

## **Hong Kong, China Rowing Association ("HKCRA") Policy on Unacceptable Conduct**

This policy focuses on discrimination, harassment and vilification. Nevertheless the same principles apply to all unacceptable conduct whether it be criminal or not. This policy should be treated as supplemental to Section 5-14 of the Human Resources Manual.

The policy applies to all aspects of the Hong Kong, China Rowing Association's (HKCRA's) operations in its capacity as an employer and the governing body for the sport of rowing. It applies to all officials, staff members irrespective of their terms of employment i.e. including short-term contract or part-time staff, coaches and to everybody else involved in the activities of the HKCRA.

### **1. Definitions**

- 1.1 Discrimination** occurs when the discriminator treats a person less favourably than the discriminator treats or would treat other persons.
- 1.2 Harassment** includes unwelcome conduct (which may include an oral or a written statement), in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated by that conduct.
- 1.3 Sexual harassment** means any unwelcome sexual behaviour in circumstances where a reasonable person would have anticipated that the harassed person would be offended, humiliated or intimidated. It covers a wide range of situations:
- Sexual harassment may be inflicted on any person, regardless of gender; sexual harassment is applicable to both men and women as well as sexual harassment to persons of the same sex.
  - 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.
  - A single incident may also amount to sexual harassment.

d) Examples of Sexual Harassment:

- i. obscene gestures or inappropriate physical contact, such as hugging, kissing or touching;
- ii. staring or leering;
- iii. sexual propositions or other pressure for sex;
- iv. intrusive questions about one's private life;
- v. repeated attempts to make a date, despite being told "NO" each time;
- vi. persistent phone calls, text messages or letters asking for a personal sexual relationship;
- vii. implied or overt threats for sex;
- viii. obscene phone calls or text messages;
- ix. indecent exposure or sexually offensive gestures;
- x. sexual assault or forced sexual intercourse;
- xi. sexually suggestive comments or jokes;
- xii. displaying sexually obscene or suggestive photographs or literature;
- xiii. insults or taunts based on sex; and
- xiv. wolf whistling.

**1.4 Vilification** includes any activity to incite hatred towards, serious contempt for, or severe ridicule of, another person or members of a class of persons.

## 2. Other unacceptable conduct

It is impossible to list all types for other unacceptable conduct save to say that it can range from the commission of crimes to conduct which is incompatible with decent behaviour. It should be noted that discrimination, harassment, in particular sexual harassment, and vilification may amount to a criminal offence.

## 3. Basic Principles

The HKCRA is committed to developing, promoting and maintaining a policy of moral rectitude and equality of opportunity which creates an environment in which staff and everybody who has dealings with the HKCRA are treated equitably and with respect. It is unlawful for officials, staff or any person to discriminate against anybody on the grounds of sex, marital status, pregnancy, disability, family status, race or religious belief. Furthermore, any form of discrimination, harassment or vilification on any grounds will not be tolerated. It is important that if any person considers that he or she has been subject to any discrimination, harassment or vilification that the matter is brought to the immediate attention of the HKCRA. The mechanism for doing so is set out below. No one will be victimized or penalized for coming forward with such a complaint. Strict confidentiality will be observed.

#### 4. Action to be taken

Where any person feels concerned about or is distressed or humiliated by any act of discrimination, harassment or vilification or other unacceptable conduct he or she should tell the person(s) to stop as soon as possible. This is particularly useful when the party concerned does not realize that such act is offensive to the recipient.

It is also important that a record is made of the date, time, place and nature of the act the subject of complaint and the identity of witnesses, if any, as a record of such information may be important if, subsequently, he or she decides to take up the matter through a formal proceeding.

##### 4.1 Mechanism for handling complaints

If any person considers that he or she has been subject to discrimination, harassment or vilification or that unacceptable conduct has occurred and is unable to prevent the act complained of, he or she should take the matter up with the Executive Director or with a Director of the Association as soon as possible.

a) **Informal complaint handling** - If the primary concern of the complainant is to stop the acts as soon as possible by way of taking informal action instead of conducting an investigation into his/her case, the complaint will be handled informally. In some circumstances, the message to stop the act of harassment or other act can be successfully passed to the offender by the Executive Director. Generally speaking, the informal complaint handling mechanism is suitable for handling minor and single incidents rather than serious and repeated acts.

b) **Formal complaint handling mechanisms** – once a formal complaint is received, the Executive Director or (in the event of the report being made to a Director of the Association) the Director shall report the matter to the Board of Directors of the HKCRA ("the Board") but the identity of the complainant and the person against whom the complaint is made should only be disclosed on a need-to-know basis.

A full and impartial investigation shall be conducted as soon as possible. The Board shall appoint a panel of at least 3 persons to investigate the complaint. At least one of the panel shall be a director of the HKCRA. For a complaint relating to sexual harassment, the investigation panel should comprise panelists of different genders appointed to investigate the case.

If any of the parties concerned are under the age of 18, their parent or guardian should be notified immediately of the existence of the complaint.

The complainant(s) will be expected to identify themselves. They should be aware 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.

If the complaint is related to the Executive Director, it should be directed to the Board through any Director who will provide advice to the complainant in confidence.

All complaints must be treated seriously and handled objectively and care must be taken not to cause unnecessary distress to the persons involved. Both parties to the complaint must be given the opportunity to present their cases in detail and to comment on the allegations and responses made by the other party.

At the conclusion of an investigation, the panel will submit its report to the Board. After giving all parties the opportunity to be heard, the Board may take any appropriate disciplinary action or may refer the case to an appropriate law enforcing body. If the evidence so warrants, the Board may also take disciplinary action against officials, staff or members found to have made malicious complaints or to have victimized any persons or breached confidentiality.

- 4.2** The complaint handling procedure of the HKCRA does not affect the complainant's lodging complaints with the EOC, reporting to the police or filing a lawsuit in the District Court. The complainant may also:
- a) lodge a complaint with The Equal Opportunities Commission (EOC) and request investigation or conciliation;
  - b) report to the police or;
  - c) file a civil law suit against the harasser.

## **5. Principles of handling complaint**

### **5.1 Fairness**

Enquiries and complaints would be handled by the HKCRA in a just and impartial manner to ensure that the complainant and the against whom the complaint is made are fairly treated, and both parties have chances to present their case.

### **5.2 Confidentiality**

The HKCRA assures that all information and records related to a complaint must be confidential and only be disclosed to relevant persons on a need-to-know basis. Since the person against whom a complaint is made is a key person in the case, under the principle of natural justice, he or she should be informed about the details of the allegation.

### **5.3 Avoiding any delay**

Complaints would be handled promptly because both the complainant and the person against whom a complaint is under pressure. The HKCRA should deal with the case without any delay.

#### **5.4 Transparent procedures**

The is policy should be made known to all staff and to all persons involved in the activities of the HKCRA.

#### **5.5 Protection for complainants and witnesses**

All parties to the complaint as well as any witnesses would be protected against victimization (which in itself can be an unlawful act ) because of the complaint case.

#### **5.6 Avoidance of conflict of interest**

If the employee who handles the enquiry / complaint or the person-in-charge of handling complaints is closely related to the complainant or the person against whom the complaint is made (for instance, relatives), the case should be handled by another person.

#### **5.7 Anonymous complaints**

Whether the complaints are anonymous or not, the HKCRA may make inquiries or conduct an investigation. If the complainant or the person against who the complaint is made is under the age of 18, he or she should be accompanied by his/her parent/guardian/family member to attend the relevant interview as so to safeguard his/her rights.

#### **5.8 Handling cases discreetly**

Empathy shall be shown to the feelings of complainants, for instance, avoiding asking the complainant to repeat his/her painful story, appointing investigators of the same sex to interview the complainant, 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.

## **6. Measures for Prevention of discrimination, harassment and vilification**

The HKCRA shall promulgate the policy to all officials, employees and other persons, including members and registered rowers, to whom this policy and guidelines apply, on a regular basis. The policy should be distributed and explained to all new employees (including temporary employees).

This policy should be uploaded to the website of HKCRA so that all officials, employees and other persons involved in the activities of the HKCRA can have access to the policy at any time. Notices of the policy should also be prominently posted for all employees and other persons (in particular those who have no access to computer) to inform them of the policy, the way to get a copy of it, and the channels to lodge a complaint. The policy shall undergo review once every five years.

The HKCRA would provide regular training for staff members to enhance their awareness discrimination, harassment and vilification and its prevention. Training would also be provided with staff members who need to handle complaints. The HKCRA 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 or discrimination for staff, coaches or members as appropriate.

The HKCRA 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 the policy should be addressed to Executive Director at 2699 7271 or e-mail to [hkcra@rowing.org.hk](mailto:hkcra@rowing.org.hk).

## **Hong Kong, China Rowing Association**

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