



Hong Kong Squash Policy and Guidelines on Prevention of Sexual Harassment

1. Introduction

With the mission of ensuring squash remains a strong, viable and growing Hong Kong sport and that Hong Kong aspires to be the leaders of squash in Asia, Hong Kong Squash (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 form be tolerated.

The Association shall ensure that all Officials (including Officers, Committee Members, staff members, coaches, referees, persons seeking to be employed by the Association, athletes, members, and prospective members of the Association, and other persons who provide services to the Association (whether voluntary helpers, contract workers, contract service providers/agents or otherwise) are able to work, receive training, participate in sports activities or provide/have access to services in a safe environment free of sexual harassment. This policy and set of guidelines on prevention of sexual harassment gives the definition of sexual harassment, explains the principles and mechanism for handling sexual harassment complaints, and provides 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 that sexual harassment occurs:
 - 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 that person would be offended, humiliated or intimidated; or
 - 2.1.2 If a 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:

- 2.3.1 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 Sending or displaying sexually obscene or suggestive photographs or literature by telephone, letter, email, WhatsApp and by any other means.

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 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:
 - 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 Executive Director (ED) and the Honorary Secretary of the Association.
 - 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 Association's internal mechanism for handling sexual harassment complaints does not affect the lodging of complaints with EOC, reporting of incidents to the police or filing of a 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 	<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

	with the complainee	
Committee	- Conciliation Committee / a Conciliator	- Disciplinary Sub-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 - If primary assessment concludes that nature of complaint is so serious that it may amount to a criminal violation, a decision has to be made whether or not to report the matter to the police, prior to any disciplinary consideration. - 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 it - Inform both the complainant and complainee 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 	<ul style="list-style-type: none"> - Takes a longer time to process

	<p>- Effectiveness may be affected by the power dynamics between the parties</p>	
--	--	--

- 4.2 When a verbal or written complaint is received, the Association will pass it to the ED 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 ED after consultation with the Hon. Secretary (HS), or the Disciplinary Sub-Committee appointed by the HS 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 complaine, failing which the complaint shall be passed to the Disciplinary Sub-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 Disciplinary Sub-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 a case of sexual harassment is established by the Disciplinary Sub-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 behaviour in a sexual harassment case also amounts to a criminal offence, such as indecent assault, and distribution or display of indecent and obscene articles, the Association may consider referring the case to the police on its own motion.
- 4.8 There is a time bar for lodging a complaint with the EOC or to take legal action. 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. Any decision to take legal proceedings to the District Court should be made within 24 months after the incident occurred.
 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 Association may at its own discretion consider to handle delayed complaints.
- 4.9 If necessary, support and counselling can be offered to the complainant.
- 4.10 The specific disciplinary actions to which sexual harassment acts could lead and what the maximum penalty is, for instance, verbal or written warning, attending counseling sessions/anti-sexual harassment training, being dismissed, etc. are at the discretion of the Association. If the case involves possible criminal offences, the organization should

consider reporting it to the police. On top of the aforementioned disciplinary action, the two parties may include other terms in their mutually agreed settlement agreement after conciliation (if they choose to settle the matter through conciliation), for instance, making apologies and paying compensation.

- 4.11 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 occurs when a person is 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 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 policy and set of guidelines to all committee members, staff members, coaches, referees, officials, athletes and members of Hong Kong

Squash to enhance their awareness of sexual harassment prevention. This policy and set of guidelines shall also be uploaded onto the Association'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", the Toolkit for "Safeguarding athletes from harassment and abuse in sport" and measures for prevention of sexual harassment.
- 6.3 The Association will collaborate with EOC or other relevant organizations to provide seminars or workshops on prevention of sexual harassment to stakeholders on a needs basis.
- 6.4 The Association will provide regular training to staff members to enhance their awareness of sexual harassment prevention. Training will also be provided to staff members who need to handle complaints of sexual harassment.
- 6.5 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 policy and set of 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 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 of sexual offences.
- 6.6 The Association will inform all stakeholders of the seriousness and unlawfulness of sexual harassment; all coaches under employment contracts with the Association and members of Hong Kong, China Delegation for major games and/or championships will be required to sign an undertaking on this issue.
- 6.7 For enquiries or complaints, please feel free to contact the Executive Director of the Association at telephone number 2869 0611 or email to emilymak@hksquash.org.hk.

Hong Kong Squash

Flowchart on Handling Sexual Harassment Complaints

