

Kowloon Union Church (KUC) Guidelines to Respond to Harassment

I. Scope and Persons Covered

1. Persons covered by these guidelines are all attendees of the church service, persons employed by or seeking employment with the church, members, volunteers and other representatives of the church.
2. The scope includes church activities on or off church premises, inside and outside of Hong Kong.
3. Any organization using the church's premises will be responsible for handling an incident of harassment if one occurs while using the facilities at KUC.

II. Guidelines

A. Reporting harassment

1. The complainant files harassment complaint to the minister-in-charge and/or council chairperson.¹
 - a. Complaint can be lodged verbally or in written form.
 - b. Include in the complaint the date, time, venue, witness (if any) and the nature of the harassment (speech and behavior) and their reaction.
 - c. The filing of an oral or written complaint can be made within 90 calendar days from the time of the incident.
 - d. Inform the complainant the guidelines of KUC in responding to harassment and assistance he/she may receive from the church and from outside.
 - e. In the circumstance that the minister-in-charge and/or council chairperson is not present, the second in position will receive the complaint.
2. The complainant may inquire with or report to the Equal Opportunities Commission² to seek investigation or mediation.
3. The complainant may consult a lawyer or report to the police.

B. Mediation

1. Mediation is a voluntary process and will be conducted only when both the complainant and the accused agree to mediation.
 - a. The KUC will offer to facilitate mediation of the dispute at the request of the complainant or the accused.
 - b. The KUC Council will appoint the minister-in-charge and/or the council chairperson or any appropriate person to conduct the mediation.
2. Either the complainant or the accused may decide to stop the mediation at any time.
 - a. The maximum time for the conduct of mediation by the appointed person(s) is 50 calendar days from receipt of a complaint.
 - b. The KUC Council may extend the time for mediation on reasonable grounds with consideration of both parties' views.
3. If settlement has been reached during mediation, the parties may enter into an agreement to record the terms of a settlement.
4. If the mediation fails to reach a settlement, the complainant may continue to enforce his/her rights. The complainant may pursue the case through a formal investigation.
5. The complainant may directly go to the minister-in-charge and/or the council chairperson to request a formal investigation without going through the mediation process first if they wish.

¹ The Minister-in-charge is Rev. Phyllis Wong (Tel: 2367-2585; Email: phyllis@kuc.hk). The Council Chairperson is Hope Antone (Tel: 2367-2585 ; Email: hopeantone@gmail.com)

² The EOC can be contacted through 2511-8211. Their website is <http://www.eoc.org.hk/eoc/graphicsfolder/complaint.aspx>

C. Investigation

1. The investigation will immediately start with the formation of a Panel on Harassment (from henceforth called Panel).
2. Composition of the Panel.
 - a. The Panel will be composed of people who have experience or have received gender-based training on handling harassment. The Panel members may be from the church and from the wider community outside of the church.
 - b. The representation of members shall be relevant to the case.
 - c. The suggested number of Panel members is three (3).
 - d. The head of the Panel will be called the Panel convener.
 - e. The KUC Council appoints the Panel convener and other members of the Panel.
 - f. Both the accused and the complainant may request orally or in writing that one or more members of the panel be replaced with another person(s).
3. Responsibilities of the Panel
 - a. The Panel shall lead the investigation on the complaint.
 - b. The total time period for the investigation, from the filing of a complaint or a written request from the complainant after the failure of mediation (whichever is later), to submission of the fact-finding report and recommended action to the KUC Council, will not exceed ninety (90) calendar days.
 - c. The Panel convener shall convey to the complainant and the accused the draft findings of the fact-finding report, minus the recommendations of the report, within 30 calendar days.
 - d. The complainant and the accused shall submit their comments/response, including disagreement with the conclusion and its basis or inclusion of supplementary information, to the Panel convener within 15 calendar days after receipt of the draft findings.
 - e. The Panel convener shall submit a final report to the council chairperson (or designated person) within 30 calendar days after receipt of the comments or responses from the complainant and the accused, if any. The report shall include responses from the complainant and accused, if any.
 - f. Time frame for investigation may be extended on reasonable grounds.

D. Suspension of Mediation or Investigation Process

1. In the event that a harassment complaint is reported to law enforcement agencies who take action on the report (either being investigated as the subject of criminal or civil proceedings in court), the KUC Council will suspend its mediation or investigation process.
2. The KUC Council may endorse the panel to resume the mediation or investigation process if the criminal investigation or civil action is discontinued or completed.

E. Disciplinary, Reconciliatory and Rehabilitative Actions

1. If the investigation results with the determination of an act of harassment, the KUC Council is entitled to invoke the relevant disciplinary, reconciliatory and rehabilitative actions based on recommendations from the panel.
2. Disciplinary action may include dismissal of employment or position, termination of positions of responsibilities, removal from the church's program or activity venues, among others. Any disciplinary action will be subject for discussion and decision of the KUC Council.
3. Reconciliatory and/or rehabilitative measures may include individual or group psychological or spiritual counselling, meditation or community service, among others, that are provided by people inside or outside of the church.
4. The decision of the church council may include both disciplinary, reconciliatory and rehabilitative measures.

F. Appeal Process

1. If the complainant or the accused wish to appeal the decision of the KUC Council, they may make an appeal to the KUC Trustees, which may or may not accept the appeal.
2. The KUC Trustees will choose a new Panel based on the contents of Section C above (KUC Council will be replaced though by KUC Trustees).
3. The decision of the KUC Trustees will follow the possible outcomes described in Section E above (KUC Council will be replaced though by KUC Trustees). This will be the final decision of Kowloon Union Church.

III. Important Notes

A. Conflict of Interest

1. Any person who has an actual or potential conflict of interest in the complaint shall declare his/her interest and shall not take part as a mediator or as a member of the panel or in any other capacity as a decision-maker.
2. In case of either the minister-in-charge or the council chairperson is implicated in the complaint, they shall refrain from serving on the Panel. The KUC Council will appoint the person who is next in position (e.g. another minister and the council vice-chairperson).

B. Confidentiality

1. In the mediation and complaint investigation processes, every reasonable effort shall be made to ensure confidentiality and to protect the privacy of all parties.
2. "Confidentiality" includes letting only "those who need to know" be aware of the incident or situation in order to protect the rights of all parties concerned.
3. In view of a criminal investigation or criminal and civil proceedings in court, KUC may need to provide necessary information contained in the files. KUC may also need to disclose some information to third parties (e.g. in reporting a crime) when there is clearly a risk that the harassing behavior has created or will create significant harm to the complainant or other persons and where KUC needs to intervene because of its own potential liability for failing to do so. KUC shall explain the above position to all parties concerned in the course of mediation and investigation.

C. Victimization and Reprisal

1. No complainant shall be subject to victimization or reprisal for initiating a good faith complaint, for providing information or assistance in the complaint investigation processes or for participating in the formal disciplinary actions, whether or not the complaint is established, whether or not the complaint is filed with the KUC Council, the Equal Opportunities Commission (EOC) or any other organizations, and whether or not legal proceedings are lodged.
2. Victimization and reprisal occur when a person is treated less favorably than he/she or other persons would have been in those circumstances by reason that the person has taken action, or intends to take action, under these guidelines, including the filing of a complaint, the lodging of legal proceedings, the provision of evidence as a witness or participation in formal disciplinary actions. Victimization and reprisal occur even when the person is treated less favorable than he/she and other persons would have been in those circumstances by reason that the person is suspected to have done, or intends to do, any of those things.
3. If victimization or reprisal occurs, the person experiencing victimization or reprisal may file a complaint with the KUC Council on the grounds of victimization. The guideline for handling complaints of victimization will broadly replicate the process of handling complaints of harassment.
4. However, the KUC Council reserves the right to take disciplinary action against anyone making a false complaint or intentionally providing false information in the complaint process.

D. Right to Lodge a Complaint with EOC, Report to Law Enforcement Agencies and/or Take Court Action

1. KUC's internal guidelines do not affect a person's right to lodge a complaint directly with the Equal Opportunities Commission (EOC) or to take civil action in the District Court of Hong Kong or to make a complaint to the police or other investigating agency.
2. Under the Sex Discrimination Ordinance, the EOC may decide not to take up an investigation into an act of alleged sexual harassment if the complaint is not lodged within 12 months of the alleged incident. If a complainant decides to take court action in respect of a claim of sexual harassment, he/she normally has to commence the legal proceedings within 24 months of the incident. This clause does not impede on any of the rights of the complainant.
3. If a complainant wishes to lodge a complaint with the EOC, to make a claim in court or to report to the police and needs advice and assistance on the procedure, the KUC persons handling harassment complaints (minister-in-charge or council chairperson) or the panel convener may help. This does not prevent the complainant from seeking support by any other means in order to protect his/her best interests.

E. Approval and Review of the Guidelines

1. The Guidelines have been deliberated and noted on this 1st day of December 2019.