

Corporate Governance in National Sports Associations: Forum on Developing Policy of National Sports Association - Making Policy on Preventing Sexual Harassment in Sports Sector



Organiser : Leisure and Cultural Services Department
Supported by : Sports Federation & Olympic Committee of Hong Kong, China
 Hong Kong Sports Institute
Training Organiser : The Hong Kong Institute of Directors

Globally, the “#MeToo movement, riding upon the ascend of social media, has broken the silence on this taboo topic in recent years. The wide and lasting public response, waves of further coming forward are clear evidence that sexual harassment does impact people every day, whether we speak about it or not.

“I notice that people still tend to shy away, once anyone touches on the topics of sexual harassment. We should be able to talk about this important topic. Having the right culture and mindset at the board level of an organisation is essential to create awareness”, said Dr Christopher To, Chairman, The Hong Kong Institute of Directors (HKIoD), as he kicked off a recent seminar, gathering office bearers, board and management members of National Sports Associations

(NSAs), to discuss how National Sports Associations (NSAs) can better manage sexual harassment risks from a corporate governance perspective. “I am really glad to see that Leisure and Cultural Services Department (LCSD) is supporting NSAs to take such a proactive approach to manage risks in this area for the wellbeing and sustainable development of both the NSAs and our athletes in Hong Kong.”

Part of the ongoing NSA development programme organised by the LCSD of the HKSAR Government, the seminar featured complementary perspectives from different field experts – HKIoD Chairman Dr. Christopher To; Ms Fay Ho, Hon. Deputy Secretary General of Sports Federation and Olympic Committee of Hong Kong, China; Dr Trisha Leahy, Chief Executive, Hong Kong Sports Institute; Henry Tang, [Coaching Director of the Hong Kong Association of Athletics Affiliates, Ms Vera Lui, Elite athlete, with the aim to guide NSAs on how to introduce a more strategic, structured and sustainable approach to formulating and implementing anti-sexual harassment policy that fits the organisation's needs. Held in September 2020, the seminar was attended by 187 office-bearers and senior staff from 56 NSAs.

Sound policy making starts and ends with solving the toughest challenges, problems, sticking points faced by the stakeholders.

“Anyone can imagine how stressful and devastating it is for a complainant, having to recount his or her traumatic experience in an open court setting and losing the case at the end,” said Dr To. Citing court cases, he highlighted the burden to bring a sexual harassment case to fruition in a court of law is inherently difficult where conviction can only be secured beyond reasonable doubt. “Prevention is better than cure,” using Dr To’s words, is particularly true in the context of anti-sexual harassment.

“Some wrongdoers commit sexual harassment offences knowingly, while some people do not realise their behaviours already amount to sexual harassment offences that are illegal,” said Dr To.



▲ **Hong Kong Association of Athletics Affiliates Coaching Director Mr Henry Tang**



▲ **HKIoD Chairman Dr Christopher To**

A simple test is enough to reveal much about the strength of an NSA’s anti-harassment policy: for certain identifiable and foreseeable risky and unacceptable behaviours, does an organization leave key stakeholders room to maintain that they do not know that these behaviours are risky or unacceptable?

Know how risks take shape and manage them

A senior leader representing Hong Kong sports industry in the international arena, Ms Ho outlined key sexual harassment risks in the context of sports development. “Harassment and abuse can stem from a natural hierarchy, for example between a coach or official and an athlete, from the perceived differences or imbalances in power, for example between two athletes of different age or ability. These risks affect both men and women, adults and youth, as well as those with disabilities, casting lasting impacts to the affected individuals. Potential occasions where individuals are exposed to such risks include sports fields, schools, overseas trips, and increasingly over the online environment as well.”

“Certain behaviours can put both athletes and coaches in a vulnerable situation. For example, unnecessarily conducting training in a private, one-on-one and close-door setting. Also, while maintaining open and direct communication between coach and athlete is important to optimise sport performance, some random, out-of-scope communication and forwarding of irrelevant information can risk sending confusing and at times wrong messages,” explained Henry from his many years of experience training athletes and coaches.

Dr To pointed out that identifying, measuring, controlling, monitoring, evaluating and reporting such risks together form an effective governance and risk management system.



▲ SF& OC Honorary Deputy Secretary General Ms Fay K. F. HO

Building a strong culture to deter misconduct

On the other hand, sexual harassment is a serious offence, and traditionally a difficult topic. It takes a strong organisational culture to contest the matter's perceived sensitivity, since culture, the tacit social order of an organisation, can effectively help shape attitudes and behaviours in wide-ranging and durable ways. Cultural norms define what is encouraged, discouraged, accepted, or rejected within a group. Moreover, culture and leadership are inextricably linked¹.

“From a board director’s take and behaviours, one can tell if the organisation is having a strong culture in protecting their stakeholders against sexual harassment risks. Ask a board

member what anti-sexual harassment policy is in place within the organisation. If such policy making and updates are robustly discussed and decided on the board level, you will sense it right away from the answer given by the board member,” said Dr To. “Furthermore, if the last time an organisation updated an anti-sexual harassment policy, held a related staff training, or managed sexual harassment risks for an event was some years or decades ago, then anti-sexual harassment culture is naturally weak.”

Below are key elements of a good safeguarding system, combining international best practices highlighted by Dr To, Ms Ho and Dr Leahy:

1. A well-developed code of conduct
2. A recruitment process which minimises risk (screening questions and background check)
3. Regular education/awareness raising training for staff and volunteers
4. A clear sexual harassment and child protection policy and procedures
5. A network with non-sport partners (e.g. law enforcement and other organisations)
6. Risk monitoring and evaluation mechanisms to ensure that the framework is effectively applied and regularly reviewed or updated



¹ [The Leader’s Guide to Corporate Culture \(hbr.org\)](https://www.hbr.org/)

Compliance as well as performance

“It doesn’t help if no one is using or knows how to use a system. Therefore, when designing these safeguarding systems, NSAs must ensure that they are easy to understand and easy to implement,” added Dr Leahy, an elite sports leader who has worked with the IOC and UNICEF in policy making and research on preventing sexual harassment and abuse in sport.

An NSA’s policy must provide clear guidance, articulating dos and don’ts, to offer a common standard, supporting the management and members to prevent any misconduct in their sports.

The goal of the system is not just to get basic compliance (tick the necessary boxes) but to support the entire organisation to perform strongly, ensuring existing and new employees, volunteers, athletes are informed and keep pace with the organisation’s most up-to-date anti-sexual harassment policy, rules and code of conduct. Dr Leahy suggested NSAs to work with community experts who can assist to develop and implement their policy, conduct regular reviews, provide staff and adult athletes training and education about safeguarding.

To demonstrate how an NSA can implement thoughtful anti-harassment policy to anticipate and meet the needs of athletes, Ms Ho has shared some best practices implemented by the International Rowing Federation (FISA) as a case study. FISA was amongst the first batch of international sports associations making the policy that anti-sexual harassment education and protection considerations are an integral part of each activity and event’s planning. Moreover, the organisation is taking a smart and practical approach towards caring what their athletes are concerned about.

“In view of how intimidating and difficult it can be for an athlete to voice their sexual harassment concerns, FISA has come up with a creative solution: appointing retired athletes as the organisation’s Safeguarding Officers. These Officers are often considered role models by athletes, making them more approachable than the blue blazer officials. They will be present during all major events, such as World Championships and World Cups, playing a key role to support athletes generally and specifically on answering questions and following up on concerns related to sexual harassment,” she said.



▲ HKSI Chief Executive
Dr Trisha Leahy



Protecting complainants, closing all administrative loopholes

While a strong preventive culture is necessary to mitigate sexual harassment risks, organisations also need to be prepared to protect complainants in all cases and close all the administrative loopholes that may compromise a complainant's confidentiality and interest.

“All the staff who may be exposed to any part of the sexual harassment complaint procedure must be trained. It is unacceptable for the confidentiality of a complainant's case to be compromised due to lack of training or poor data privacy practices,” said Dr To.

He highlighted eight key principles of handling sexual harassment complaints:

1. Confidentiality
2. Fairness – open and impartial
3. Transparent procedures
4. Avoid conflict of interest.
5. Handling anonymous complaints
6. Avoiding delay
7. Protection for complainants and witnesses
8. Empathic approach and avoid putting the complainant under further distress or humiliation

“As an athlete, I am told that we have various options to channel our concerns. We may approach our coach or certain specialised agencies and authorities. However, it is not immediately clear to us how these channels are different, and which one would best protect us under different circumstances. Therefore, I hope that a dedicated committee can be set up within a sports association to pull together select trained staff and outside field experts. I also hope it will proactively educate athletes on what options and procedures are available for them to interact with the committee. Ideally, the committee should offer flexibility for complainants to seek help through different contact points, based on their specific case, needs and preferences,” said Vera.

NSAs should design the contact points and case handling procedures to best protect complainants' privacy, offer emotional support, and avoid conflict of interest. Understandably, in certain scenarios, complainants may want to seek help from a trained staff within the committee who they already know and trust. However, there are also scenarios where they may want to talk to an independent outside field expert within the committee who can offer them the highest confidentiality, impartiality, and emotional security.

[Formulating Policy on Sexual Harassment in Sports Organisations](#) published by the Equal Opportunities Commission provides a good reference for NSAs to formulate its anti-sexual harassment policy, establishing a transparent mechanism to handle complaints. LCSD also reminded that NSAs should disclose their sexual harassment handling mechanism effectively on their websites. Once receiving a verbal or written complaint related to sexual harassment, an NSA is required to keep LCSD informed within 24 hours.



▲ Elite athlete Ms Vera Lui

“Internationally, organisations are taking a much more proactive approach to tackle sexual harassment risks, which is a welcomed development for everyone. We are glad that our NSAs are committed and prepared to put stronger policy and actions in place to safeguard Hong Kong athletes, and encourage more and more people to participate in sports through providing more security as well as sense of security. We hope that in the foreseeable future, no stakeholder will consider anti-sexual harassment a sensitive topic anymore, with our NSAs leading a stronger culture, sending an even clearer message to our stakeholders that sexual harassment will not be tolerated in the sports industry,” concluded Henry Wong, Chief Leisure Manager at LCSD, who thanked all speaking guests for their valuable sharing during the seminar.

Know your rights: example of sexual harassments

In Hong Kong, you are protected against sexual harassment by the Sex Discrimination Ordinance. Sexual harassment is a civil offence under the law. The law tells us that sexual harassment is unwanted sexual attention. It includes touching you, saying sexual things to you, and asking for sex. Sexual harassment is also when you feel intimidated in an environment that is sexually hostile. The Sex Discrimination Ordinance provides protection against sexual harassment in both employment and educational sectors, and against sexual harassment of goods, facilities or service providers by customers, or vice versa.

Some perceived causal acts which are unwanted or uninvited sexual behaviour, for example:

- unwelcome physical contact, such as hugging, kissing or touching
- staring or leering
- brushing up against the body
- intrusive questions of a sexual nature about one's private life
- sexually offensive gestures

Some acts of sexual harassment may amount to criminal offences, for example:

- obscene phone calls
- indecent exposure
- sexual assault

Sexual harassment also includes the creation of a sexually hostile or intimidating environment, for example:

- sexually suggestive comments or jokes
- sexually explicit pictures or posters
- insults or taunts based on sex
- wolf whistling



APPENDIX

FORUM ON DEVELOPING POLICY OF NATIONAL SPORTS ASSOCIATION MAKING POLICY ON PREVENTING SEXUAL HARASSMENT IN SPORTS SECTOR

Date : 26 September 2020 (Sat)
Organisers : Leisure and Cultural Services Department
Supported by : Sports Federation & Olympic Committee of Hong Kong, China
Hong Kong Sports Institute
Training Organisation : The Hong Kong Institute of Directors

SUMMARY AND SHAPSHORT OF SPEAKER'S SPEECH (NOT FULL VERSION)

I. POLICY AND GOVERNANCE CONSIDERATIONS ASSOCIATED WITH SEXUAL HARASSMENT WITHIN THE WORKPLACE - "CREATING A SAFE SPORT ENVIRONMENT FOR ALL ATHLETES"

Dr Christopher TO

Chairman, The Hong Kong Institute of Directors

1. Legal Definition of Sexual Harassment

Sexual Discrimination Ordinance

Sexual Harassment [Part I Section 2(5)]

- According to the legal definitions under the Sex Discrimination Ordinance (SDO), "sexual harassment" occurs when:
- any person
 - makes unwelcome sexual advances, or unwelcome request for sexual favors, to another person; or
 - engages in other unwelcome conduct of a sexual nature in relation to that other person; in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that other person would be offended, humiliated or intimidated; or
- any person, either alone or together with other persons, engages in a conduct of a sexual nature which creates a hostile or intimidating environment for another person

2. Forms of Sexual Harassment

- **Unwelcome conduct towards a person**
 - When a person:
 - ▶ makes an unwelcome sexual advance, or unwelcome request for sexual favours, to another person; or
 - ▶ engages in other **unwelcome conduct of a sexual nature to another person, which a reasonable person, having regard to all the circumstances, would anticipate that the other person would be offended, humiliated or intimidated**
- **Create a sexually hostile environment**
 - When a person:
 - ▶ alone or with others, engages in conduct of a sexual nature, **which creates a hostile or intimidating environment for another person**. Such conduct could, for example, be in the form of making sexual jokes or displaying indecent pictures.

3. Sexual Discrimination Ordinance

- You are protected against sexual harassment by the SDO. Sexual harassment is **a civil offence under the law.** **Sexual harassment is unlawful** whether it is a woman or man who is sexually harassed, and irrespective of the sex of the person doing the sexual harassment
- The **SDO provides protection against sexual harassment** in both employment and educational sectors, and against sexual harassment of goods, facilities or service providers by customers, or vice versa
- **The SDO also renders sexual harassment between workplace participants at a common workplace unlawful, even where there is no employment or employment like relationship between them.** A “workplace participant” covers persons working in the same workplace, including an employer, an employee, a contract worker, a principal, a commission agent, a partner, an intern and a volunteer

4. UNESCO Code of Sports Ethics

- States that sports organizations have the responsibility
“To ensure that **safeguards are in place** within the context of an overall framework of **support and protection** for children, young people and women, both to protect the above groups from **sexual harassment and abuse** and to prevent the exploitation of children, particularly those who demonstrate precocious ability.”

5. Obligations-General

- Under SDO individual sports organisations as an employer and a service provider, **have the obligation to provide a sexual harassment free environment** for the management, the employees, the coaches and the members (to work, receive training or participate in sports activities
- In 2007 the **International Olympic Committee (IOC)** issued a **Consensus Statement on Sexual Harassment and Abuse in Sport** which advocates the development of effective preventive measures, and raises the awareness of people in the
- sports sector on sexual harassment and abuse so as to enhance the protection of athletes from sexual harassment and abuse
 - One of the recommendations of the Consensus Statement is to **develop a sexual harassment policy.**

6. Obligations-Employers

- Employers may also be **liable for acts of sexual harassment committed by their employees in the course of employment** regardless of whether the acts were done with the employers' knowledge or approval
 - However, it is **a defence** for the employers to show that they have **taken reasonably practicable steps to prevent employees from doing such acts** for example, by implementing a policy on sexual harassment in the workplace
- Employers **should make clear to their staff that it is everybody's responsibility** to recognise and take seriously the need to ensure that the workplace is free from sexual harassment and all staff should treat their colleagues with respect.

7. Policy and Procedures

NO “one size fits all” Policy

- Policy and principles
- Roles and Responsibilities of the Organisation and all member constituents
- Definitions
 - Custom made definitions
 - ▶ Examples
 - ▶ Complaints
 - ▶ Principles for handling Sexual Harassment Complaints
 - ▶ Procedures for handling Informal and Formal Sexual Harassment Complaints
 - ▶ Publicity and Preventative Measures
 - ▶ Committee Against Sexual Harassment
 - Governance regime
 - Terms of Reference
 - Gender Diversity
 - ▶ Principles of Confidentiality and Privacy

8. Management and Board Oversight

Council for Institutional Investors HOW CORPORATE BOARDS CAN COMBAT SEXUAL HARASSMENT (March 2018) para.9 10

- How the board establishes the tone at the top of the company, and how that tone filters through the company.
- Whether the entire board discusses corporate culture on a regular basis, and whether a board committee has special responsibilities in this area.
- What mechanisms enable the board to learn about employee allegations of sexual harassment, and whether the board receives direct reports of employee sexual harassment complaints, including sexual harassment complaints against officers.
- What the company's procedures are for handling sexual harassment complaints, placing an accused individual on administrative leave, and protecting a complainant from retaliation.
- Whether the board or a board committee meets regularly with the head of HR and other officers who are responsible for workplace issues.
- Whether there is adequate staffing for HR functions that handle potential employee concerns regarding sexual harassment.

9. Prevention is better than Cure

- Creating and enforcing codes of conduct and policies that make clear that sexual harassment is impermissible.
 - HKSI Staff Code of Ethics Section B para. 1.5 to 1.7
 - [https://www.hksi.org.hk/hksi/hksi staff code of ethics](https://www.hksi.org.hk/hksi/hksi%20staff%20code%20of%20ethics)
- Conveying in corporate communications and training that sexual harassment is impermissible.
- Establishing grievance procedures and confidential reporting methods.
- Having a corporate culture in which employees feel free to report concerns.
- Taking timely action in response to any complaint.

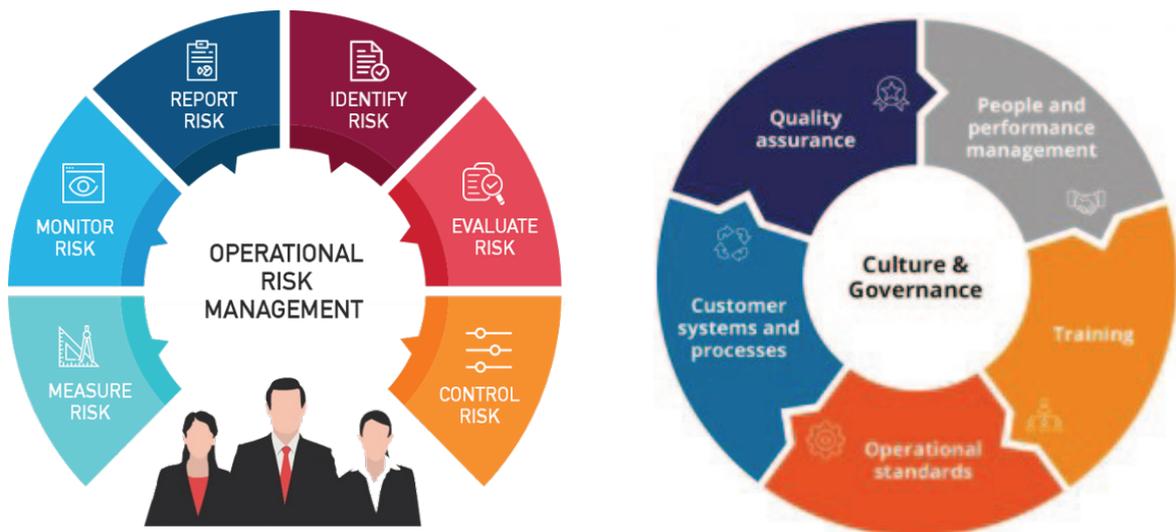
10. Preventative Measures

- Develop policies and procedures for the prevention of sexual harassment and abuse;
- Prepare and implement codes of ethics and conduct for coaches, whether they work with adults or children;
- Monitor the implementation of these policies and procedures;
- Evaluate the impact of these policies in identifying and reducing sexual harassment and abuse;
- Provide training on how sexual harassment and sexual relationships can negatively influence coach athlete relationships;
- Develop complaint procedures that ensure privacy;
- Protect legal rights of athletes and coaches, and protect against retaliation;
- Screen all applicants for coaching staff and volunteer positions;
- Foster strong partnerships with parents/care givers in the prevention of sexual harassment and abuse;
- Promote and support research on these issues;
- Foster a climate of open discussion about the issues of sexual harassment and abuse so that athletes with problems feel confident enough to speak out; and
- Develop athlete autonomy wherever possible including adopting coaching styles which give optimum autonomy and responsibility to athletes.

11. Principles of Handling Sexual Harassment Complaints

- Confidentiality
- Fairness - open and impartial
- Transparent procedures
- Avoid Conflict of Interest
- Handling Anonymous Complaints
- Avoiding delay
- Protection for Complainants and Witnesses
- Empathic approach and avoid putting the Complainant under further distress or humiliation

12. Governance and Risk Management



13. Risk Management



II. IMPLEMENTATION OF INTERNATIONAL OLYMPIC COMMITTEE SAFEGUARDING POLICIES IN AN INTERNATIONAL FEDERATION

Ms. Fay K.F. HO, OLY

1. WHAT IS HARASSMENT AND ABUSE?

There are five main categories of harassment and abuse, and each can occur in isolation or in combination with one or more of the others:

- 1.1 Psychological Abuse
- 1.2 Physical Abuse
- 1.3 Neglect
- 1.4 Sexual Harassment
- 1.5 Sexual Abuse

2. RECOGNIZING THE SIGNS

Harassment and abuse can:

- Stem from the natural hierarchy of a sport (e.g. a coach or official and an athlete)
- Grow out of perceived differences or imbalances in power (e.g. between two athletes of a different age or ability) This is actually more common than abuse by coaches or officials
- Affect males and females, adults and youth, those with disabilities – i.e. everyone!
- Take place in the sports environment, at school, at home, whilst travelling, and ONLINE
- Can have long lasting effects

3. DEVELOPING POLICY

- More and more sports organisations worldwide are now realizing the need to tackle this important issue
- Here in Hong Kong, the Sports Federation and Olympic Committee are working together with our members, relevant Government departments and various NGOs to ensure that comprehensive policies and programmes are put in place
- International Federations are also working with the International Olympic Committee, who have produced detailed Safeguarding information and educational materials for Federations, officials, coaches, athletes and everyone in the athlete's entourage

4. WHAT CAN ORGANISATIONS DO?

- Sport leadership
- Change sporting culture
- Advocacy and education
- Athlete protection framework

5. ROLE-MODEL ATHLETES HELP PROMOTING SAFEGUARDING

- Talking about or reporting harassment and abuse can be an intimidating and difficult thing to do
- Athletes suffering from abuse often struggle to come forward
- FISA has recognized that members of its Athlete's Commission – comprising top international competitors and recently retired athletes can play an important role as safeguarding officers and ambassadors
- Younger and less experienced athletes may feel more comfortable in talking to their role-models and fellow competitors than approaching older "blue-blazer" officials
- This involvement by the top athletes has proved highly successful

6. ROLE OF SF&OC

- As the National Olympic Committee of Hong Kong, SF&OC is obliged to uphold the "Olympic Charter" at all times
- SF&OC recognizes the right for all stakeholders to enjoy a safe and supportive work/sport environment
- SF&OC ensures that all Officials and staff work, conduct activities and deal with sports affairs under the requirements of the Sex Discrimination Ordinance (Cap 480) and other relevant laws

III. EXPERIENCE SHARING ON FORMULATING THE ANTI-SEXUAL HARASSMENT POLICY OF HONG KONG SPORTS INSTITUTE - SAFEGUARDING ATHLETES IN HKSI

Dr Trisha LEAHY

Chief Executive, Hong Kong Sports Institute

Main point : 1

We all love Sport, **and** participating in sport brings major benefits to everyone

Main Point : 2

But Sport is part of society **so** we cannot avoid meeting some of these social problems

Main Point : 3

Sexual Harassment and Child Abuse are examples of these problems **so** we need to have good athlete protection (safeguarding) systems in place

Main Point : 4

Safeguarding systems must be **easy to understand** and **easy to implement**

1. Safeguarding System

We know from international best practice there are four key elements of a good safeguarding system:

- 1.1 well developed **codes of ethics**
- 1.2 **recruitment processes** which minimise risk
(ask screening questions; do relevant sexual conviction record check)
- 1.3 **Regular education**/awareness raising for staff and volunteers
(e.g. EOC, Against Child Abuse Foundation, Plan International and other NGO's)
- 1.4 clear **Sexual Harassment** and **Child Protection** policy and procedures

2. HKSI Child Protection Policy

- Communication is the key
- Develop the policy in consultation
- Take the time to consult and refine many times
- Record and Publish the FAQs

3. Two Issues we found

- 3.1 Everyone agrees Child Abuse is not OK
But sometimes we are unaware of high risk behaviors which may be misinterpreted or misunderstood
(so we made a list of behaviors which may be high risk, but not necessarily “wrong” and we made a list of FAQs).
- 3.2 Everyone is worried about what to do if they come across is a suspected case (so we made the reporting line very simple)

4. HKSI Child Protection Policy

Why we should have a CPP

- Protect Young athletes
- Protect those working with young athletes
- Protect the reputation of the HKSI

Aim of the Policy

- To promote best practice in providing HKSI's athletes with appropriate safety and protection
- To allow staff to make informed and confident responses to specific Child protection issues

5. Child Protection Policy

- Format - Keep it simple
 - 5.1 **Policy Statement** - indicating HKSI's Commitment to safety and welfare of athletes and education and empowerment of staff.
 - 5.2 **Clear Definitions** of physical, sexual, psychological (emotional) abuse and neglect
 - 5.3 **Clear Procedures** if there is a case.

6. Respond Record Report

- Procedures - clear and simple

Basic principles :

- It is not the responsibility of staff to either investigate or decide whether or not child abuse has taken place.
- However we each have a responsibility to report.
- If staff are not sure what to do they can call ACA or SWD

- **So individual staff/volunteers only need to remember one thing - report to the right authority and your job is done.**

7. If there is a report to your organisation about a staff member....

- Three areas to manage
 - Child welfare
 - Staff management
 - Organisation Issues

8. Confidentiality

IV. CLOSING REMARK

Calvin WONG

Senior Leisure Manager (Sports Funding)

Leisure & Cultural Services Department

1. Review the Existing Anti-Sexual Harassment Policy

- Invite people of different ages, genders and sectors to participate in formulating and reviewing relevant policies and codes
- Clearly define physical contact behaviors required for training and learning modes of different sports
- Build a Safe Sport Environment

2. Develop Effective Code of Conduct

- Develop technical guidance standards
- Combine the requirements of the code in daily training
- Teaching and practice
- Popularize Safe Sport Culture

3. Communicate the Policy and Provide Training

- Circulate and provide text
- Increase transparency through promotion and publicity through web column
- Organize training and explain the relevant rules to strengthen education
- Cultivate Safe Sport Mindset

4. Regularly Review

- Set up special committees or require special committees to review and report regularly

5. Effective Complaint Procedure

6. Summary of the Sports Funding Program on the Prevention of Sexual Harassment Policy