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## **Hong Kong Netball Association ("HKNA") Policy on the Prevention of Sexual Harassment**

This set of policy and guidelines on prevention of sexual harassment (“**Policy**”) gives the definition of sexual harassment, explains the principles and mechanism for handling Sexual Harassment complaints, and provides preventive measures for all individuals associated with netball in Hong Kong to increase their awareness of Sexual Harassment prevention.

This Policy applies to the Hong Kong Netball Association's (“**HKNA**”) operations in its capacity as an employer and the governing body for the sport of netball. It applies to all officials, staff members irrespective of their terms of employment i.e. including short-term contract or part-time staff, coaches, players, members, umpires, officials and to everybody else involved in the activities of the HKNA and netball in Hong Kong.

Sexual Harassment is discriminatory and unlawful and the HKNA has zero tolerance for any conduct that is deemed to be Sexual Harassment in accordance with this Policy and/or pursuant to the Sex Discrimination Ordinance (SDO), Cap. 480 (“**SDO**”).

### **1. Definitions:** In this Policy:

- a. **Sexual Harassment** is defined in section 2(5) of the SDO to occur when:
  - i. A person (“**alleged harasser**”), alone or together with other persons, engages in conduct of a sexual nature which creates a hostile or intimidating environment for another person (“**complainant**”); or
  - ii. a person (the alleged harasser) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another person (the complainant); or
  - iii. a person (the alleged harasser) engages in other unwelcome conduct of a sexual nature in relation to another person (the complainant),

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.

Sexual Harassment covers a wide range of situations:

- i. **Regardless of gender:** Sexual Harassment may be inflicted on any person, regardless of gender; Sexual Harassment is applicable to both men and women and as between persons of the same sex.
- ii. **Intention is irrelevant:** even if the act of Sexual Harassment is not intentional or there is no 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.
- iii. **Single incident:** a single incident may also amount to Sexual Harassment.

- iv. **Powerful 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.
- v. Some examples of Sexual Harassment:
  - A. obscene gestures or inappropriate physical contact, such as hugging, kissing or touching;
  - B. staring or leering;
  - C. sexual propositions or other pressure for sex;
  - D. intrusive questions about one's private life;
  - E. repeated attempts to make a date, despite being told "NO" or otherwise declined each time;
  - F. persistent phone calls, text messages or letters asking for a personal sexual relationship;
  - G. implied or overt threats for sex;
  - H. obscene phone calls or text messages;
  - I. indecent exposure or sexually offensive gestures;
  - J. sexual assault or forced sexual intercourse;
  - K. sexually suggestive comments or jokes;
  - L. displaying sexually obscene or suggestive photographs or literature;
  - M. insults or taunts based on sex; or
  - N. wolf whistling.

## 2. Handling Sexual Harassment

- a. 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 of or condoning their behaviour. Making a delayed complaint could also cause difficulties to the investigation and the collection of evidence.
- b. No one will be punished because of lodging a complaint in good faith.
- c. 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.
- d. Every person has a right to lodge a complaint of Sexual Harassment.
- e. A third party who witnesses Sexual Harassment could also report the incident.
- f. When a person is sexually harassed, he/she may take the following actions:
  - i. Speak up at the time. Tell the harasser that his/her act is unwelcome and should stop immediately.
  - ii. 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.
  - iii. Tell someone he/she trusts and ask for support and advice.
  - iv. Lodge a complaint with the HKNA.
  - v. 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>.
  - vi. Consult a lawyer; report to the police or file a civil law suit against the harasser as the victim may deem fit.
  - vii. The HKNA'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.

### 3. Mechanism for handling Sexual Harassment complaints

- a. If any person considers that he or she has been subject to Sexual Harassment or that unacceptable conduct has occurred, he or she should take the matter up with a member of the Executive Committee of the HKNA (“**ExCo**”) as soon as possible. The President of the HKNA shall determine (in their absolute discretion), in consultation with the complainant, whether the matter should be handled as an informal or formal complaint, taking into consideration the principles set out in section 4 of this Policy.
  - i. *Informal complaint handling* - If the complaint is to be handled as an informal complaint then, subject to paragraph 3(b) of this Policy, the matter shall be dealt with as between the President of the HKNA and the alleged offender on a confidential basis and disclosure of any information shall be strictly on a need-to-know basis only.
    - A. If a case of sexual harassment is established, the President may determine an appropriate disciplinary measure against the harasser (e.g. requiring the harasser to apologize, attend counselling sessions, and/or face suspension or expulsion from any or all HKNA events and competitions in serious cases, depending on the nature of the cases), which must be approved by the ExCo before being imposed.
    - B. The informal complaint handling mechanism is suitable for handling minor and single incidents only.
  - ii. *Formal complaint handling mechanisms* – If a complaint is to be handled as a formal complaint then the complainant must issue a written complaint to the President of the HKNA setting out the details of his or her complaint and the President shall report the matter to the ExCo. The identity of the complainant and the alleged harasser shall remain confidential and only be disclosed on a strictly need-to-know basis.
    - A. A full and impartial investigation shall be conducted as soon as possible. The ExCo shall appoint a panel of at least 3 independent persons, who must not be connected in any material way to the complainant or the alleged harasser, to investigate the complaint. At least one of the panel shall be a committee member of the HKNA. The investigation panel shall comprise panelists of different genders.
    - B. If any of the parties concerned are under the age of 18, their parent or guardian shall be notified immediately of the existence of the complaint and shall accompany them for all discussions and meetings relating to the complaint.
    - C. The complainant(s) will be expected to identify themselves. They will be advised that revealing their identity to those against whom allegations have been made is essential for a fair and proper investigation. Their identities will not however be revealed, without their permission, to anyone else other than the person(s) against whom the complaint is made and those involved in investigating the complaint.
    - D. At the conclusion of an investigation, the panel shall submit a written report to the ExCo. After giving all parties a reasonable opportunity to be heard, the ExCo may determine and impose any appropriate disciplinary action or refer the case to an appropriate law enforcing body. ExCo is not obliged to provide a copy of the written report to the complainant or the accused. Relevant content may be conveyed in summary form or verbally to the complainant and accused as determined appropriate by the panel (subject to para. b(viii) below).

- E. If the evidence so warrants, the ExCo may also take disciplinary action against any person found to have made malicious complaints or to have victimized any persons or breached confidentiality.
- b. Where an informal or a formal complaint has been raised pursuant to this policy, the President, each ExCo member and any HKNA appointed-representative must, to the extent permitted by local laws or regulations:
    - i. Acknowledge the raised concern with the complainant who raised it;
    - ii. Keep the complainant and accused informed of how the case will be handled;
    - iii. Address concerns raised in a timely manner;
    - iv. Investigate the concern objectively in light of the information provided, and take any necessary resulting action;
    - v. Actively discourage malicious or false complaints;
    - vi. Take steps to prevent retaliation against any individual, including the complainant, based on their real or perceived involvement in an investigation. This helps give those involved the confidence to raise genuine concerns without fear of reprisals;
    - vii. Provide to the complainant and the accused the decision made in relation to the complaint. This should include that any action applied as a result of the complaint should remain confidential unless otherwise recommended by the investigation panel in the report prepared in accordance with paragraph 3(a)(ii)(D) herein; and
    - viii. Provide the complainant and the accused with feedback of the investigation outcome. The feedback may be provided verbally. Where they cannot provide full details of the reason for the outcome, the feedback must explain why. In determining what feedback is to be provided to the complainant and/or the accused, ExCo must consider the need for confidentiality and the impact that disclosure may have on the complainant, any witness and/or the accused. It may not be possible to provide full details of the investigation or of any resulting action taken in order to protect confidentiality or for legal or regulatory reasons.
  - c. If the complaint is related to the President or the complainant or alleged harasser is related to or has a personal relationship with the President then the complaint should be directed to the Vice-President of the HKNA who will provide advice to the complainant in confidence. If the same circumstances apply to the Vice-President, the next most senior HKNA officer shall act, and so on.
  - d. All complaints must be treated seriously, handled objectively and care must be taken not to cause unnecessary distress to the persons involved. Both parties to the complaint must be given a reasonable opportunity to present their cases in detail and to comment on the allegations and responses made by the other party.
  - e. The complaint handling procedure of the HKNA does not affect the complainant's rights to lodge complaints with the EOC, file a report with the police or file a lawsuit in the District Court.

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

The HKNA's handling of Sexual Harassment complaints shall align with the following principles:

- a. **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 reasonable chances to present their case.
- b. **Confidentiality:** assurance shall 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 individuals handling the case and the alleged harasser strictly on a need-to-know basis.

- c. **Promptness:** complaints shall be handled promptly. The HKNA pledges to deal with complaint cases without undue delay.
- d. **Protection for complainants and witnesses:** complainants and witnesses shall be protected against victimization, including retaliation, in respect of activities under HKNA's auspices. 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.
- e. **Avoiding conflict of interest:** if the member(s) 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.
- f. **Anonymity:** in the case of an anonymous complaint, the President of the HKNA and the ExCo (if appropriate) shall consider the evidence and seriousness of the case before making inquiries or conducting investigations. If the complainant is a minor, he/she shall be accompanied by a parent/guardian/relative at meetings related to the complaint.
- g. **Discretion:** empathy shall be shown to the complainant (e.g. avoiding asking the complainant to repeat his/her story unless necessary, appointing investigators of the same sex to interview the complainant) to ensure that the complainant is not caused unnecessary distress. Complaint cases should be handled discreetly such that related parties are also not caused unnecessary distress.

## 5. Measures for Prevention of Sexual Harassment

The HKNA shall promulgate this Policy to all officials, employees and other persons, including members and registered players, to whom this Policy and guidelines shall apply. This Policy should be distributed and explained to all new employees (including temporary employees) of the HKNA and members. This Policy shall be uploaded onto the HKNA's website for stakeholders' reference and shall undergo review once every five years.

The HKNA shall provide training for coaches and staff members to enhance their awareness of Sexual Harassment and its prevention. Training will also be provided to staff members who need to handle complaints of Sexual Harassment.

The HKNA may also collaborate with the Hong Kong Sports Institute, the EOC or other relevant organizations to provide seminars or workshops on prevention of Sexual Harassment for staff, coaches, players or members as appropriate.

The HKNA may examine the contents of all computers to ensure that all articles that may possibly lead to Sexual Harassment or improper use of computer technology in the workplace are cleared.

Any enquiries about this Policy should be addressed to the President at [president.hkna@netball.org.hk](mailto:president.hkna@netball.org.hk).

Hong Kong Netball Association

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