

中國香港柔道總會

防止性騷擾政策及指引

1. 引言

中國香港柔道總會（下稱本會）秉承領導本港柔道發展的責任，承諾尊重各持份者的所有合法權利，包括享有人身安全及健康的工作和運動環境的權利，不會容忍任何形式的歧視或騷擾。

本會將確保所有負責人員（包括執行委員、職員，以及任何處理或參與本會事務的人員）及中國香港柔道代表團成員（包括領隊、醫療人員、隨行職員、運動員）都在「防止《性別歧視條例》第480章」的保障下處理一切會務。本《防止性騷擾政策及指引》列明性騷擾的定義、處理性騷擾投訴的原則、機制，以及防止性騷擾的措施，可供各持份者參考，並加深他們對預防性騷擾的認識。

2. 定義

2.1 性騷擾是歧視及違法行為，根據《性別歧視條例》第 480 章，第 2(5)條，性騷擾的法律定義為：

- 2.1.1 任何人如對另一人提出不受歡迎的性要求，或提出不受歡迎的獲取性方面的好處的要求；或就另一人作出其他不受歡迎並涉及性的行徑，而在有關情況下，一名合理的人在顧及所有情況後，應會預期該另一人會感到受冒犯、侮辱或威嚇；或
- 2.1.2 任何人如自行或聯同其他人作出涉及性的行徑，而該行徑對另一人造成有敵意或具威嚇性的環境。

2.2 性騷擾的函概範圍包括：

- 2.2.1 性騷擾是不分有關人等的性別，可在任何人身上發生；與性騷擾相關的法例條文及本政策適用於男和女，以及同性之間的性騷擾。
- 2.2.2 即使沒有性騷擾的意圖，或不能證明意圖，只要行為本身符合性騷擾的定義，亦會構成性騷擾。因此，無論有心抑或無意，甚至只是嬉戲性質的行為，也有可能構成性騷擾。
- 2.2.3 即使單一事件亦有可能構成性騷擾。
- 2.2.4 性騷擾事件通常牽涉權力關係，較強的一方騷擾較弱的一方。但亦有可能出現權力較弱的一方騷擾較有權力者，如職員騷擾僱主。

2.3 以下列舉幾個性騷擾例子幫助說明：

- 2.3.1 雖然屢次被拒絕，但仍然不斷嘗試約會對方
- 2.3.2 帶有性方面影射的評論，和猥褻性或侮辱性的說話
- 2.3.3 展示猥褻性或淫穢性的照片或文章

3. 遇上性騷擾的處理方法

- 3.1 如相信自己是性騷擾的受害人，應盡快採取行動，切勿忽視性騷擾，因為騷擾者可能將受害人不回應曲解為對其行為的同意或寬恕，延遲作出投訴亦將對調查工作及舉證造成困難。本會承諾任何人不會因真誠地投訴而受罰。此外，向平機會提出投訴及提出法律訴訟均有時間限制。若受害人有意向平機會提出投訴，須於事件發生後的 12 個月內提出；否則，除非有充分的理由引致延誤投訴，平機會可不受理。若打算在區域法院提出法律訴訟，須於事發日起計 2 年內提出。
- 3.2 任何人都有權投訴性騷擾行為，目擊性騷擾發生的第三方亦可就事件作出投訴。一般而言，如遇上性騷擾，受害人可以採取以下行動：
- 3.2.1 即時表明立場，告訴騷擾者其行為不受歡迎及必須停止。
 - 3.2.2 記錄性騷擾的日期、時間、地點、証人及性質（騷擾者的說話和做過的行為），以及受害人當時的反應。
 - 3.2.3 告訴信任的人，讓他們給予情緒的支援和處理事件的建議。
 - 3.2.4 向本會義務委員和行政總監作出投訴。
 - 3.2.5 向平等機會委員會查詢或投訴，要求展開調查或調停；若調停不成功，受害人可向平機會要求給予法律協助（平機會電話：2511-8211）。其他向平機會查詢或投訴的方法，請參考平機會網頁：
<http://www.eoc.org.hk/eoc/graphicsfolder/complaint.aspx>
 - 3.2.6 受害人如須協助，可以找律師商量、向警方報案，或向區域法院提出法律訴訟。
 - 3.2.7 本會內部的投訴程序不會影響受害人向平機會投訴或警方報案，或向區域法院提出訴訟的權利。

4. 本會處理性騷擾投訴的機制

- 4.1 本會制訂了非正式及正式處理投訴機制以處理性騷擾投訴，兩套機制的不同之處可參考下表：

	非正式處理投訴機制	正式處理投訴機制
適用範圍	<ul style="list-style-type: none"> - 輕微 / 單一事件 - 投訴人不欲啟動正式處理投訴程序或希望與被投訴人維持工作關係 	<ul style="list-style-type: none"> - 嚴重 / 重複性的性騷擾事件 - 當性騷擾行為持續，或雙方的衝突未能透過非正式機制解決
委員會	<ul style="list-style-type: none"> - 調停小組 / 調停人 	<ul style="list-style-type: none"> - 調查小組
程序	<ul style="list-style-type: none"> - 講解會面程序、規則（如記錄、保密等） - 了解投訴人的投訴指稱及訴求 - 解釋非正式、正式處理投訴機制之分別 - 了解被投訴人對事件的看法 - 嘗試透過調停解決投訴，並達成和解 - 不展開詳細調查 	<ul style="list-style-type: none"> - 正式與投訴人進行會面，確認書面供詞 - 通知被投訴人有關投訴，並給予其機會回應指控 - 會見證人，並作出書面記錄 - 收集證據 - 以「衡量各方的可能性」(on the balance of probabilities) 的原則，即以性騷擾事件曾發生的機會是否多於沒有發生，去判斷性騷擾曾否發生 - 擬訂書面報告，詳細紀錄調查結果、處分（如適用）及背後的考量 - 將調查結果通知投訴雙方 - 予以處分；如接獲上訴則根據機制處理
優點	<ul style="list-style-type: none"> - 有可能較快地處理及解決問題 - 提供了機會向被投訴人說明機構的政策，並指出其行為如何影響了他人 	<ul style="list-style-type: none"> - 提供正式的書面記錄在案 - 可作出適合的處分
缺點	<ul style="list-style-type: none"> - 較難監察 - 投訴的處理過程和結果未必會正式記錄在案 - 被投訴的一方可能感到受不公平對待，因為沒有展開調查，徹底澄清事實 - 涉事雙方的權力互動關係可能影響此機制的有效程度 	<ul style="list-style-type: none"> - 需時較長

4.2 當本會收到口頭或書面投訴後，個案會先交由本會高級體育主任審視。視乎性騷擾行為的嚴重性及投訴人的意願，投訴將交由本會高級體育主任與主席共同商討後委任的「調停小組」/調停人處理，或由主席委任的「調查小組」作出調查。

4.3 小組委員會成員的性別應盡量大致相等。如透過調停方式處理，應由投訴人及被投訴人均同意的人士/小組成員處理，否則個案應交由「調查小組」處理。

- 4.4 如投訴人屬未成年人士，可由家長／監護人／親人陪同出席與處理投訴有關的會面，以保障其權益。
- 4.5 調停人／「調停小組」應簡短記錄投訴的處理過程。而「調查小組」應擬訂詳細的書面報告，記錄調查過程及結果。
- 4.6 調停人／「調停小組」可在雙方同意下提出和解條款（如要求涉事者道歉、接受輔導、給予賠償等）。如「調停小組」證明涉事人士的性騷擾行為屬實，本會將視乎個案情況，採取適當的紀律程序（如停職、解僱，或予以處分離隊或停賽）。
- 4.7 如性騷擾的指控可能涉及刑事罪行，如非禮、分發或展示不雅及淫褻物品等，本會將考慮直接把有關投訴交由警方處理。
- 4.8 考慮到延遲處理投訴可能對本會的調查工作及舉證造成困難，受害人如欲作出投訴，必須於事件發生後的 12 個月內提出。若有合理原因令受害人延誤投訴，本會將酌情處理。
- 4.9 如有需要，可向投訴人提供情緒支援。
- 4.10 處理性騷擾投訴的流程圖請見附件。

5. 處理性騷擾投訴的原則

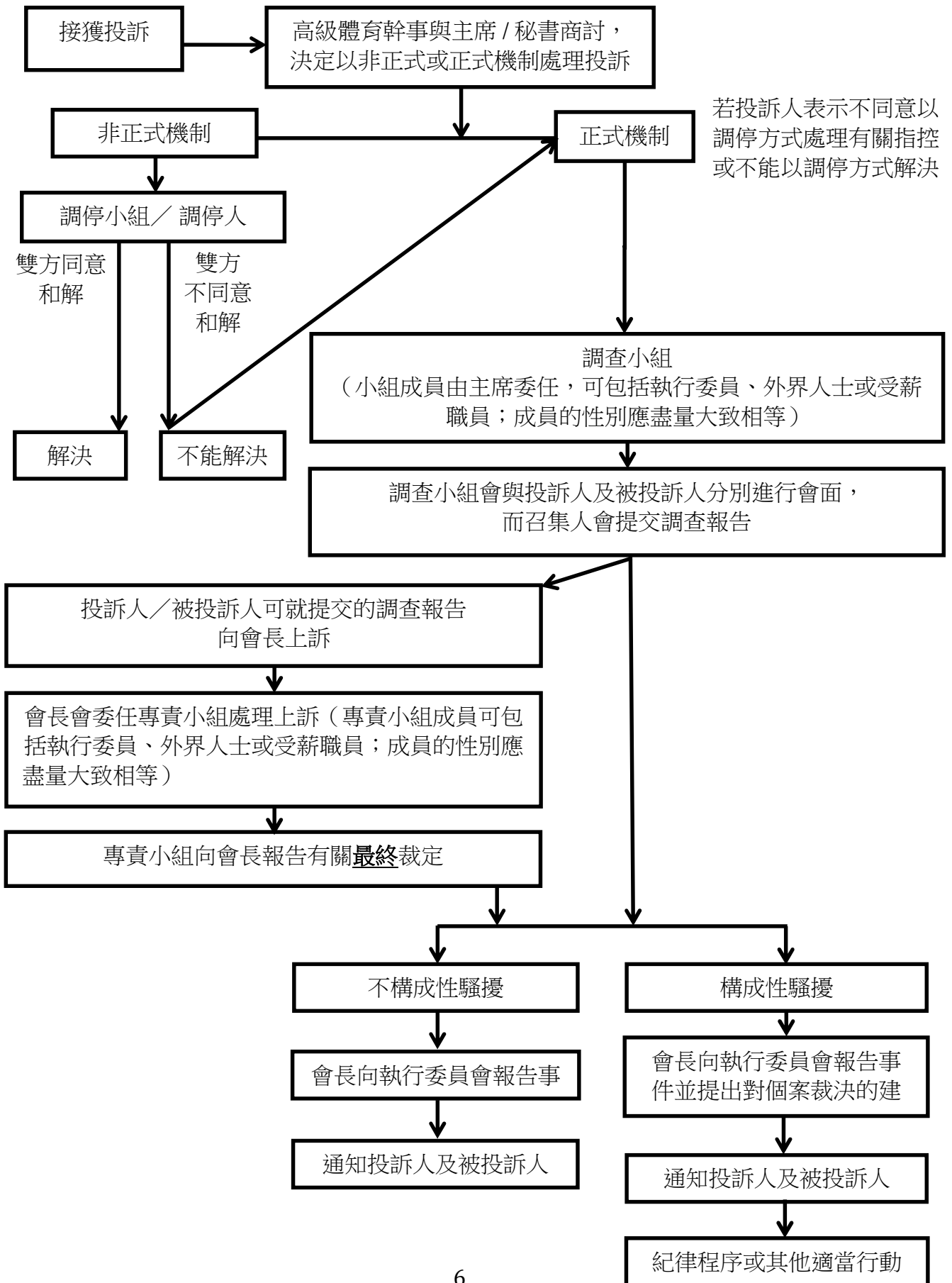
本會在處理性騷擾事件時將秉持以下原則：

- 5.1 公平原則
本會將以公正、公平的原則和程序處理查詢和投訴，確保投訴人和被指稱的騷擾者均會得到公平的對待，給予雙方同樣的機會申述。
- 5.2 保密原則
本會會向投訴人承諾，將所有與性騷擾事件有關的資料和記錄保密，只按需要向處理有關投訴的負責人及被指稱的騷擾者披露指控詳情。
- 5.3 及時原則
本會明白性騷擾事件對投訴人及被指稱的騷擾者均會帶來壓力，本會承諾在收到投訴後會立即處理和跟進事件。
- 5.4 程序透明原則
本會會讓所有執行委員會委員、員工、教練、會員和其他相關人員知悉有關處理性騷擾投訴的程序。
- 5.5 保護原則
本會承諾保護投訴人及證人，避免其因投訴事件而遭受較差待遇，包括報復；根據《性別歧視條例》第 9 條，“使人受害的歧視”，意指某人就歧視事件作出投訴或作證人而受到較差的待遇，例如遭受報復，即屬違法的歧視行為。

- 5.6 避免利益衝突
若處理查詢／投訴的負責人，與投訴人或被指稱的騷擾者有密切關係，如親屬關係，或被指稱的騷擾者是處理性騷擾查詢／投訴的負責人，則本會將把個案交由其他人士處理。
- 5.7 匿名投訴
倘若收到匿名投訴，本會將視乎提出的證據及事件的嚴重程度，才決定會否就有關投訴進行了解及調查。
- 5.8 謹慎處理原則
本會承諾體恤投訴人的感受（如避免投訴人重覆敘述痛苦經歷多次，以及安排同一性別的調查人員接見投訴人等），以確保處理投訴的過程不會讓投訴人不必要地承受更多困擾、蒙受更大羞辱，亦不讓其他有關人士遭到不必要的麻煩。
- 6. 防止性騷擾措施**
- 6.1 本會將向所有負責人員及本會柔道代表隊成員發布本《防止性騷擾政策及指引》，以提高預防性騷擾的意識。指引亦會上載至本會網頁，方便各持份者隨時查閱，並將每五年作出定期檢討。
- 6.2 各持份者可參考國際奧委會網頁有關「體育界的性騷擾和侵犯」的共識聲明、「保障運動員免遭性騷擾及侵犯」的工作錦囊及防止性騷擾措施的建議。
- 6.3 如有需要，本會亦會與平等機會委員會或其他相關機構合作，為各持份者舉辦防止性騷擾的相關講座或工作坊。
- 6.4 本會將定期為所有員工提供培訓，提高防止性騷擾的意識，並安排職員接受有關處理性騷擾投訴的訓練。
- 6.5 在聘請教練方面，本會會要求未受聘的準教練確認沒有觸犯「性罪行定罪紀錄查核」機制指明列表中的性罪行刑事定罪紀錄，並要求已受聘教練在閱讀本指引後，簽署確同意遵守指引。本會亦會要求所有其他申請從事與兒童或精神上無行為能力人士有關工作的準職員進行性罪行紀錄查核。如上述人士來自香港以外地區，亦會考慮要求他們提供前居住地發出的無犯罪紀錄證明或其他同等的合法證明文件。
- 6.6 將有關性騷擾行為明確列出，務使所有持份者明確瞭解觸犯性騷擾條例的嚴重性，並要求所有港隊代表簽署出隊隊員承諾書。
- 6.7 如對防止性騷擾的各項措施有任何疑問或查詢，或想作出有關性騷擾的投訴，歡迎致電 2504 8360 或電郵至 hkjudo_mail@yahoo.com.hk 與本會秘書處聯絡。
- 6.8 本會會鼓勵尚未制定防止性騷擾政策的屬會採納或參考本會處理性騷擾投訴的機制，協助他們處理性騷擾問題。

(2019 年 10 月修訂)

中國香港柔道總會處理性騷擾投訴流程圖



The Judo Association of Hong Kong, China

Policy and Guidelines on Prevention of Sexual Harassment

1. Introduction

With the vision of leading the sport of Judo in Hong Kong, the Judo Association of Hong Kong, China (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 forms be tolerated.

The Association shall ensure that all Officials (including Committee Members, staff members and any members who are involved in the business of the Association), and Members of the Hong Kong, Judo Teams (including team managers, medical officials, team officials and athletes) are able to work, conduct activities or deal with sports affairs under the safeguard of the Sex Discrimination Ordinance (SDO), Cap. 480. This set of policy and guidelines on prevention of sexual harassment gives the definition of sexual harassment, explains the principles and mechanism for handling sexual harassment complaints, and provides preventive 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 the definition of sexual harassment:

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 she would be offended, humiliated or intimidated; or

2.1.2 The 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 Displaying sexually obscene or suggestive photographs or literature

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 Federation 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 Council Members and Senior Sports Executive (SSE) 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 incident to the police or filing of 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	<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

	maintain a work relationship with the complaine	by the informal mechanism
Committee	- Conciliation Committee / a Conciliator	- Investigation 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 respondent'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 complaine about the complaint and give him the opportunity to respond to the allegation - Interview witnesses, if any - Collect evidence - 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 - Inform both the complainant and complaine 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 complaine 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 - Effectiveness may be affected by the power dynamics between the parties 	<ul style="list-style-type: none"> - Takes a longer time to process

4.2 When a verbal or written complaint is received, the Association will pass it to the SSE 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 SSE after

consultation with the Chairman, or the Investigation Committee appointed by the Chairman 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 complainee, failing which the complaint shall be passed to the Investigation 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 Investigation 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 Investigation 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 behaviours in sexual harassment cases also amount to criminal offences, such as indecent assault, and distribution or display of indecent and obscene articles, the Association may consider referring the cases to the police on its own motion.
- 4.8 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 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 Federation 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 Federation.
- 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 means being 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 Federation 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 set of policy and guidelines to all Council Members and Members of the Hong Kong, China Delegation to enhance their awareness of sexual harassment prevention. This set of policy and 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 would collaborate with EOC or other relevant organizations to provide seminars or workshops on prevention of sexual harassment to stakeholders on a need basis.
- 6.4 The Association would provide regular training to staff members to enhance their awareness of sexual harassment prevention. Training would 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 set of policy and 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 against sexual offences.

- 6.6 The Association would inform all stakeholders the seriousness and unlawfulness of sexual harassment; all Members of Hong Kong, China Delegation would be required to sign an undertaking on this issue.
- 6.7 For enquiries or complaints, please feel free to contact the SSE of the Association Secretariat at telephone number 2504 8360 or email to hkjudo_mail@yahoo.com.hk.
- 6.8 The Association shall encourage CLUB MEMBERS of the Associations to adopt or to make reference to this set of policy and guidelines in handling sexual harassment problems.

**The Judo Association of Hong Kong, China
Flowchart on Handling Sexual Harassment Complaints**

