



Hong Kong Kendo Association
Sexual Harassment Policy

(Version 1.0)

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(Prepared by HKKA Executive Committee)

Hong Kong Kendo Association
Sexual Harassment Policy

TABLE OF CONTENTS

1	Policy Statement.....	4
2	Policy Objectives.....	4
3	Obligation and Responsibility	5
4	Definition of Sexual Harassment.....	5
5	Examples of Sexual Harassment	7
6	Rights of victim and various actions to be taken.....	7
7	Principles of handling sexual harassment complaints	8
8	Mechanism for handling sexual harassment complaints	9
9	Time bar for lodging a complaint.....	12
10	Disciplinary Action	13
11	Measures to prevent sexual harassment.....	13
12	Related resources.....	15
13	Implementation of sexual harassment policy	15
14	HKKA Contact information	16
	ANNEX A - Sexual Conviction Record Check Scheme Protocol	17
	ANNEX B – Sexual Harassment Compliant Procedure Flowchart.....	20
	ANNEX C – FORM A - HKKA Sexual Harassment Informal Compliers Record.....	21
	ANNEX D – FORM B-1 - HKKA Sexual Harassment Formal Compliers Record.....	23
	ANNEX D – FORM B-2 - HKKA Sexual Harassment Formal Compliers Record.....	25
	ANNEX D – FORM B-3 - HKKA Sexual Harassment Formal Compliers Record.....	26

1 Policy Statement

Every single member of the Hong Kong Kendo Association (HKKA), including members of the management, employees and coaches (including persons seeking to be employed by the organisation), and members (including prospective members) and other persons who provide service to the organization (including voluntary helpers, contract workers/contract service providers/agents), has the right to be respected and be equally treated. Sexual harassment is discriminatory and unlawful that may lead to disciplinary actions of the HKKA as well as even entail civil liability and criminal consequences.

Once an act of sexual harassment occurred, any person of the HKKA has a right to lodge a complaint. The HKKA is determined to eliminate and prevent sexual harassment. This policy clearly conveys the message that sexual harassment will not be tolerated in the HKKA.

2 Policy Objectives

- (i) ensuring all relevant persons of the organisation, including members of the management, employees and coaches (including persons seeking to be employed by the organisation), and members (including prospective members) and other persons who provide service to the organisation (including voluntary helpers, contract workers/contract service providers/agents) are able to work, receive training, participate in sports activities or provide/have access to services in a safe environment free of sexual harassment;
- (ii) communicating, through effective means, the sexual harassment policy and the channels to lodge complaints to all relevant persons of the organisation;
- (iii) providing appropriate training for members of the management, employees, coaches and members (athletes) in order to raise their awareness on sexual harassment and to nurture the right and proper value of respecting others;
- (iv) 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;

- (v) handling complaints on the principles of fairness, impartiality and confidentiality, and in a serious and discreet manner; and
- (vi) ensuring that nobody will be punished because of lodging a complaint in good faith.

3 Obligation and Responsibility

- (i) All relevant persons of the HKKA (including the organisation management, employees, coaches and athletes) 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 behavior, and supporting others to take reasonable steps to stop sexual harassment.
- (ii) Any person of the HKKA can lodge a complaint with the HKKA Executive Committee (EC) dedicated officer of handling sexual harassment complaints if he/she witnessed any other person of the organisation committed any sexual harassment act or being sexually harassed. Both the complainant and the witness(es) are protected under the Sex Discrimination Ordinance (SDO).

4 Definition of Sexual Harassment

I. Definition

- (i) In general, 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, or making a sexual advance. It also amounts to sexual harassment if that other person finds the environment sexually hostile or intimidating.
- (ii) Section 2(5) of Sex Discrimination Ordinance (SDO) provides the definition of sexual harassment. In addition, sections 2(7), 2(8), 9, 23, 39 and 40 are relevant provisions in relation to sexual harassment. Under the SDO, the legal

Hong Kong Kendo Association
Sexual Harassment Policy

definition of sexual harassment is:

- A. If any person
 - (a) makes an unwelcome sexual advance, or an unwelcome request for sexual favors, to another person; or
 - (b) 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
- B. 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.

II. Clarification of common myths:

- (i) **Regardless of gender:** Sexual harassment may occur to any person, regardless of gender; all provisions in the SDO and the HKKA policy related to sexual harassment are applicable to both sexual harassment between men and women as well as between persons of the same sex.
- (ii) **Intention is irrelevant:** Even if the act of sexual harassment is not intentional, 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) **Power relationship:** Sexual harassment incidents are usually related to a power relationship, i.e., the powerful harasses the weak. It is also possible for a person weaker in power to harass a more powerful person, e.g., an athlete harasses a coach; or harassment between athletes and peers. Under such circumstances, the act also amounts to unlawful sexual harassment, which shall be addressed and properly handled by the HKKA.

5 Examples of Sexual Harassment

Some of the examples of Sexual Harassment are shown below:

(Note: Please refer to Preventing and Dealing with Sexual Harassment on the website of the EOC [<http://www.eoc.org.hk/default.asp>] for more relevant examples.)

:

- Implied or overt sexual proposition or other pressure for sex.
- Comments with sexual innuendoes.
- Insulting sounds, catcalls, wolf-whistles directed at an individual.
- Unwelcome inquiries, communications, remarks, jokes, stories of a sexual nature in whatever form.
- Obscene gestures.
- Leering, ogling at a person or part of his/her body.
- Inappropriate touching (e.g. Patting, hugging, kissing, uninvited massaging, deliberately brushing against another's body, pinching) or other unwelcome physical contact.
- Touching or interfering with a person's clothing (e.g. lifting up skirts or shirts, or putting hands in a person's pocket).
- Inappropriate remarks about a person's body, appearance, clothing, sexual relationship.
- Persistent phone calls or sending letters, emails asking for a personal or sexual relationship.
- Pressure to go on dates.
- Displaying sexually obscene or suggestive pictures or written statements.

6 Rights of victim and various actions to be taken

- (i) Every person has a right to lodge a complaint against sexual harassment.
- (ii) 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 be stopped immediately.
 - Keep a written record of the incidents, including the dates, time, location, witnesses and nature (what the harasser has said or done) and his/her own

response.

- Tell someone he/she trusts and ask for emotional support and advice.
- Lodge a formal or informal complaint with the HKKA. An informal complaint can be made verbally to let the parties concerned understand the issue from a different perspective in a communicative approach, and to settle the dispute. A formal complaint is normally made in written form and should be formally investigated in accordance to the general complaint handling procedures. The process and findings of the investigation (including disciplinary actions, if any) should be properly recorded, with recommendations. If the complainant dissatisfies with the outcome of the informal complaint, he/she can lodge a formal complaint.
- Lodge a complaint with the EOC and request investigation or conciliation. In case conciliation fails, the complainant may seek legal assistance from the EOC. Telephone number of the EOC: 2511-8211. For other means of making enquiries or filing complaints, please refer to the EOC website:
<http://www.eoc.org.hk/eoc/graphicsfolder/complaint.aspx>
- Consult a lawyer, report to the police or file a civil law suit against the harasser in the District Court.

(iii) It should be clear that the complaint handling procedure of the HKKA does not affect the complainant's lodging complaints with the EOC, reporting to the police or filing a lawsuit in the District Court.

7 Principles of handling sexual harassment complaints

- (i) **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.
- (ii) **Confidentiality:** assurance should be given to persons concerned that all information and records related to a sexual harassment complaint will be kept confidential and only be disclosed to relevant persons on a need-to-know basis. Under the principle of natural justice, the alleged harasser should be informed about the details of the allegation.
- (iii) **Avoiding delay:** complaints should be handled promptly because both the

complainant and the alleged harasser are under pressure from the sexual harassment complaint case.

- (iv) **Transparent procedures:** the HKKA should incorporate the handling procedures related to sexual harassment complaints in their complaint policy/sexual harassment policy and make them known to the management, staff, coaches, members and other related persons in the HKKA. If a complaint involves minors, the relevant rules and disciplinary actions should also be made known to the person and his/her parents.
- (v) **Protection for complainants and witnesses:** complainants and witnesses should be protected against victimization, i.e. being treated less favorably, including being retaliated (which in itself is an unlawful act of discrimination under section 9 of the SDO) because of the complaint case.
- (vi) **Avoid conflict of interest:** if the person who handles the enquiry /complaint case is closely related to the complainant or the alleged harasser (for instance, being relatives), or the alleged harasser is the person-in-charge of handling sexual harassment complaints, the case should be handled by another person.
- (vii) **Anonymous complaint:** whether the complaints are anonymous or not, the organisation may need to make inquiries or to conduct investigation. If it is suspected that the victim of sexual harassment is a minor or a person with disability, the case should be handled more discreetly.
- (viii) **Handling cases discreetly:** showing empathy to the feelings of complainants, for instance, avoiding asking the complainant to repeat his/her painful story again and again, respecting the complainant's preference in appointing investigators of the same sex to conduct the interview, etc. in order to ensure that the complainant would not be unnecessarily further distressed or humiliated. Complaint cases should be handled discreetly so that the other related parties would not be unnecessarily distressed.

8 Mechanism for handling sexual harassment complaints

- (i) Names and contacts of persons who handle complaints should be listed out.

Hong Kong Kendo Association Sexual Harassment Policy

- (ii) Both informal and formal complaint handling mechanisms for sexual harassment complaints should be established.
- (iii) Before deciding about using formal or informal ways to resolve the conflict, the complainant should be informed of the difference in purpose, procedures and possible results for informal and formal handling mechanisms.
- (iv) The complainant may ask the designated persons to handle the complaint using the formal handling mechanism when he/she finds the informal process has failed to effectively resolve the issue.
- (v) Sexual harassment acts may also amount to criminal offences such as indecent assault, distribution or display of indecent and obscene articles. The agency may consider referring those cases to the police.
- (vi) Informal handling mechanism:
 - (a) Generally speaking, informal complaint handling mechanism is suitable for handling relatively minor or single incidents of sexual harassment. This complaint handling mechanism focuses on resolving the conflict and stopping the act of alleged sexual harassment as soon as possible. It does not involve an investigation. Sometimes the alleged harasser admits to his/her conduct but may not realize his/her acts amount to sexual harassment, then an investigation is not needed to prove the alleged act has been done. Sometimes, 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 inappropriate happened and penalizing the alleged harasser, the complaint may then be handled informally, subject to the consent of the complainant.
 - (b) An informal mechanism 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. The complainant may also ask the designated persons for handling sexual harassment complaints to speak to the other party for them. The person-in-charge of complaint handling may talk to the other party about the matter, ask the other party to stop doing the act, and reaffirm the HKKA's policy on zero-tolerance to sexual harassment.

(c) Informal complaint handling mechanism is potentially quicker to process and to solve the problem. It provides an opportunity to inform the alleged harassers of the HKKA's policy and of how their behavior is affecting others. However, complaints handled under this mechanism are less easy to monitor and HKKA's knowledge about the process and outcome may be easily lost unless documented. The power dynamics between the parties may also affect the effectiveness of this informal mechanism. In addition, the alleged harasser may also feel that they have been treated unfairly as they have no chance to put the record straight.

(vii) Formal handling mechanism:

- (a) A formal handling mechanism is followed for more serious or repetitive sexual harassment complaints, or when sexual harassment continues or the conflict between the two parties cannot be resolved using an informal mechanism.
- (b) A formal mechanism involves investigation. The complainant will be formally interviewed. The alleged harasser will be informed about the complaint and be given the opportunity to respond to the allegation. Witnesses, if any, may also be interviewed. It also involves making a finding on the balance of probabilities, i.e. is it more likely than not that sexual harassment has occurred.
- (c) If the complainant or alleged harasser is a minor or a person with intellectual disability, he/she is entitled to be accompanied by his/her parent/guardian/family member to attend the relevant interview so as to safeguard his/her rights.
- (d) If a panel is formed to handle the sexual harassment complaint, it should be composed of an almost equal number of members of both sexes.
- (e) The interviews and the statements of both the complainant and the alleged harasser should be documented.
- (f) If necessary, arrangements should be made to avoid the complainant and the alleged harasser from getting into unnecessary contact, in particular, private contact, during the period of investigation.
- (g) A written report should be prepared to give an account of the investigation outcome, disciplinary actions (if any) and the considerations behind to both the complainant and the alleged harasser.

- (h) If one party does not accept the investigation outcome, appeals to the proper authority should be allowed.
- (i) If a case proceeds to conciliation, the person to be in charge of the conciliation process should be agreed by both the complainant and the alleged harasser. The mutually agreed settlement agreement should be documented, for instance, the settlement terms of making apologies and paying compensation.
- (viii) The HKKA would consider using a flow chart and proper documentation to clearly indicate each step of the procedure. A flowchart and corresponding recording form are attached in Annex B, Annex C and Annex D of this Policy.
- (ix) If necessary, support and counseling can be offered to the complainant.
- (x) Taking into account the age, the education level, the disability status of, and the distress suffered by the complainant after the sexual harassment incident, the HKKA should allow the complainant to lodge a formal or informal complaint in various ways. For example, the person-in-charge of complaint handling may consider assisting in writing the complaint based on the complainant's oral account.

9 Time bar for lodging a complaint

- (i) 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.
- (ii) Having considered that any delay could cause difficulty to the investigation and the collection of evidence, the HKKA can set a time bar for lodging complaints. However, the time bar should be reasonable and should take into account that the victim may postpone lodging a complaint due to the post-incident anxiety and distress suffered by him/her. With a view to avoiding victims being discouraged by the time bar, the HKKA may specify that delayed complaints with justifiable reasons would be handled at the HKKA's

own discretion.

10 Disciplinary Action

The policy should state 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. Actions that may be taken by the HKKA should also be stated. For instance, if the case involves criminal offences, the HKKA will report 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.

11 Measures to prevent sexual harassment

- (i) Promulgation of policy: the HKKA should promulgate the policy to all relevant persons of the HKKA on a regular basis, including coaches, athletes/members, entourage members, sport managers, medical and therapeutic practitioners, and contract service providers, etc. When new members and staff join the organization, the HKKA should distribute and explain the sexual harassment policy to them.
- (ii) Accessible information: the policy should be uploaded to the HKKA intranet and website (contract service providers and external parties may not have access to the intranet) so that all persons can have access to the policy at any time. Notices may also be prominently posted to inform all relevant persons of the policy, the way to get a copy of it, and the channels to lodge a complaint. All service providers and external parties should know that the HKKA has zero-tolerance to any sexual harassment acts and should be provided with the relevant information.
- (iii) Regular review: specifically setting the review period for the policy and measures is preferred to generally saying "regular" reviews would be conducted. On top of the regular reviews, review the policy and measures

after the investigation of a complaint is completed to see if any revisions are needed to effectively prevent sexual harassment. Also, after investigation, look at the operation of the HKKA to understand if there are any unwritten ways in which the operation which may breed a culture of sexually hostile environment, and makes changes to avoid potential problems occur.

- (iv) Regular training: set specific targets (such as number of people and/ or regular period of time) for training and education programmes on gender equality, respecting others and enhancing awareness on the prevention of sexual harassment for management, employees, coaches, athletes and members, and also arrange relevant persons to receive training on how to handle sexual harassment complaints.
- (v) Elimination of offensive articles or information: the organization should clear all articles that may possibly lead to sexual harassment and should prevent any improper use of computer technology and social media in the HKKA, in order to prevent sexual harassment.
- (vi) Designated persons to implement the measures: employees of particular positions in HKKA are designated to implement specific measures for the prevention of sexual harassment. A clear lineation of responsibility can ensure proper implementation of the policy.
- (vii) The Sexual Conviction Record Check mechanism: the HKKA should require all prospective employees and prospective coaches, regardless of men and women, who will engage in work relating to minors and/or mentally incapacitated persons to apply for the Sexual Conviction Record Check (SCRC) to make sure they do not have any criminal conviction records in the specified list of sexual offences. The HKKA should also require existing employees and coaches who need to renew their contract to apply for the SCRC. If a coach is a self-employed person, provided he/she provides services relating to minors and/or mentally incapacitated persons for the HKKA, the HKKA may require the coach to undergo SCRC. If a job applicant comes from an area outside Hong Kong, the HKKA may request him/her to provide a certificate of no criminal conviction or other equivalent documentary proof issued by his/her place of residence prior to employment, so as to ascertain that the applicant does not have overseas sexual conviction record. A Sexual Conviction Record Check Scheme Protocol has been

attached in Annex A of this Policy.

- (viii) Development of Code of Ethics: the HKKA should develop Code of Ethics (including the factors regarding prevention of sexual harassment) on sexual harassment for all employees and coaches.

12 Related resources

- (i) EOC's Anti-Sexual Harassment Resources webpage and the training programmes
- [http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=p reventing%20sexual%20harassment](http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=p%20reventing%20sexual%20harassment)
 - <http://www.eoc.org.hk/eoc/graphicsfolder/training.aspx>
- (ii) links to articles, news reports, researches and studies on sexual harassment, and related websites of non-governmental organisations and universities, etc.

13 Implementation of sexual harassment policy

Developing a policy on sexual harassment is the first step to prevent sexual harassment. The HKKA should adopt corresponding measures to implement the policy.

14 HKKA Contact information

The HKKA will forward this policy document to all register dojo masters, coaches as well as HKKA kendo trainers for their reference and information. This policy document will also be posted in the HKKA website for review all the HKKA members and interested public parties. For comments and inquiry of any information related to the policy, one may phone or write directly to the HKKA as refer to the following contact information.

Hong Kong Kendo Association Limited

Address: Room1029 Olympic House No.1 Stadium Path, So Kon Po, Causeway Bay, Hong Kong
Tel: (852) 2504 8145
Fax: (852) 2890 8052
Email: hkka@hkolympic.org

ANNEX A - Sexual Conviction Record Check Scheme Protocol

1 Purpose:

- 1.1 to prevent previous sexual offenders from obtaining the trust of employers by deliberately withholding their past sexual conviction records and molesting children or MIPs again through contact with them in the course of their work. The scheme provides employers with a reliable channel whereby they may ascertain whether applicants of child or MIP-related work or employment have any previous convictions against a specified list of sexual offences; and
- 1.2 to help reduce the risk of sexual abuse to children or MIPs and give them better protection while considering the need of rehabilitation of offenders.

2 The scheme is guided by the following operating principles –

- (a) enhance protection of children or MIPs from sexual abuse;
- (b) applicable only to work related to children or MIPs;
- (c) voluntary in nature;
- (d) simple application and checking procedures;
- (e) “clean” record check result will not be recorded in writing;
- (f) operation and use of the scheme is subject to the Personal Data (Privacy) Ordinance (Cap. 486, Laws of Hong Kong) and provisions in relation to data protection; and
- (g) applicants are charged for the service under the “user pays” principle.

3 Application:

- 3.1 Applicants should make advance appointment through the ATAS at 3660 7499 no less than one working day in advance of the intended appointment. Walk-in application will not be entertained.
- 3.2 All applicants should attend in person at the SCRC Office located at 14/F, Arsenal House, Police Headquarters (PHQs), 1 Arsenal Street, Wan Chai, Hong Kong. Its operating hours for receiving applications are: Monday –

Hong Kong Kendo Association
Sexual Harassment Policy

Friday 9:00 am – 5:15 pm Saturday and Sunday / Public Holiday Closed

3.3 The applicant should bring along the following documents:

- (a) His HKID card;
- (b) A documentary proof of possible employment related to children or MIPs from relevant employer, with the employer's acknowledgement that he has read the Notes to Employers and fully understood the terms and conditions of the service including his responsibilities contained therein. A template of the documentary proof is at Appendix 2 and can be downloaded from the Police homepage - <http://www.police.gov.hk/scrc>;
- (c) A completed application form (a copy of the application form is at Appendix 3). A blank application form can be downloaded from the Police homepage - <http://www.police.gov.hk/scrc> or obtained from the SCRC Office; and
- (d) A fee of HK\$105 per person. Payment can be made by Octopus cards or EPS at the SCRC Office, or in cash or cheques at the Police Shroff on 11/F, Arsenal House, PHQs (the Police Shroff closes from 1:00 pm to 2:00 pm and at 5:00 pm). Crossed cheques should be payable to "The Government of the Hong Kong Special Administrative Region". Add-value service for Octopus cards will not be provided by the SCRC Office.

3.4 Fingerprints of the applicant will be taken by an officer of the SCRC Office in connection with his application to ensure accuracy of the check result.

4 Time restriction

Applicant should provide the 14-digit computer generated unique checking code provided in the letter issued by the SCRC Office to the HKKA's office for the result checking purpose within two months period upon the application period to the SCRC Office.

5 Renewal application

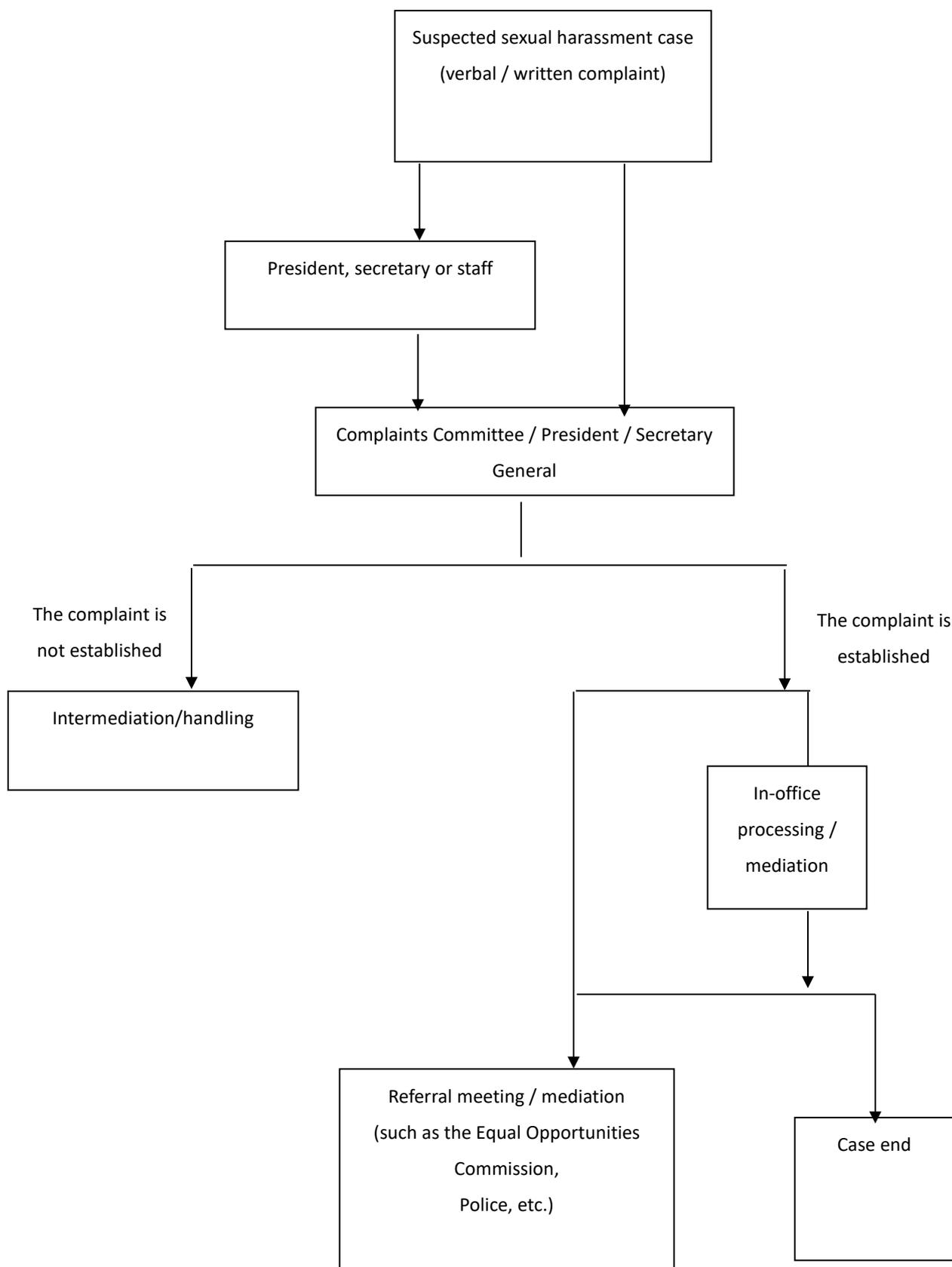
- (a) An applicant may submit a renewal application for extending the validity period of his checking code within the last three months of the validity period.

Hong Kong Kendo Association Sexual Harassment Policy

He has to make advance booking through the ATAS and attend the SCRC Office in person with his HKID card. The applicant will be required to complete a form and pay a prescribed fee of HK\$70 for the renewal application.

- (b) The validity period of the checking code will be extended for another 18 months counting from the expiry date of the preceding validity period. The applicant or his authorized employers will be able to access the check result using the original checking 8 code for another 18 months. There is no limit on the number of renewal applications for each applicant. Once the checking code has expired, the check result will be deleted from the ATAS and the checking code will be invalidated. Applicants may submit fresh application for SCRC.

ANNEX B – Sexual Harassment Compliant Procedure Flowchart



**ANNEX C – FORM A - HKKA Sexual Harassment Informal
Compliant Record**

Hong Kong Kendo Association
"Prevention and Handling of Sexual Harassment" Policy Implementation Team
"Informal complaints" record (Year of 20__ - __)

Form A

complaint number : _____ File date : _____
Complainant : _____ Gender : _____ Age : _____
Information : Position _____ Lesson _____

Incident category :

- Languages Offended
- Behavior Working in harsh environments
- Discrimination Others _____

Respondent : _____ Gender : M / F

Information : Position _____ Lesson _____

Date of the incident : _____

Description of Incident :

Process result :

Hong Kong Kendo Association
Sexual Harassment Policy

Processing person : _____ Date : _____

The case number is filled in by the policy implementation team, and the person responsible for the case is required to submit it to the person in charge of the policy implementation team.

**ANNEX D – FORM B-1 - HKKA Sexual Harassment Formal
Compliant Record**

Hong Kong Kendo Association
"Prevention and Handling of Sexual Harassment" Policy Implementation Team
"Formal complaints" record (Year of 20__ - __)

Form B-1

complaint number : _____ File date : _____
Complainant : _____ Gender : _____ Age : _____
Information : Position _____ Lesson _____

Event category :

- Languages Offended
- Behavior Working in harsh environments
- Discrimination Others _____

Respondent : _____ Gender : M / F

Information : Position _____ Lesson _____

Date of the incident : _____

Description of Incident :

Hong Kong Kendo Association
Sexual Harassment Policy

I solemnly declare that the above information is correct.

Processing person : _____ Date : _____

**ANNEX D – FORM B-2 - HKKA Sexual Harassment Formal
Compliant Record**

Hong Kong Kendo Association
“Prevention and Handling of Sexual Harassment” Policy Implementation Team
“Formal complaints” record (Year of 20__ - __)

Form B-2

Respondent's response form

I made the following response to the complaint number (_____) :

My information is as follows :

Name : _____ Lesson : _____ Age : _____

Information : Position _____ Lesson _____

Others : _____

I solemnly declare that the above information is correct.

Hong Kong Kendo Association
Sexual Harassment Policy

Personal signature : _____ Date : _____

**ANNEX D – FORM B-3 - HKKA Sexual Harassment Formal
Compliant Record**

Hong Kong Kendo Association
“Prevention and Handling of Sexual Harassment” Policy Implementation Team
“Formal complaints” record (Year of 20__ - __)
Complaints Committee Record Form
complaint number : _____ Date : _____

Form B-3

Complainant :	Respondent :
Gender : M / F Age :	Gender : M / F Age :
Position / class :	Position / class :

First Meeting : Complainant Respondent Date : _____

Process / result :

Second Meeting : Complainant Respondent Date : _____

Process / result :

Third Meeting : Complainant Respondent Date : _____

Process / result :

Handling complaints committee : _____ Date: _____

Final processing result: (fill in at the end of the case)

Hong Kong Kendo Association
Sexual Harassment Policy

Signed by the complainant (or his representative) : _____

Signed by the respondent (or its representative) : _____

Handling complaints committee : _____ Date: _____