



THE KENDO ASSOCIATION OF HONG KONG, CHINA

GUIDELINES AND PROCEDURES ON HANDLING OF COMPLAINTS

Objective: To set out the procedures for making, receiving, acknowledging, enquiring into, determining and recording complaints under article 81 of Part B of the Articles of Association (“AOA”).

This document applies to all Executive Committee Members, Senate Members, members of any committee or sub-committee of the Executive Committee, and to staff, coaches, referees, athletes and members of the Kendo Association of Hong Kong, China Limited (“HKKA”), irrespective of the terms on which they are engaged (including short-term, part-time or voluntary capacities), and to every other person taking part in HKKA's business, activities, competitions, matches or events.

Relationship with other documents: This document governs the making, receipt, investigation and determination of a complaint. It does not govern an appeal against the outcome of a complaint: appeals are governed exclusively by the HKKA Guidelines and Procedures on Appeals. Complaints and appeals under the HKKA Guidelines and Procedures on Equal Opportunities, the HKKA Guidelines and Procedures on Prevention of Sexual Harassment, Bullying and Abuse, the HKKA Guidelines and Procedures on Child Safeguarding, the HKKA Guidelines and Procedures on handling of Social Media and the HKKA Guidelines and Procedures on Anti-Doping are all handled under this document and the HKKA Guidelines and Procedures on Appeals, and not under any separate process in those documents.

1. Fundamental Principles

- 1.1 The HKKA shall handle complaints in accordance with article 81 of Part B of the AOA and the following principles:
 - (a) Fairness: enquiries and complaints should be handled in a just and impartial manner to ensure that the complainant and complainee are fairly treated, and both parties have a chance to present their case.
 - (b) Promptness: complaints should be handled promptly, as both the complainant and the complainee are under pressure. The HKKA pledges to deal with complaint cases without unnecessary delay.
 - (c) Transparency: the handling procedures shall be set out in this document and made available on the HKKA's website.
 - (d) Protection for complainants and persons assisting an enquiry: a complaint may be made through the designated channels, including a channel by which a complaint may be made in confidence. The identity of the complainant and of any person assisting an enquiry shall be protected, and no person shall suffer any detriment for reporting in good faith. Victimisation (treating a person less favourably because that person has made a complaint, or has assisted in an enquiry, in good faith) is itself a disciplinary matter and may, where applicable, amount to unlawful victimisation under the Sex Discrimination Ordinance (Cap. 480) or other applicable ordinance.

2. Rights and Responsibilities of the Complainant and Complainee

- 2.1 The complainant is entitled to:

- (a) be informed of the outcome of the initial assessment referred to in section 8 below, including the reasons if the complaint is not proceeded with;
 - (b) be informed of the status and outcome of any investigation; and
 - (c) appeal the outcome in accordance with the HKKA Guidelines and Procedures on Appeals.
- 2.2 A complaint should be made in writing, by post or email, using the form at Appendix I or another designated channel (including a confidential channel). Any Member, member of the public, or any governmental, regulatory or sporting authority may make a complaint that a Relevant Person has breached the AOA, the applicable HKKA code of conduct, or any policy referred to in articles 76 to 79 of Part B of the AOA. A complainant has a responsibility to provide truthful and factual information; a false, misleading or malicious complaint may lead to termination of the investigation and may itself be treated as misconduct under section 13 below.
- 2.3 The complainee is entitled to:
 - (a) be informed of a complaint made against him or her;
 - (b) be informed of the status and outcome of the investigation; and
 - (c) receive brief reasons and a reasonable opportunity to be heard before any adverse decision is made, and to appeal the outcome in accordance with the HKKA Guidelines and Procedures on Appeals.
- 2.4 The complainee has a responsibility to cooperate with the investigation and to provide truthful and factual information.

3. Roles and Responsibilities of Persons Handling Complaints

- 3.1 Any person who is the complainee, or who is otherwise involved in the complaint, shall not handle that complaint. Where a complaint is against an Executive Committee Member, that Member shall not take part in, and shall absent himself or herself from, any discussion, deliberation, enquiry or decision of the Executive Committee relating to the complaint, consistent with article 81(3) of the AOA.
- 3.2 Initial recipient: receives complaints submitted through the designated channels; acknowledges receipt within 5 working days; and forwards the complaint promptly to the Executive Committee, or to the person or body designated by the Executive Committee under this document, for direction.
- 3.3 Executive Committee: performs the initial assessment under section 8 below; determines the appropriate handling route; assigns an independent person or Complaint Handling Panel to enquire into or investigate the complaint, having regard to its severity, complexity and urgency; and determines the outcome in accordance with section 12 below.

4. Conflict of Interest

A person responsible for handling a complaint under this document shall comply with the conflict of interest requirements applicable to that person under the AOA (including articles 35C and 40B of Part B of the AOA) and under the applicable HKKA code of conduct. In addition to declaring any actual conflict of interest before being appointed to handle a complaint, that person shall disclose any potential conflict of interest as soon as it arises and shall refrain from participating in any discussion or decision related to the complaint to which that conflict relates.

5. Time Limit for Lodging a Complaint

A complaint should be lodged as soon as reasonably practicable, and in any event within 3 months of the date of the incident giving rise to the complaint (or, for a continuing course of conduct, within 3 months of the last incident in that course of conduct). The Executive Committee may, in its discretion, accept a complaint lodged after this period where there is good reason for the delay, having regard to the nature of the complaint and the availability of evidence. This time limit is separate from, and does not affect, any statutory time limit that may apply to a complaint made to the Equal Opportunities Commission, the Privacy Commissioner for Personal Data, the Police or a court (which are addressed in the relevant HKKA guideline).

6. Receipt of a Complaint

6.1 A complaint must be submitted by post or email, using the form at Appendix I. On receipt, an acknowledgement shall be given within 5 working days, and the complaint shall be passed promptly to the Executive Committee together with the following information, to the extent available:

- (a) name and contact information of the complainant and, if applicable, the complainee;
- (b) date(s) when the matter complained of occurred;
- (c) facts of the matter complained of;
- (d) any loss or harm caused;
- (e) any supporting evidence or documents; and
- (f) name and contact information of any witness(es) and their statement, if any.

7. Complaints Not Proceeded With

7.1 Following an initial assessment, the Executive Committee may decide not to proceed with a complaint that is:

- (a) anonymous, save as provided in section 7.2 below;
- (b) made verbally and not subsequently confirmed in writing;
- (c) not filed by a person involved in the incident or their guardian, save where made by a witness or a governmental, regulatory or sporting authority;
- (d) already under investigation by law enforcement agencies or the subject of legal proceedings, pending the outcome of that investigation or those proceedings;
- (e) lodged outside the time limit in section 5 above without good reason for the delay; or
- (f) frivolous, vexatious, or misconceived or lacking in substance, or so lacking in information that a fair and meaningful assessment cannot reasonably be undertaken after a reasonable opportunity has been given to provide further information.

7.2 In the case of an anonymous complaint, the Executive Committee shall consider the evidence and seriousness of the allegation to determine whether an enquiry is nonetheless required.

8. Initial Assessment

- 8.1 The Executive Committee shall consider every complaint as soon as reasonably practicable and shall carry out, or cause to be carried out, an initial assessment to determine whether the complaint is to proceed and, if so, the appropriate handling route.
- 8.2 If the Executive Committee decides not to proceed with a complaint, the complainant shall be informed in writing of the decision and the reasons for it, as soon as reasonably practicable.
- 8.3 If the Executive Committee decides to proceed, the responsible person or Complaint Handling Panel shall inform the complainant in writing that an enquiry or investigation has been initiated and of the expected timeframe for an update.

9. Conciliation

If the complaint is minor and capable of resolution by conciliation, the independent person or Complaint Handling Panel shall assist the parties to identify the cause of the complaint and any points of agreement that may lead to a resolution. If an agreement is reached, it shall be recorded in writing and signed by both parties in the presence of the independent person or Complaint Handling Panel. If a party does not agree to attempt conciliation, or no agreement is reached, the complaint shall proceed to investigation.

10. Investigation

- 10.1 The Executive Committee shall determine whether the investigation is to be conducted by interview, paper circulation, or both, and shall appoint an independent person or Complaint Handling Panel to conduct it and to report progress within the agreed timeframe.
- 10.2 The independent person or Complaint Handling Panel shall conduct interviews with the complainant, complainee and any witnesses as appropriate, review relevant documents and other materials (including, where available, video or audio recordings), and may have regard to the HKKA's decisions on past complaints of a similar nature for consistency.
- 10.3 The investigation, and the discussions and decisions made in the course of it, shall be recorded in writing or electronically for record retention and future reference.
- 10.4 Upon conclusion of the investigation, a written fact-finding report shall be submitted to the Executive Committee, addressing, to the extent applicable and available: a statement of the issues under review; the allegations made; the evidence in support of the allegations; the complainee's response (if any); the evidence in rebuttal (if any); the findings of fact; a conclusion on those findings; and any other information the Executive Committee reasonably requires to determine the complaint. The absence of a response or rebuttal from the complainee does not prevent the report from being finalised.
- 10.5 If the investigation cannot be completed within a reasonable timeframe, the complainant and complainee shall be kept informed in writing at regular intervals until its conclusion.

11. Complaints Forwarded by the SF&OC

For a complaint concerning the HKKA that is forwarded by the Sports Federation & Olympic Committee of Hong Kong, China ("SF&OC"), the Executive Committee shall endeavour to investigate the complaint and to provide an investigation report to the SF&OC within one month of receipt, summarising the complaint, the investigation, the conclusions and any follow-up action. It may not always be possible to complete the investigation within one month; where this is the case, the HKKA shall notify the

SF&OC, request an extension, and submit an interim report.

12. Determination

- 12.1 Where the fact-finding report indicates that a complaint is substantiated, the matter shall be put to a vote at a duly convened meeting of the Executive Committee. Where the complaint is against an Executive Committee Member, that Member is excluded from the meeting under section 3.1 above and is not counted among the Executive Committee Members present and entitled to vote.
- 12.2 The Executive Committee may determine that a breach is sufficiently serious to result in the consequences in section 12.3 below only by a resolution passed by not less than three-quarters (3/4) of the Executive Committee Members present and entitled to vote at that meeting, in accordance with article 81(4) and (5) of the AOA.
- 12.3 Where the Executive Committee determines, by the vote required under section 12.2 above, that a breach is sufficiently serious:
 - (a) in the case of a Relevant Person who is an Executive Committee Member or a Senate Member, that person's office shall be vacated under article 37 or article 49 of Part B of the AOA (as the case may be); and
 - (b) in the case of any other Relevant Person, the Executive Committee has full power and discretion to determine what disciplinary or other action is to be taken under the applicable code of conduct, the terms of that person's engagement, employment or membership, or otherwise, in accordance with the sanctions guidance at section 13 below.
- 12.4 Where a breach is established but the resolution required under section 12.2 above is not passed, the Executive Committee may nonetheless take such lesser corrective or disciplinary action as it considers appropriate, within the "Minor" or "Serious" tiers of the sanctions guidance at section 13 below.

13. Sanctions Guidance

The following table provides non-exhaustive guidance on the disciplinary actions that may be taken in response to a substantiated complaint. It does not limit the Executive Committee's discretion under section 12 above, and the appropriate action in any case depends on its particular facts and circumstances.

Tier	Illustrative misconduct	Illustrative disciplinary action
Minor	An isolated instance of foul language or discourtesy; a single minor neglect of duty; late submission of required documentation.	Verbal advice, or written advice or warning, recorded on the individual's file.

Tier	Illustrative misconduct	Illustrative disciplinary action
Serious	Repeated or wilful neglect of duty; conduct in breach of the applicable code of conduct causing reputational, financial or operational harm; a substantiated breach of the HKKA Guidelines and Procedures on Equal Opportunities or the HKKA Guidelines and Procedures on Prevention of Sexual Harassment, Bullying and Abuse that does not meet the “sufficiently serious” threshold in section 12.2 above.	Formal written reprimand; suspension from a specified role, committee, team or activity for a defined period; mandatory training or supervision; recorded on the individual’s file and reported to the Executive Committee.
Very Serious / Gross Misconduct (requires the 3/4 majority vote under section 12.2 above)	Conduct amounting to a criminal offence; a serious or repeated breach of the applicable code of conduct, the HKKA Guidelines and Procedures on Anti-Doping, or the HKKA Guidelines and Procedures on Child Safeguarding; conduct bringing the HKKA into serious disrepute.	Termination or suspension of membership under article 8 or article 8A of Part B of the AOA; vacation of office as an Executive Committee Member or Senate Member under article 37 or article 49 of Part B of the AOA (as applicable); removal from a coaching, refereeing or committee role; referral to the Police or other relevant authority, in addition to any of the actions available under the “Serious” tier above.

14. Notification of the Outcome

- 14.1 The complainant and complainee shall be informed of the outcome in writing, including: the outcome of the complaint and any action taken; the reasons for the decision; and any remedial or disciplinary action to be taken.

15. Right of Appeal

A complainant or complainee who is dissatisfied with the outcome of a complaint under this document may appeal in accordance with the HKKA Guidelines and Procedures on Appeals. This document does not itself provide any appeal mechanism.

16. Retention of Records

- 16.1 The HKKA shall keep proper records of every complaint, including complaints received, enquiries made, responses given, proceedings taken and decisions made. Personal data of the complainant and complainee shall not be kept for longer than is necessary to fulfil the purpose for which it was collected, and in any event for no longer than 7 years from the completion of the complaint, in accordance with the retention table in the HKKA Guidelines and Procedures on Personal Data Privacy Protection, after which it shall be deleted or anonymised, unless a longer period is required by an applicable statutory or regulatory requirement, or is necessary under section 16.2 below.
- 16.2 For a substantiated complaint against a coach or referee, the investigation details shall be documented so as to be readily retrievable for subsequent registration and renewal exercises.

17. Confidentiality

The HKKA shall treat complaint proceedings and decisions as confidential, and shall ensure the confidentiality of all information relating to a complaint (including personal information, evidential documents and witness testimony), save that such information may be disclosed to a person who needs to know it in order to handle the complaint, for reporting to the Executive Committee, for the purpose of an appeal under the HKKA Guidelines and Procedures on Appeals, or where required by law or with the written consent of the relevant party.

18. Personal Data

Any personal data collected, used or retained in connection with this document shall be handled in accordance with the HKKA Guidelines and Procedures on Personal Data Privacy Protection. Where personal data is collected directly from an individual using a form referred to in this document, the individual shall be provided with a Personal Information Collection Statement consistent with Appendix II to the HKKA Guidelines and Procedures on Personal Data Privacy Protection.

The HKKA is committed to handling all personal information obtained during a complaint (and any subsequent appeal) in compliance with the Personal Data (Privacy) Ordinance (Cap. 486).

19. Enquiries

The Kendo Association of Hong Kong, China

Address: Room 1029, Olympic House, 1 Stadium Path, So Kon Po, Hong Kong SAR

Tel: +852 2504 8445

E-mail: hkkasse@hongkongkendo.com

APPENDIX I: COMPLAINT FORM

< Confidential >

The Kendo Association of Hong Kong, China: Complaint Form

Name and contact information of complainant:	
Name of complainee (if known):	
Date(s) when the matter complained of occurred:	
Location / event (e.g. Competition, Experience Class, Dojo Training, Kata, Seminar, Other):	
Details of the complaint (continue on a separate page if required):	
Any supporting evidence or documents:	
Name and contact information of witness(es), if any:	

Personal data notice: The personal data provided on this form will be used only for the purpose of handling this complaint (and any subsequent appeal) and will be handled in accordance with the HKKA Guidelines and Procedures on Personal Data Privacy Protection. Provision of your contact details is mandatory; without them the HKKA will not be able to process your complaint.

Signature of complainant: _____ Date: _____