFA), members (including prospective members), and other persons who provide or will provide service(s) to HKFA (including volunteers, interns, contract workers or contract service providers or agents), coaches affiliated with different sports clubs in a common workplace, and other service users of HKFA are able to work, receive training, participate in sporting activities or provide/ have access to services in a safe and environment free of sexual harassment under the safeguard of the of the Sex Discrimination Ordinance (Cap.480) (“**SDO**”);
- 2.1.2 Communicating, through effective means, this Policy and the channels to lodge complaints to all relevant persons of HKFA;
- 2.1.3 Providing appropriate induction and training for members of management, employees, coaches, athletes, members, and volunteers in order to raise their awareness on sexual harassment and to nurture the right and proper value of respecting others;
- 2.1.4 Setting up effective channels for lodging complaints, which should be sensitive to the feelings and needs of complainants, in order to make the complaint handling mechanism more user friendly;
- 2.1.5 Handling complaints on the principles of fairness, impartiality and confidentiality, and in a serious and discreet manner; and
- 2.1.6 Ensuring that nobody will be punished because of lodging a complaint in good faith.

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### **3. Obligation and Responsibility**

- 3.1 All relevant persons of HKFA (including the organisation management, employees, coaches, athletes, interns and volunteers) have the obligation and responsibility to prevent and eliminate sexual harassment, including respecting the will and feelings of others, refusing to condone any sexual harassment behaviour, and supporting others to take reasonable steps to stop sexual harassment.
- 3.2 Any relevant person of HKFA can lodge a complaint with HKFA if he / she witnessed any other relevant person of HKFA committ any sexual harassment act or be sexually harassed. Both the complainant and the witness(es) are protected under the SDO. (See7.1.5 below).

### **4. Definition of Sexual Harassment**

- 4.1 Sexual harassment is discriminatory and unlawful. Sexual harassment means a person makes an unwelcome conduct of a sexual nature to another person. The unwelcome conduct includes unwelcome sexual attention, physical contact, talking about issues of a sexual nature, making a sexual advance, or making the environment sexually hostile or intimidating, whether or not the act is intended to be sexual harassment. (See Appendix 1 for Examples of Sexual Harassment)
- 4.2 Section 2(5) of the SDO provides the legal definition of sexual harassment:-
- 4.2.1 If any person (i) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another person; or (ii) engages in other unwelcome conduct of a sexual nature in relation that person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that person would be offended, humiliated or intimidated; or
- 4.2.2 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.
- 4.3 In addition to sections 2(5) of the SDO, sections 2(7), 2(8), 9, 23, 23A, 39, 39A and 40 are also provisions in relation to sexual harassment.
- 4.4 The SDO renders unlawful sexual harassment between persons in an employment relationship, and that between providers and users of goods, facilities or services. The SDO specifically prohibits sexual harassment of club members by club management, and sexual harassment between workplace participants (being an employee, an employer, a contract worker, the principal of a contract worker, a commission agent, the principle of a commission agent, a partner in a firm, an intern or a volunteer) at the workplace where they both work or attend.

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### 4.5 Clarification of common misunderstandings:-

4.5.1 **Regardless of gender:** Sexual harassment may occur to any person, regardless of gender; all provisions in the SDO and this Policy relating to sexual harassment are applicable to both men and women as well as sexual harassment between persons of the same sex.

4.5.2 **Intention is irrelevant:** Even if the act of the sexual harassment is not intentional or there is no direct evidence to prove the intention, it amounts to sexual harassment once the act meets 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.

4.5.3 **Single incident:** A single incident may also amount to sexual harassment.

4.5.4 **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, an athlete harassing a coach, or harassment between athletes and peers.

## 5. Handling Sexual Harassment

5.1 In the unfortunate event a person believes himself / herself to be a victim of sexual harassment, he / she 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. HKFA shall ensure that no one will be punished because of lodging a complaint in good faith.

5.2 There is a time bar for lodging a complaint with the Equal Opportunities Commission (“EOC”) or to take legal action.

5.2.1 If the person who is sexually harassed intends to lodge a complaint with the EOC, he / she should take action within 12 months after the incident occurred. Otherwise, the EOC will not handle the case unless there are justifiable reasons for the delay.

5.2.2 Any decision to take legal proceedings should be made within 24 months after the incident occurred.

5.3 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:-

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

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- 5.3.2 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.
- 5.3.3 Tell someone he / she trusts and ask for emotional support and advice.
- 5.3.4 Lodge a formal or informal complaint with HKFA staff and/or officers or by email to [whistleblowing@hkfa.com](mailto:whistleblowing@hkfa.com). (See section 6 of this Policy)
- 5.3.5 Before deciding to file a complaint at the EOC or not, one may call the EOC's Anti Sexual Harassment Hotline at 2106 2222 to seek information about sexual harassment, including definition of sexual harassment, relevant legal provisions, complaint procedures and other community resources.
- 5.3.6 Lodge a complaint with the EOC and request investigation or conciliation. In case conciliation fails, the complainant may request the EOC to provide legal assistance (telephone number: 2511-8211). For enquiries or complaints, please refer to the EOC's website: <http://www.eoc.org.hk/eoc/graphicsfolder/complaint.aspx>.
- 5.3.7 Consult a lawyer, report to the police (if criminal element is involved) or file a civil lawsuit against the harasser as the victim may deem fit.
- 5.4 HKFA's mechanism for handling sexual harassment complaints does not affect the lodging of complaints with the EOC, reporting of incident to the police and/or filing of lawsuit.

### 6. Mechanism for Handling Sexual Harassment Complaints

- 6.1 HKFA has established both informal and formal mechanisms for handling sexual harassment complaints. The differences between the two mechanisms are summarised 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 alleged harasser, or the complainant's primary concern is to stop the acts of sexual harassment as soon as possible rather than conducting an investigation to prove something</li></ul>	<ul style="list-style-type: none"><li>• For more serious / repetitive sexual harassment complaints</li><li>• When sexual harassment continues or when it is not possible to resolve the conflict by informal mechanism</li></ul>

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	Informal mechanism	Formal mechanism
	inappropriate happened and penalise the alleged harasser	
Designated persons	<p>i) For non-HKFA employees CEO, General Secretary, and/or Head of Corporate Governance (any two)</p> <p>ii) For HKFA employees At least two level up the supervisory chain of the complainant and the alleged harasser, plus CEO, General Secretary or Head of Corporate Governance</p>	<ul style="list-style-type: none"> <li>Investigation Committee appointed by the Board of Directors</li> </ul>
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 alleged harasser's perspective</li> <li>Resolve the problem through conciliation and reach a settlement if possible</li> <li>May include the complainant seeking the advice of the designated persons for handling sexual harassment complaints and then dealing with the situation himself or herself</li> <li>The complainant may ask the designated persons to speak to the other party for them</li> <li>The designated persons may talk to the other party about the matter, ask the other party to stop doing the</li> </ul>	<ul style="list-style-type: none"> <li>Formal interview of the complainant and collect a statement</li> <li>Inform the alleged harasser about the complaint and give him / her the opportunity to respond to the allegation, and collect a statement</li> <li>Interview witness(es), if any, and collect statement(s)</li> <li>Collect evidence (if any)</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 alleged harasser of the outcome</li> <li>Take disciplinary actions and handle appeals (if any)</li> </ul>

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	Informal mechanism	Formal mechanism
	act, and reaffirm the HKFA's policy on zero tolerance of sexual harassment	

- 6.2 When a verbal or written complaint is received, HKFA shall, depending on the seriousness of the complaint and the complainant's wish, handles it either through informal or formal mechanism stipulated in 6.1. If Investigation Committee is to be formed, the membership composition should consist of similar numbers of both genders.
- 6.3 If the complainant is a minor, he / she shall be accompanied by a parent / guardian to attend meetings / interviews related to the complaint to safeguard his / her rights.
- 6.4 For conciliation:-
- 6.4.1 The designated persons in charge of the process shall be agreed by both the complainant and the alleged harasser, failing which the complaint shall be passed to the Investigation Committee.
- 6.4.2 The designated persons may propose terms of settlement with the consent of both parties (e.g. requiring the alleged harasser to apologise, to attend counselling session, and/or to pay compensation).
- 6.4.3 The designated persons shall keep a brief account of the steps taken to resolve a case.
- 6.4.4 The mutually agreed settlement, for instance, the need for making apologies and paying compensation, should be documented.
- 6.4.5 If the complaint is deemed unresolved, the complainant can further pursue the case with the Investigation Committee.
- 6.5 For investigation:-
- 6.5.1 Members of the Investigation Committee shall be appointed by the Board of Directors and the membership composition should consist of similar numbers of both genders.
- 6.5.2 Appointed members can be selected from senior management of HKFA, committees of the Board or the Board of Directors.
- 6.5.3 All proceedings of the Investigation Committee will be recorded in a detailed written report.

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- 6.5.4 If a case of sexual harassment is established by the Investigation Committee, HKFA may take appropriate disciplinary measures against the harasser (e.g. requiring the harasser to face dismissal or termination of employment contract).
- 6.5.5 After the decision is given (including sentencing if any) by the Investigation Committee, the complainant and/or the alleged harasser have the right to appeal to the Appeal Panel within 21 days.
- 6.5.6 The Appeal Panel shall be appointed by the Board of Directors.
- 6.5.7 Membership composition of the Appeal Panel shall consist of Directors of the Board and/or Board Committee members who have not participated in the Investigation Committee and/or any independent individual who the Board of Directors thinks appropriate in handling the case.
- 6.5.8 The membership composition of the Appeal Panel should consist of similar numbers of both genders.
- 6.5.9 The decision of the Appeal Panel shall be final.
- 6.6 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, HKFA may consider referring the cases to the police on its own motion.
- 6.7 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, HKFA may at its own discretion consider to handle delayed complaints.
- 6.8 A flow chart on handling sexual harassment complaints is appended in Appendix 2 for reference.

## 7. Principles of Handling Sexual Harassment Complaints

- 7.1 HKFA shall handle sexual harassment complaints based on the following principles:-
- 7.1.1 **Fairness:** Enquiries and complaints shall 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.
- 7.1.2 **Confidentiality:** Assurance shall 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 handling the case and the alleged harasser on a need-to-know

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basis. Under the principle of natural justice, the alleged harasser shall be informed about the details of the allegation.

7.1.3 **Promptness:** Complaints shall be handled promptly in the interest of both the complainant and the alleged harasser being under pressure from the sexual harassment complaint case.

7.1.4 **Transparency:** Handling procedures related to sexual harassment complaints are included in this Policy, and shall be made known to the management, staff, coaches, athletes, parents of minors, and other related persons in HKFA.

7.1.5 **Protection for complainants and witnesses:** Complainants and witnesses shall be protected against victimisation, i.e. being treated less favourably, including being retaliated (which in itself is an unlawful act of discrimination under section 9 of the SDO), because of the complaint case.

7.1.6 **Avoid conflict of interest:** If the 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 shall be handled by another person.

7.1.7 **Anonymity:** Whether the complaints are anonymous or not, HKFA shall consider the evidence and seriousness of the case before making inquiries and/or conducting investigation. If the complaint (whether anonymous or not) involves a minor a person with disability, the decision to follow up with the complaint or not shall be made more carefully.

7.1.8 **Discretion:** Empathy shall be shown to the feelings of complainants (e.g. documenting information in a complete manner to avoid asking the complainant to repeat his / her unpleasant experience again and again, respecting the complainant's preference in appointing investigators of the same sex to conduct the interview) to ensure that the complainant would not be unnecessarily distressed or humiliated. Complaint cases shall be handled discreetly such that related parties would not be unnecessarily distressed.

## 8. Measures to Prevent Sexual Harassment

8.1 **Responsibility:** It is everyone's responsibility to recognise and take seriously the need to ensure that the workplace and sporting environment are free from sexual harassment, and that everyone should treat all people with respect. In order to do so, the following measures shall be adopted to prevent sexual harassment.

8.2 **Promulgation:** HKFA shall promulgate this Policy to all relevant persons of HKFA on a regular basis. The Policy shall be distributed and explained to all new and existing members of the management, employees, coaches, athletes, entourage members, sport managers, medical and



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therapeutic practitioners, contract service providers, interns and volunteers etc. to enhance their awareness of sexual harassment prevention.

- 8.3 **Regular review:** This Policy shall undergo review no less than once every five years.
- 8.4 **Accessible information:** This Policy shall be uploaded to the HKFA's website for stakeholders' reference. Stakeholders may also refer to the International Olympic Committee's website for the Consensus Statement on "Sexual Harassment and Abuse in Sport"<sup>1</sup>, the Toolkit for "Safeguarding athletes from harassment and abuse in sport"<sup>2</sup>, and measures for prevention of sexual harassment.
- 8.5 **Raising awareness:** HKFA shall collaborate with the EOC or other relevant organisations to provide seminars or workshops on prevention of sexual harassment to stakeholders on a need basis.
- 8.6 **Regular training:** HKFA shall provide regular training to staff members to enhance their awareness of sexual harassment prevention. Training shall also be provided to staff members who need to handle complaints of sexual harassment.
- 8.7 **Designated employees:** HKFA shall designate specific employees to implement specific measures for the prevention of sexual harassment, including but not limited to communicating this Policy to all employees and making sure all managers and supervisors understand their responsibility to provide a harassment-free work environment.
- 8.8 **Recruitment:** In the recruitment of coaches, HKFA shall, before offering an appointment, 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 Policy. HKFA shall also require all other potential employees who need to be in contact with, or provide services relating to, minors and / 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.

## 9. Enquiries

- 9.1 For any enquiries, please feel free to contact the HKFA Secretariat at 2712 9122 or [hkfa@hkfa.com](mailto:hkfa@hkfa.com).

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<sup>1</sup> [https://olympics.com/athlete365?attachment\\_id=14594](https://olympics.com/athlete365?attachment_id=14594)

<sup>2</sup> [https://olympics.com/athlete365?attachment\\_id=39323](https://olympics.com/athlete365?attachment_id=39323)

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### **Appendix 1 – Examples of Sexual Harassment**

- Repeated attempts to make a date, despite being told “NO” each time.
- Comments with sexual innuendos and suggestive or insulting sounds.
- Verbal harassment, including jokes, comments or threats relating to sexual activity, body parts or other matters of a sexual nature.
- Non-verbal harassment, including staring at a person's body in a sexually suggestive manner, sexually-related gestures or motions and/or circulating sexually suggestive material.
- Displaying sexual obscene or suggestive photographs or literature (e.g. displaying nude photos on the computer screen)
- Sending communications of a sexual nature (e.g. via messages, emails).
- Physical conduct, including grabbing, holding, hugging, kissing, tickling, massaging, displaying private body parts, unnecessary touching or other unwelcome physical conduct.
- An employment decision (including promotion, demotion, compensation, scheduling) made by a supervisor based on the employee's submission to or rejection of sexual conduct.
- Submission to sexual conduct as an implicit or explicit condition of getting or keeping a job.

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### Appendix 2 - Flowchart on Handling Sexual Harassment Complaints

