

## **Evangelical Free Church of China – Kong Fok Church**

### **Policy Against Sexual Harassment**

2021.04.08 version

#### **I. Principles**

1. Evangelical Free Church – Kong Fok Church ("Kong Fok Church" or the "Church") believes that the Scriptures, both the Old and New Testaments, are inspired by God. They are the inerrant Word of God, the complete revelation of His will for salvation of men, absolutely trustworthy, actively leading to life, and form the highest standard and final authority of Christian faith and practice.
2. We believe that all men are created by God in His own image and we are committed to ensure that everyone has the right to be respected and treated equally.
3. We are determined to eliminate and prevent sexual harassment and do not tolerate any sexual harassment whatsoever.
4. Sexual harassment is discriminatory and unlawful. Sexual harassment may lead to disciplinary actions by Kong Fok Church, and may also entail civil liability and even criminal consequences.
5. Once an act of sexual harassment occurs in Kong Fok Church, any person of the Church has a right to lodge a complaint through our complaint channel or other channels.

#### **II. Objectives and Responsibilities**

1. The objective of Kong Fok Church's sexual harassment policy is to provide a safe environment free of sexual harassment for staff, volunteers, interns, congregants, and various external parties including service providers, service users, premise renters and other guests (the "external parties").
2. We are committed to providing appropriate training for deacons, staff, volunteers, and interns to raise their awareness on sexual harassment and to nurture the right and proper value of respecting others.
3. We are committed to communicating through effective means, including the Church website, with all relevant persons of the Church, including our congregants and external parties, this Policy Against Sexual Harassment (the "Policy") and the channels for lodging complaints.
4. We are committed to providing an effective channel for lodging complaints which should be sensitive to the feelings and needs of complainants, in order to make the complaint handling mechanism more user-friendly; handling complaints on the principles of fairness, impartiality and confidentiality, and in a serious and discreet manner; and ensuring that nobody will be punished for lodging a complaint in good faith.
5. Complaints must be made in good faith. If a complaint is malicious or involves false information, the complainant may entail civil and/or criminal liabilities.

#### **III. Obligation and Responsibility of Relevant Persons of the Church**

1. All relevant persons of the Church (including deacons, staff, volunteers, and congregants) have the obligation and responsibility to prevent and eliminate sexual harassment, including respecting the will and feelings of others, to refuse to condone any sexual harassment behavior, and to support others in taking steps to stop sexual harassment.
2. Any relevant person of the Church should lodge a complaint if he or she has witnessed any other person of the church committing any sexual harassment act or being sexually harassed. Both the complainant and the witness(es) are protected under the Sex Discrimination Ordinance (the "SDO") (Chapter 480 of the Laws of Hong Kong).

#### IV. Definition of Sexual Harassment

1. Sexual harassment means a person makes an unwelcome conduct of a sexual nature to another person. The unwelcome conduct includes unwelcome sexual attention, physical contact, talking about issues of a sexual nature, or making a sexual advance. It also amounts to sexual harassment if that other person finds the environment sexually hostile or intimidating.
2. Section 2(5) of the SDO provides the definition of sexual harassment. In addition, sections 2(7), 2(8), 9, 23, 23A, 24, 39, 39A and 40 are relevant provisions in relation to sexual harassment. Under the SDO, the legal definition of sexual harassment is:
  - a. If any person
    - (i) makes an unwelcome sexual advance, or an unwelcome request for sexual favors, to another person; or
    - (ii) 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 the other person would be offended, humiliated or intimidated; or
  - b. The person, alone or together with other persons, engages in conduct of a sexual nature which creates a hostile or intimidating environment for another person.
3. Regardless of gender: sexual harassment may occur to any person, regardless of gender; all provisions in the SDO and the Policy are applicable to sexual harassment both between opposite sexes and between persons of the same sex.
4. Intention is irrelevant: an unintentional act will still amount to sexual harassment if it meets the definition of sexual harassment.
5. Single incident: a single incident may also amount to sexual harassment.
6. Power relationships: sexual harassment incidents are usually related to a power relationship, i.e., the powerful harasses the weak. It is also possible for a person weaker in power to harass a more powerful person, e.g., a church member harasses a pastor.

#### V. Examples of Sexual Harassment

1. Examples of sexual harassment include the following:
  - a. Persistent attempts to date a person despite being rejected time and again;
  - b. Remarks with sexual innuendo or of obscene nature;
  - c. Jokes about sex or about a certain gender;

- d. Implicit or explicit threat to have sex;
  - e. Persistent phone calls or messages, requesting personal or intimate relationships; and
  - f. Distribute or display of Indecent or obscene photographs or articles.
2. For more information on examples of sexual harassment, please refer to the Equal Opportunities Commission (the "EOC") website ([www.eoc.org.hk](http://www.eoc.org.hk)).
  3. If the complaint involves inappropriate touching (e.g., patting, touching, kissing or pinching), obscene gestures, sexual assaults or compulsive sexual behavior (rape), complainants should consider reporting to the Police or seeking other assistance, as such behaviors are criminal offences and are not intended to be addressed under this Policy.

#### VI. Rights of Victim and Actions to be Taken

1. When a person is sexually harassed, he/she may take the following actions:
  - a. Speak up at the time, telling the harasser that his/her act is unwelcome and must be stopped immediately.
  - b. 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 response.
  - c. Tell someone he/she trusts and ask for emotional support and advice.
  - d. Lodge a formal or informal complaint with the persons responsible for receiving and handling such complaints (the "responsible persons"). An informal complaint can be made verbally to let the parties concerned understand the issues from a different perspective with a view to resolve the matter. A formal complaint is normally made in written form and should be formally investigated in accordance with the general complaint handling procedures. The process and findings of the investigation should be properly recorded, with recommendations. Anytime during an informal complaint proceeding, the complainant can request to turn it into a formal complaint proceeding.
  - e. Make an enquiry or lodge a complaint with the EOC and request for investigation or conciliation. In case conciliation fails, the complainant may seek legal assistance from the EOC. Telephone number of the EOC: 2511-8211. For other means of making enquiries or filing complaints, please refer to the EOC website: <http://www.eoc.org.hk/eoc/graphicsfolder/complaint.aspx>
2. Consult a lawyer, report to the Police (if the incident may amount to criminal offences) or file a civil law suit against the harasser in the District Court.
3. The complaints proceedings of the Church will not affect the complainant's rights to lodge a complaint with the EOC, report to the Police or file a lawsuit in the District Court.

#### VII. Principles of Handling Sexual Harassment Complaints

1. Fairness: enquiries and complaints should be handled in a just and impartial manner to ensure that the complainant and the accused are fairly treated and both parties have the opportunity to be heard.

2. Confidentiality: all information and records related to a sexual harassment complaint will be kept confidential and will only be disclosed to relevant persons on a need-to-know basis. Under the principle of natural justice, the accused should be informed of the details of the complaint.
3. Avoiding delay: complaints should be handled promptly because both the complainant and the accused are under pressure from the sexual harassment complaint case.
4. Transparent procedures: the Church has incorporated the complaints handling procedures into the Policy to be made known to the deacons, staff, volunteers, congregants, and external parties. If a complaint involves minors or mentally incapable persons, the relevant procedures should also be made known to his/her parents/guardians/family members.
5. Protection for complainants and witnesses: complainants and witnesses should be protected against victimization, i.e., not to be treated unfairly or to be retaliated because of the complaints.
6. Avoid conflict of interest: if the complaint concerns a responsible person or any other person who may be handling the complaint or any such a person is closely related to the complainant or the accused (for instance, being relatives), such a person must abstain from handling the case.
7. Anonymous complaint: complaints should be lodged with complainants clearly identified. While anonymous complaints are generally not accepted, the Church will pay special attention to the behaviors of the accused concerned.
8. Handling cases discreetly: complaint cases should be handled discreetly in order to ensure that the complainant and other relevant persons will not be unnecessarily distressed or humiliated. The Church will make its best effort to show empathy to the feelings of complainants, for example, by avoiding asking the complainant to repeat his/her painful story again and again, and respecting the complainant's preference in requesting interviewers of the same sex to conduct the interviews.

#### VIII. Mechanisms for Handling Sexual Harassment Complaints

1. The responsible persons designated for receiving and handling complaints at Kong Fok Church are the chairperson of the Human Resources Committee (the "HR Committee") of the Board of Deacons (the "BOD"), Ms. Venora Au, and the Personnel Officer, Ms. Donna Ng (email: HR@kongfok.org, phone: 2521 2500). Complainants may also seek assistance from or lodge complaints with pastors whom they trust.
2. The responsible persons will contact the complainant within two weeks after receiving the complaint to:
  - a. explain the policy and complaint mechanism,
  - b. collect basic information required for filing the case, and
  - c. remind the complainant of the right to lodge a complaint with the EOC, report to the police or file a lawsuit with the District Court.
3. The responsible persons will report to the BOD and the Senior Pastor and will make a recommendation on whether to open a case. If it is decided to open a case, the BOD will appoint at least one pastor and one deacon to handle the complaint (the "designated persons").

4. There are informal and formal mechanisms for handling sexual harassment complaints. After meeting the complainant and the accused to form a preliminary understanding of the case, the designated persons will decide which mechanism to use.
5. Anytime during an informal complaint proceeding, the complainant can request to turn it into a formal complaint proceeding.
6. Sexual harassment acts, such as indecent assault, may also amount to criminal offences. The complainants should and the Church may consider referring such cases to the Police.
7. Informal handling mechanism:
  - a. Generally speaking, the informal complaint handling mechanism is suitable for handling relatively minor or single incidents of sexual harassment. This mechanism aims at resolving the matter and stopping the act of sexual harassment as soon as possible. It does not typically involve an investigation. For example, though the accused does not dispute the acts in question, he/she may not realize such acts amount to sexual harassment.
  - b. In an informal handling mechanism, if the designated persons, after communicating with the parties, determine that the act is a form of sexual harassment, they will explain to the accused their determination, ask the accused to stop doing the act and reaffirm the Church's policy of zero-tolerance to sexual harassment.
8. Formal handling mechanism:
  - a. The formal handling mechanism is suitable for handling more serious or repetitive sexual harassment acts, or when the issues between the two parties cannot be resolved through the informal mechanism.
  - b. The BOD will set up a complaints panel (comprising 5 to 9 pastors and deacons) to handle complaints involving sexual harassment (the "Complaints Panel") in a formal handling mechanism. The Complaints Panel should comprise approximately equal numbers of pastors and deacons and of both genders. The members will elect a chairman among themselves.
  - c. The formal mechanism involves investigation. The complainant will be formally interviewed. The accused will be informed of the complaint and be given the opportunity to respond to the complaint. Witnesses, if any, may also be interviewed.
  - d. If the complainant or accused is a minor or is mentally incapable, he/she is entitled to be accompanied by his/her parent/guardian/family member to attend the relevant interviews so as to safeguard his/her rights.
  - e. The interviews and the statements of both the complainant and the accused should be documented.
  - f. Within 4 months after receiving the formal complaint, the Complaints Panel should prepare a written report to give an account of the investigation outcome, recommended actions (if any) and the considerations behind to both the complainant and the accused.
9. If a case proceeds to conciliation, the person to conduct the conciliation process should be one agreed by both the complainant and the accused.

10. If necessary, the Church will offer support and counseling to the complainant.
11. Please see Appendix: Flow Chart on Handling Sexual Harassment Complaints.

#### IX. Time Limit for Lodging a Complaint

1. There is a time limit for lodging a complaint with the EOC or to take legal action. If the person who is sexually harassed intends to lodge a complaint with the EOC, he/she must take action within 12 months after the incident has occurred. Otherwise, the EOC will not accept the case unless there are justifiable reasons for the delay. Any decision to take legal proceedings to the District Court must be made within 24 months after the incident has occurred.
2. Having considered the time limits of the EOC and District Court above and that any delay could cause difficulty to the investigation and the collection of evidence, the Church requires a time limit of 6 months for lodging complaints. However, delayed complaints with justifiable reasons could be accepted at the Church's discretion.

#### X. Disciplinary Actions

1. If the Complaints Panel concludes that the accused has committed sexual harassment and he/she is a staff member or an intern, the Complaint Panel will submit the report to the HR Committee. After receiving the report, the HR Committee will recommend to the BOD whether the Church needs to take any disciplinary actions, including termination of employment, or any other actions.
2. If the Complaints Panel concludes that the accused has committed sexual harassment, and he/she is a member of the Church or any other congregant, the Complaints Panel will submit the report to the BOD. After receiving the report, the BOD will decide whether it is necessary to take any disciplinary actions, including excommunication of the member from the membership, or any other actions.
3. If the Complaints Panel concludes that the accused has committed sexual harassment, and he/she is an external party, the Complaints Panel will submit the report to the relevant organization of the external party, so that it can decide whether or not to take any disciplinary or other actions.
4. All meeting records and documents related to this procedure for handling complaints are strictly confidential, and all relevant parties should handle the relevant information in accordance with the personal data privacy law.
5. In addition to the above disciplinary action, if the two parties concerned choose to settle the matter through conciliation, they may include other terms in their settlement agreement after conciliation, including making apologies and/or paying compensation.
6. If the incident involves a criminal offence, the Church will report it to the Police.

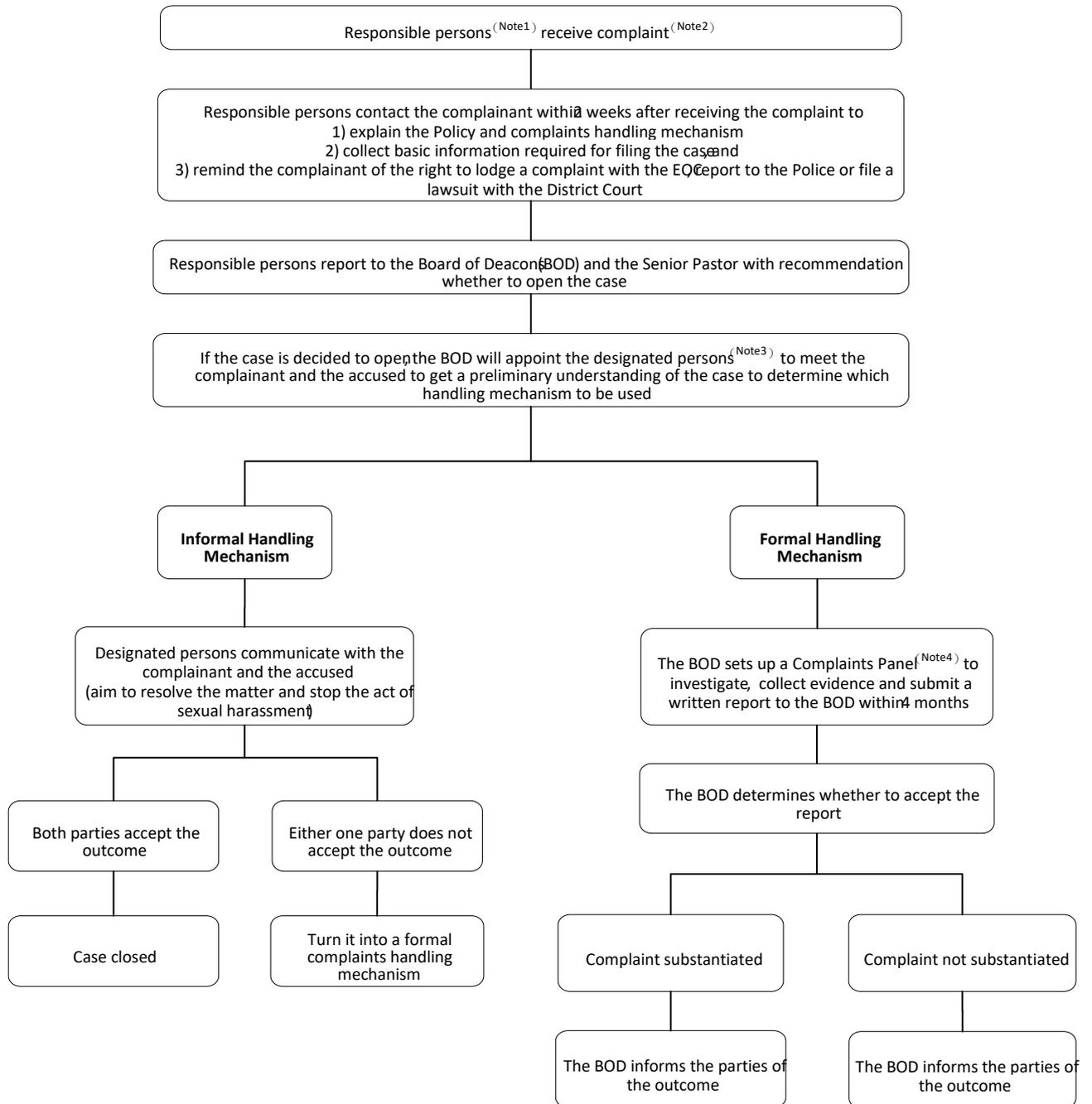
#### XI. Measures to Prevent Sexual Harassment

1. Promulgation of policy: the Church promulgates the Policy to all relevant persons of the Church on a regular basis. When new staff, interns, etc. join the Church, the Policy will be distributed and explained to them.

2. Accessible information: the Policy is available on the Church website so that all relevant persons can have access to the Policy at any time. All external parties will be made aware of the Policy.
3. Regular review: the Church will review the policy and measures every year and every time after the investigation of a complaint is completed to see if any revisions are needed to effectively prevent sexual harassment.
4. Regular training: the Church will arrange the training and education of deacons, staff, etc. every year on gender equality, respect for others and awareness of preventing sexual harassment; and the training for relevant persons in handling complaints of sexual harassment.
5. Designated personnel responsible for measures: the Church designates the HR Committee as the responsible person to implement the specific measures for the prevention of sexual harassment.
6. Sexual conviction record check scheme: the Church requires all staff members and interns, regardless of gender, who are expected to be engaged regularly with minors or mentally incapable persons to apply to the Police for a clear sexual conviction record before their employments or internships.

## Appendix

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



**Notes :**

1. The responsible persons are the chairperson of the HR Committee and the Personnel Officer (Email: [hr@kongfok.org](mailto:hr@kongfok.org) / Phone: 2521 2500).
2. The complaint must be lodged within 6 months and anonymous complaint will not be accepted.
3. The designated persons should include at least 1 pastor and 1 deacon.
4. The Complaints Panel comprises 5 to 9 pastors and deacons and they will elect a chairman among themselves.