

**Hong Kong China Dragon Boat Association  
Policy and Guidelines on Prevention of Sexual Harassment**

**1 Introduction**

Under the sex Discrimination Ordinance, the Association is responsible for preventing sexual harassment in workplace. A common and effective means of prevention is the implementation of a policy on sexual harassment at work. It is the responsibility of both the Association and staff members of the Secretariat to recognize and take seriously the need to ensure that the workplace is free from sexual harassment and all staff members should treat their colleagues with respect.

**2 Definition of Sexual Harassment**

- (i) A person sexually harasses another person if:  
the person
- (a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours to that person; or
  - (b) engages in other unwelcome conduct of a sexual nature in relation to that person;
- in the circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that that person would be offended, humiliated or intimidated; or
- (ii) the person, alone or together with other persons, engages in conduct of a sexual nature which creates a sexually hostile or intimidating work environment for the person.
- (iii) “Conduct of a sexual nature” mentioned in Paragraph 12.2 (i)(b) and 12.2 (ii) above includes making a statement of a sexual nature to another person, or in the presence of that person, whether the statement is made orally or in writing.
- (iv) Although each case would have to be determined on its own facts, the following are general examples of sexual harassment:
- (a) Unwelcome sexual advances – for example: leering and lewd gestures, touching, grabbing or deliberately brushing against another person;
  - (b) Unwelcome requests for sexual favours – for example: suggestions that sexual co-operation or the toleration of sexual advances may further a person’s career;
  - (c) Unwelcome verbal, non-verbal or physical conduct of a sexual nature – for example: sexually derogatory or stereotypical remarks, persistent questioning about a person’s sex life; and

- (d) Conduct of a sexual nature that creates a hostile or intimidating work environment, for example: sexual or obscene jokes around the workplace, displaying sexist or other sexually offensive pictures or posters.
- (v) A series of incidents may constitute sexual harassment. However, depending on the circumstances, it is not necessary for there to be a series of incidents. One incident may be sufficient to constitute sexual harassment.
- (vi) However, a person may be the victim of a hostile work environment where he or she is harassed in a pattern of incidents that may not be, in and of themselves, offensive but when considered together amount to sexual harassment,

### **3 Acts of Sexual Harassment**

- (i) It is unlawful for a staff member of the Secretariat to sexually harass a fellow staff member, a fellow part-time staff or a potential fellow employee of the Association, who may include, inter alia, a supervisor, a potential supervisor, a co-worker, a potential co-worker, a subordinate, a potential subordinate. It may also be unlawful for a staff member of the Association to sexually harass a worker of agencies contracted by the Association or a client. Staff members may be personally liable for acts committed by them in the course of their employment.
- (ii) A person who knowingly aids another person to do an act of sexual harassment shall be treated as himself/herself doing an act of the like description. It is unlawful for a person to instruct, to procure, or attempt to procure, another person to sexually harass a third person. It is also unlawful for a person to induce or attempt to induce another person to sexually harass a third person by providing or offering to provide that person with any benefit, or subjecting or threatening to subject that person to any detriment.
- (iii) A staff member of the Secretariat who has committed an act of sexual harassment, whether or not it is made unlawful under the Sexual Harassment Ordinance, may be liable to disciplinary action.

### **4 Sexual Harassment Complaints**

- (i) If a person considers that he/she is being sexually harassed, there are various ways to handle such a situation. The most straightforward way is to tell the alleged harasser that the latter's acts are unwelcome and should be stopped. The person may also choose to lodge a complaint to the Secretariat, the Association, the Equal Opportunities

Commission (EOC) or to institute civil proceedings in the District Court. The following paragraphs describe the procedures relating to the handling of complaints lodged with the management of the Association.

- (ii) The most undesirable way to respond to an act of sexual harassment is to go along with it, to avoid the person or to ignore the behavior and do nothing. Indeed, such action can exacerbate the complainant's situation.

## **5 Classification of Sexual Harassment Complaints**

- (i) There are two (2) approaches in handling a sexual harassment complaint. In this regard, a sexual harassment complaint can be classified as either formal or informal, depending on whether an investigation is conducted into the case. The two (2) approaches are both valid, and the exact approach to be adopted depends on the wish of the complainant. To avoid misunderstanding on the part of the complainant, the subject officer, on receiving the complaint, should explain to the complainant the two different ways of handling a complaint and ascertain whether he/she requests an investigation into the complaint.
- (ii) Generally speaking, it may be appropriate for minor and single incidents but not more serious and repeated acts of sexual harassment to be dealt with informally. Informal actions in line with those set out in **Appendix I** would normally be taken. The main objective of an informal complaint is to stop the alleged harassment at the earliest possible stage without going into the details of the case, rather than to establish whether a sexual harassment act has been committed. As such, no formal investigation as detailed in Appendix II will be convened to ascertain the facts of the case.
- (iii) When the complainant requests an investigation into his/her allegation, the complaint should be dealt with in a formal manner according to the procedures laid down in **Appendix II**.

## **6 Procedures for Handling Informal and Formal Sexual Harassment Complaints**

- (i) The procedures for handling informal and formal sexual harassment complaints are detailed in **Appendices I and II** respectively.

*Principles commonly applicable to the handling of both formal and informal sexual harassment complaints*

(ii) Regardless of whether a complaint is formal or informal, the following principles should apply:

(a) Level of Officers Handling the Complaint

Officers handling the complaint should be at an appropriate level of seniority having regard to the rank and seniority of the individuals involved in the complaint. The officer handling the complaint should have appropriate knowledge of the law and expertise in investigating and resolving complaints.

(b) Confidentiality

Any information relating to a complaint of sexual harassment must only be given on a need-to-know basis. It gives assurance to the individuals involved in the complaints that management appreciates the sensitive nature of sexual harassment and details of the complaint will not be disclosed to other colleagues.

(c) Prevention of Victimisation

(1) The complainant and the witnesses should be protected against victimisation (which in itself is an unlawful act of discrimination under the Ordinance for making or being involved in the complaint. In general terms, this means that they should not be treated less favourably than other persons in comparable circumstances.

(2) As a general rule, a complaint should normally not be removed from his/her usual duties or treated in an unusual manner whilst awaiting the outcome of the complaint as this may constitute less favourable treatment to the complainant which is not justified and may constitute a ground for a complaint of victimization. There may however be cases where it is difficult to keep the parties working together until the outcome is known. Under such circumstances, Head of Secretariat should take appropriate measures to deal with the situation but the wishes of the complainant and the alleged harasser have to be taken into account.

(d) Other General Principles

- (1) a common-sense approach will be adopted to resolve the complaint;
- (2) prompt handling of the complaint to ensure that they are quickly resolved;
- (3) ensure that the complaints are treated seriously and handled objectively and the parties involved in them are treated fairly;
- (4) ensure that the process of bringing a complaint does not unnecessarily expose the complainant to further distress and humiliation; and

- (5) all complaints should be assumed to be made in good faith and care should be taken not to cause unnecessary distress to anyone involved.

**7 Publicity of the Complaints Guidelines**

Guidelines for handling sexual harassment complaints should be read by all staff on first reporting for duty in the Association. A copy of the guidelines should be re-circulated for staff members' information at least once a year. The guidelines should be displayed in the Secretariat office for easy reference also.

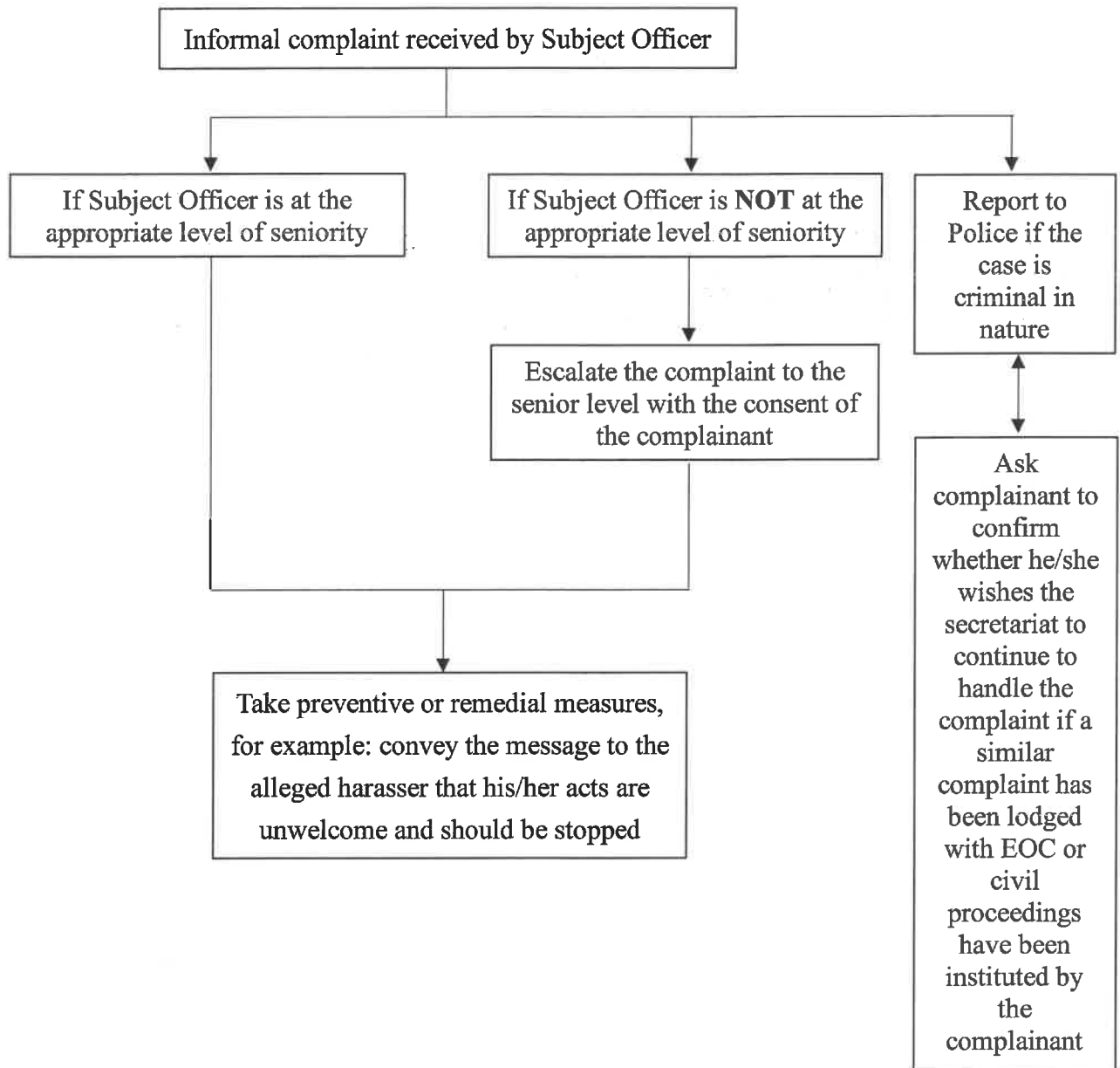
**8 Training for Staff Handling Sexual Harassment Complaints**

Staff members of the Secretariat being assigned to be the Complaints Handling Officers and Subject Officers should attend relevant training to better understand issues relating to sexual harassment in the workplace, and to develop practical skills in investigating and resolving complaints of this nature. The management of the Association should ensure that staff members designated to handle sexual harassment complaints have undergone suitable and appropriate training.

**Procedures for Handling  
Informal Sexual Harassment Complaints**

1. A complaint will be handled informally when a complainant prefers that informal actions be taken to stop the harassment at the earliest possible stage instead of requesting an investigation into his/her case. Generally speaking, informal action may be suitable for minor and single incidents of sexual harassment but not for more serious and repeated acts of sexual harassment.
2. Experience shows that telling the person to stop at an early stage can be an effective response to sexual harassment. Such informal action can be particularly useful when the party concerned does not realise that certain behavior is offensive to the recipient. It can be effective in resolving cases of sexual harassment for the following reasons:
  - (a) It enables prompt action to be taken to stop the harassment at the earliest possible stage;
  - (b) It helps to minimize the distress caused to the complainant and tension in the workplace;
  - (c) It focuses on putting future working relationship onto a proper basis by clarifying what is regarded as acceptable behavior; and
  - (d) It allows the alleged harasser to take positive action to correct or alter his/her behavior.
3. On receiving an informal complaint of sexual harassment, the Subject Officer should take preventive or remedial measures to address the situation, for example: to communicate with the alleged harasser on behalf of the complainant, telling the former that his/her behaviour is unwelcome and should be stopped. If the officer dealing with the complaint finds that he/she is not at the appropriate level of seniority, he/she should escalate the complaint to the senior level with the consent of the complainant. In case of doubt, the Head of Secretariat should be consulted.
4. A flow chart showing how informal sexual harassment complaint should be handled is at **Annex A**.

**Flow Chart on Handling Informal Sexual Harassment Complaints**



## Procedures for Handling Formal Sexual Harassment Complaints

### Channels for Making a Formal Complaint

1. In the event that a complainant chooses to lodge a formal complaint of sexual harassment with the Association or the Secretariat, he/she may do so personally. The complainant may make either a written or verbal complaint, both of which will be given the same weight and treatment.
2. Complaints of sexual harassment should be lodged with the Association or the Secretariat as soon as possible and **within twelve (12) months** after the occurrence of the alleged incidents; the lapse of time may weaken a complainant's case and render the subsequent investigation difficult to carry out.
3. When lodging a sexual harassment complaint, the complainant is expected to identify himself/herself and should be aware that revealing his/her identity to the alleged harasser, without his/her consent, to anyone else other than those involved in investigating the complaint, the alleged harasser and the witnesses.
4. Complaint lodged with the Association or the Secretariat should be addressed to, the Chairman of Executive Committee or the Head of Secretariat, for his/her attention by the Subject Officer. If the complainant feels that his/her complaint should be addressed to the Equal Opportunities Commission (EOC) or the Police, he/she may address to these authorities direct.
5. Apart from lodging an internal complaint, the complainant may also seek advice or lodge a complaint of sexual harassment with the Equal Opportunities Commission (EOC). A complaint of sexual harassment should be lodged **within twelve (12) months** from the date the act of harassment was done, failing which the EOC may decide not to conduct, or to discontinue, an investigation into the act.
6. If it comes to the attention of the Association that a similar complaint has been lodged with the EOC, the Association should enquire with the complainant as to whether he/she wishes the Association's investigation to be suspended or not. In some cases, the Association may decide to proceed with a parallel investigation depending on the particular circumstances of the case and the nature of the incidents under complaint. If the complainant wishes the investigation to be suspended, he/she should inform the Association and give reasons. The Association will take that into consideration when deciding whether to suspend investigation or not.



7. Pursuant to the provisions of the Sex Discrimination Ordinance (SDO) [s76 and s86(1) of the SDO], the complainant may also institute civil proceedings in the District Court to claim against the alleged harasser **within twenty-four (24) months** from when the act complained of was done, excluding the period that elapsed between the date when the complaint was lodged with the EOC and the date when conciliation was concluded if a complaint has been lodged and handled by the EOC.
8. If it comes to the attention of the Association that the complainant has instituted civil proceedings in the District Court, the Association's investigation should be put on hold to avoid any prejudice to the court proceedings. The Association's investigation resume upon conclusion of the civil proceedings.
9. The complainant may report the case to the Police if he/she considers that the harassment amounts to criminal offence. If it comes to the attention of the Association that the Police is investigating into the case, the Association's investigation should be suspended. Management of the Association will render every assistance to the Police.

#### **Investigation of Formal Sexual Harassment Complaints**

10. The Vice-Chairperson (Admin & Support) of the Executive Committee or the Head of Secretariat should, after consulting the Chairman of the Executive Committee, appoint a panel of at least two (2) investigating officers to handle each complaint of sexual harassment. The purpose of the investigation at this stage is to find out whether there is evidence to support the complainant's allegations and, if so, to decide on what further action should be taken.

#### **Investigating Officers**

- (a) Normally there should be at least one male and one female officer on the panel. In general and where applicable, these investigating officers should be at least one substantive rank higher than the respective interviewee and should not have any direct working relationship with either the complainant or the harasser. An interviewee should normally be interviewed by an investigating officer at the same sex.

#### **Interviewing the Complainant**

- (b) The nature and details of the complaint should be ascertained. To facilitate subsequent investigations, a written statement should be taken which should be signed and confirmed as correct by the complainant.

### **Interviewing the Alleged Harasser**

- (c) Details of the allegations should be given in writing to the alleged harasser who should then be interviewed to give comments or explanations. The interview should be recorded in writing and signed and confirmed as correct by the alleged harasser.

### **Interviewing Witnesses**

- (d) All interviews should be recorded in writing and signed and confirmed as correct by each witness.

### **Findings**

- (e) Both parties must be given an opportunity to present their cases in details and to comment on the allegations and responses made by the other party. The investigating panel will analyse the information to ascertain the facts of the case. Its findings should be submitted to the Vice-Chairperson (Admin & Support) of the Executive Committee or the Head of Secretariat who will consider the facts and determine whether the complaint is upheld or not.

### **Non-pursuance/Discontinuation of Investigation**

- (f) The Vice-Chairman (Admin & Support) of the Executive Committee or the Head of Secretariat may, after consulting the Chairman of the Executive Committee, decide to discontinue, or not to conduct, an investigation into a complaint, if:
  - (i) The complainant does not desire that the investigation be conducted or continued:  
or
  - (ii) The complainant is lodged **more than twelve (12) months** after the alleged act was done; or
  - (iii) The Vice-Chairperson (Admin & Support) is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance; or
  - (iv) The case is being investigated into by the Police.

When it is decided to discontinue or not to conduct an investigation, the complainant and the alleged harasser should be advised of the reasons for that decision.

- 11. The Association may vary the composition of the investigating panel and the manner of investigation to suit individual situations. All complaints should be dealt with thoroughly and fairly and investigated into without delay. Confidentiality must be observed to ensure that the reputation or career of either party to a complaint is not unjustly affected as a result of the complaint being made. It is important that all parties involved with the complaint understand that it should not be openly discussed. The importance of this point should be stressed to everyone involved including the investigating officers, the complainant, the alleged harasser and the witnesses.

12. The complainant should be told in confidence whether the complaint has been upheld and whether disciplinary action will be/has been taken. If the complaint is not upheld, the reasons should be given and the alleged harasser should also be informed of the outcome of the investigation.
13. The Vice-Chairperson (Admin & Support) of the Executive Committee or the Head of Secretariat should keep records of all formal complaints to monitor the situation. The records should include complaints for which investigations have not been pursued or cases where the investigations produced no definite conclusions.

### **Steps to be followed in Dealing with Sexual Harassment Complaints**

14. The procedures for dealing with sexual harassment complaints are as follows:
  - (a) The Vice-Chairperson (Admin & Support) or the Head of Secretariat receives the complaint.
  - (b) In case of a written complaint, the Vice-Chairperson (Admin & Support) or the Head of Secretariat acknowledges it in writing **within five (5) working days of receipt** and in case of an verbal complaint, The Vice-Chairperson (Admin & Support) or the Head of Secretariat records it in writing and confirms the record with the complainant as soon as possible, and in any case **within five (5) days**.
  - (c) If, upon receipt of the complaint or at any time during the course of investigation, the Vice-Chairperson (Admin & Support) or the Head of Secretariat discovers that the complaint is of a criminal nature, the case should be reported to the Police without delay. Before a referral is made to the Police, it is advisable from the management angle to first inform the complainant of the intention to report the case to the Police. Investigation should be suspended once referral has been made to the Police.
  - (d) If at any time during the investigation, the Vice-Chairperson (Admin & Support) or the Head of Secretariat discovers that the same complaint has been lodged with the Police or the Police is investigating into the case, the Association's investigation should be suspended.
  - (e) If Police investigation or subsequent criminal proceedings conclude that no criminal case is established, it is the responsibility of the Vice-Chairperson (Admin & Support) or the Head of Secretariat to obtain and scrutinize all relevant information concerning the case to see whether an act of sexual harassment might have been committed. Where appropriate, the Vice-Chairperson (Admin & Support) or the Head of Secretariat should include in

his/her report to the relevant authority a recommendation on whether consideration should be given to instituting disciplinary action against the member of staff concerned.

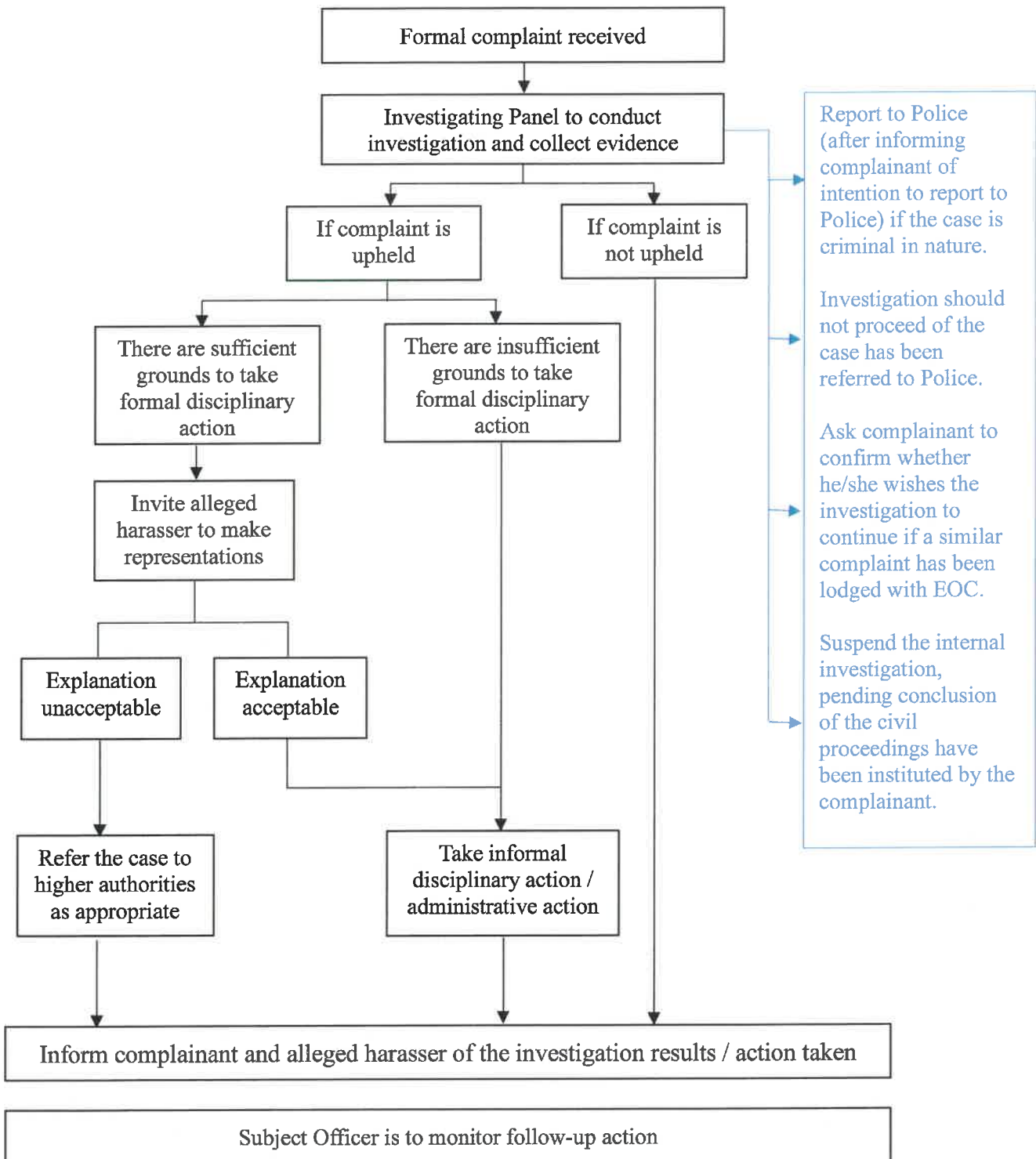
- (f) If at any time during the investigation, the Vice-Chairperson (Admin & Support) or the Head of Secretariat discovers that a similar complaint has been lodged with the EOC, the Vice-Chairperson (Admin & Support) or the Head of Secretariat should ask the complainant to confirm whether he/she wishes the Association's investigation to be suspended or not.
- (g) If at any time during the investigation, the Vice-Chairperson (Admin & Support) or the Head of Secretariat discovers that the complainant has instituted civil proceedings in the District Court, the Association's investigation should be suspended to avoid any prejudice to the court proceedings. The Association's investigation may resume upon conclusion of the civil proceedings.
- (h) The Vice-Chairperson (Admin & Support) or the Head of Secretariat maintains case files and records of the complaints received to facilitate the monitoring of progress in processing the complaints. All such files and records should be accorded confidential status.
- (i) The Vice-Chairperson (Admin & Support) or the Head of Secretariat appoints an investigating panel in accordance with the principles set out in Paragraph 10 to conduct investigations in such a manner as may be justified by the circumstances of each case. The investigation should include interviewing the complainant, the alleged harasser and any other persons who may be of help in the investigation, and collecting evidence where necessary. In order to avoid intimidation, both the complainant and the alleged harasser should be advised not to discuss the matter with each other.
- (j) After considering a complaint based on the findings of the investigating panel, the Vice-Chairperson (Admin & Support) or the Head of Secretariat submits a report with his/her recommendations to the Chairman of the Executive Committee of the Association for approval of the issue of reply to the complainant. If the Vice-Chairperson (Admin & Support) or the Head of Secretariat is the person authorized to reply, he/she should clear the reply with the Chairman of the Executive Committee of the Association.
- (k) The person authorized to reply to the complainant may, if he/she considers that the matter at issue so justifies, refer the case to the Chairman of the Executive Committee of the Association personally for further consideration before a reply is issued.

- (l) If the complaint is upheld and the gravity of the case so warrants, the Chairman of the Executive Committee of the Association should consider instituting disciplinary action against the member of the Association or staff concerned.
  - (m) If at the conclusion of an investigation, there is clear evidence to show that a complaint has been made in bad faith, disciplinary action may be taken against the member of the Association or staff concerned who made the malicious complaint.
  - (n) The investigation of a complaint should normally be completed and a reply issued to the complainant **within one (1) month** after receipt of the complaint. If an investigation cannot be completed **within one (1) month**, the Vice-Chairperson (Admin & Support) or the Head of Secretariat will send an interim reply to the complainant and the alleged harasser, informing them of the progress of the investigation. Any investigation which cannot be completed **within three (3) months** should be drawn to the personal attention of the Chairman of the Executive Committee of the Association.
  - (o) Anonymous complaints will not be investigated. However, the management of the Association should bear in mind that improvements could be made to the system or working procedures by examining the points and/or criticisms raised in the anonymous complaints.
15. A flow chart showing how formal sexual harassment complaints should be handled is at **Annex B**.

### **Channel of Appeal**

16. If either party is dissatisfied with the outcome of the investigation, he/she may appeal to the Chairman of the Executive Committee of the Association **within fourteen (14) days** after he/she is informed of the outcome of the investigation.

**Flow Chart on Handling Formal Sexual Harassment Complaints**



- Remarks:**
- (a) Acknowledge receipt within seven (7) working days upon receipt of complaint.
  - (b) Investigation and reply should be completed **within one (1) month**.
  - (c) Seek advice from The Chairman of the Executive Committee whenever in doubt.