

POLICY G008: PREVENTION OF SEXUAL EXPLOITATION, ABUSE AND HARASSMENT (PSEAH)

Responsible person:	CEO	Version:	3.0
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Directors on:			

PREAMBLE

This policy was written by So They Can (International) in Australia for use across all So They Can offices. So They Can operates five offices registered in each of Australia, Kenya, Tanzania, New Zealand and USA, which are part of the So They Can Global Alliance. In this policy, 'CEO' means CEO of So They Can (International). Unless specified otherwise the 'Board' refers to the board of So They Can (International). This policy is intended for all So They Can staff, Board members and volunteers, in all 5 So They Can offices. So They Can procedures are consistent with So They Can policies.

DEFINITIONS

Sexual harassment – Unwelcome physical, verbal or non-verbal conduct of a sexual nature that can include indecent remarks or sexual demands. Unwelcome means behaviours that are not solicited or invited and are regarded by a person as undesirable or offensive at the time. It can be obvious or indirect, physical or verbal, repeated or one-off and perpetrated by any person of any gender towards any person of any gender.

Behaviour constituting sexual harassment include but is not limited to:

- Sex-oriented remarks or abuse;
- Offensive gestures or comments;
- Unwanted and deliberate physical contact;
- Promise of preferential treatment or threat of detrimental treatment in return for sex;
- Use of pictures/posters/videos of a sexual or intimate nature;
- Persistent and unwelcome social invitations, phone calls or mail; or
- Obscene phone calls.

Harassment - is unwanted behaviour from another person that is intimidating, malicious, offensive, insulting, humiliating or degrading. Harassment includes verbal or written communications, visual material or physical behaviour that is:

- Unwelcome or offensive to the person (whether or not the harasser is told that the behaviour is unwelcome or offensive); and
- Repeated, or so significant that it has a detrimental effect on that person, their employment, job performance or job satisfaction.

Examples of harassment include, but are not limited to:

- Insulting someone, particularly on the grounds of his or her age, race, sex, disability, sexual orientation or religion;

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- Making fun of someone or putting them down;
- Excluding or isolating someone from work or social activities;
- Picking on someone because they have made a previous complaint of harassment;
- Unwelcome flirtation or sexual advances;
- Touching or standing too close when not invited to;
- Displaying or circulating offensive materials (rude, racist or sexual pictures or cartoons);
- Making decisions on the basis of sexual favours being accepted or rejected;
- Making inappropriate jokes or comments; and
- Bullying, misuse of power or a position of authority.

Sexual exploitation: Any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes. It includes profiting monetarily, socially, or politically from sexual exploitation of another. (Source: the UN Secretary General's Bulletin on protection from sexual exploitation and abuse.)

Sexual abuse: The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. (Source: the UN Secretary General's Bulletin on protection from sexual exploitation and abuse.)

Transactional sex: The exchange of money, employment, goods, services or other benefit for sex, including sexual favours.

Fraternisation: Any relationship that involves, or appears to involve, partiality, preferential treatment or improper use of rank or position including but not limited to voluntary sexual behaviour. It could include sexual behaviour not amounting to intercourse, a close and emotional relationship involving public displays of affection or private intimacy and the public expression of intimate relations.

So They Can representative – are all individuals and institutions who act on behalf of So They Can regardless of whether or not there is a formal legal agreement between them and So They Can. This includes, but is not limited to, all trustees, members, directors, employees, contractors, consultants, advisors, volunteers and implementing partners irrespective of which country their role is situated.

POLICY

So They Can takes sexual exploitation, harassment and abuse (SEAH) very seriously and So They Can's priority focus is to prevent them from occurring. So They Can is committed to incorporating the risk of SEAH into existing risk management practices and processes; that is, the identification of all potential risks in a business activity and taking steps to manage risks.

So They Can is committed to actively addressing all cases of SEAH that occur in the course of its business. This policy focuses on developing shared responsibility across the organisation and creating a positive

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culture non-discriminatory and respectful behaviour, where misconduct is not accepted, where power is not abused and vulnerabilities and power inequality are not exploited.

Through this policy So They Can commits to ensuring that safeguarding measures are embedded, accessible and clearly communicated to So They Can staff, partners, vulnerable adults and their communities, in languages and formats they understand.

All So They Can Representatives and partners are required to comply with the principles, procedures and reporting requirements specified in this policy. So They Can Partner Engagement and Capacity Building Policy outlines the various types of partnerships So They Can forms and roles and responsibilities of the partners in regards to policy implementation and compliance.

POLICY PRINCIPLES

This policy is underpinned by the following principles outlined below.

Principle 1: Zero tolerance of inaction of incidents of SEAH

Sexual exploitation, abuse and harassment are never acceptable. So They Can defines zero tolerance as acting on every allegation in a fair and reasonable way with due regard for procedural fairness. Reports of incidents may increase as organisations improve safeguards. Increasing reports may indicate growing awareness of SEAH and changing attitudes, with victims/survivors feeling more comfortable to report and organisations more likely to take action. The reporting of incidents and responses is an indicator that the risk of SEAH is being managed appropriately.

Principle 2: Shared responsibility

Preventing SEAH is everyone's responsibility. So They Can requires the commitment, support and investment of its Representatives and partners for this policy to be effective. All organisations have a responsibility to build their capacity to deal sensitively and effectively with SEAH that occurs in the course of their work.

Principle 3: Victim/survivor centred approach

Action to address SEAH should be underpinned by a "do no harm" approach prioritising the rights, needs, and wishes of the victim/survivor, while ensuring procedural fairness to all parties. This approach:

- treats the victim/survivor with dignity and respect
- involves the victim/survivor in decision making
- provides the victim/survivor with comprehensive information
- protects privacy and confidentiality
- does not discriminate based on gender, age, race/ethnicity, ability, sexual orientation, or other characteristics
- considers the need for counselling and health services to assist the victim/survivor with their recovery.

Principle 4: Gender inequality and other power imbalances are addressed

Additionally, gender inequality other imbalances based on the distinctions of worker/beneficiary, ability/disability, ethnic and indigenous status, religion, gender identity and sexual orientation, age, health and poverty, can also result in SEAH. The intersection of gender with other forms of inequality can further

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increase the likelihood of SEAH occurring. Engagement with intended beneficiaries should be based on respect for diversity, promotion of gender equality and social inclusion, accountability, and a strong “do no harm” focus.

Although they are not in scope for this Policy, children are at high risk of SEAH — particularly children with disability, children living in residential or institutional care, children who have experienced previous trauma or abuse, and gender diverse children and young people. So They Can’s commitment to safeguarding children from SEAH is covered by So They Can’s Child Protection Policy.

Principle 5: Accountability and transparency

Sexual exploitation, abuse and harassment is a failure of responsibility. So They Can is not only accountable to its donors, but also to the communities for whom its business is intended. Stronger reporting allows So They Can to better monitor SEAH, understand risks, improve assurance and work with organisations to improve systems and safeguards accordingly.

PROCEDURES

RISK ASSESSMENT

This policy takes a risk-based, proportional approach to Prevention of Sexual Exploitation, Abuse and Harassment (PSEAH). So They Can staff and partners must assess the level of risk for SEAH occurring, and apply PSEAH Minimum Standards adopted from DFAT (Attachment A) commensurate with the level of risk identified. The higher the risk, the greater the controls required.

If no SEAH risk is identified in the delivery of So They Can business then:

- no minimum standards need to be applied under this Policy; this should be documented in accordance with organisational risk management practices and be agreed by the relevant decision-maker
- the risk of SEAH should be monitored throughout activity delivery, as part of standard risk management practice.

If So They Can staff determines a risk of SEAH exists, the level of risk (low, medium, high or very high) must be established based on the likelihood and consequence of that risk occurring as outlined in So They Can Risk Management Policy. Risk management processes should also be established to mitigate risks. To determine the risk of SEAH, a comprehensive assessment must be formed by considering the business/activity along with organisational and reputational risks and how they may intersect.

Using a risk-based approach, the DFAT PSEAH Minimum Standards are applied commensurate with the level of risk identified:

- Low Risk – apply Minimum Standards 1 and 2
- Medium Risk – apply Minimum Standards 1 - 3
- High Risk – apply Minimum Standards 1 -5
- Very High Risk – apply Minimum Standards 1 to 7

RECRUITMENT AND EMPLOYMENT PRACTICES

So They Can’s commitment to the PSEAH is demonstrated through the strict guidelines relating to the recruitment and screening procedures as outlined in So They Can’s Recruitment Policy. These include

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at least 2 verbal reference checks and police checks for all employees and volunteers.

In countries where So They Can directly implements development work, a non-national staff member who engages in a sexual relationship with a member of the recipient community and/or with another So They Can employee must inform his or her manager, who then informs So They Can Program Director, about the relationship to prevent the perception of a conflict of interest or of fraternisation. So They Can rejects fraternisation where a relationship involves, or appears to involve, partiality, preferential treatment of improper use of rank or position.

So They Can Employment Contracts include a clause prohibiting transactional sex and fraternisation in situations/location where the risk of SEAH is considered very high.

REPORTING

So They Can Representatives are expected to comply with the principles and reporting requirements specified in this Policy. Reporting is for any suspected or alleged cases of SEAH perpetrated by anyone within scope of the Policy in connection with official duties or business.

So They Can will report any suspected or alleged incidents of SEAH or policy non-compliance to the Board of Directors. Where ever possible this should de-identify the victim/survivor, consistent with a survivor-centred approach.

Where safe to do so, and when in accordance to the wishes of the victims, survivors and whistleblowers, all alleged SEAH incidents that involve a criminal aspect should be reported through the correct local law enforcement channels. To protect the privacy of alleged perpetrators, victims/survivors, and whistleblowers, information provided to So They Can will be handled in accordance with the *Privacy Act 1988 (Cth)*.

If a So They Can Representative believes they have been subject to SEAH or if SEAH is believed or suspected to have occurred, there are rigorous procedures in place to ensure that any complaint or query is treated confidentially, taken as seriously as possible, and acted on promptly. In accordance with Principle 3 — Victim/survivor needs are prioritised — victims' and survivors' safety and wellbeing must be paramount to reporting and their information treated confidentially.

If in doubt, So They Can Representatives should report an alleged incident. In line with Principle 1 — Zero tolerance of inaction — individuals and organisations found not reporting alleged incidents will be viewed as being non-compliant.

In its office in Australia and in So They Can's Program Implementation Partners' So They Can Kenya and So They Can Tanzania offices a senior staff member is appointed as a PSEAH focal person. In Australia the PSEAH focal person is the role of the Chief Operating Officer, in Kenya the role of So They Can Kenya Program Manager and in Tanzania the role of So They Can Program Support Manager. A focal person provides a key role in raising awareness throughout your organisation and in coordinating, supporting and advising on the development and implementation of your PSEAH policy and practices.

The responsibilities of So They Can SEAH focal persons include:

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- Promoting PSEAH policy widely within the organisation on a regular basis to ensure that all So They Can employees, volunteers, contractors and other So They Can representatives are aware of the policy and their rights and responsibilities and consequence of breaching the policy.
- Conducting regular training sessions on SEAH for So They Can employees, volunteers and contractors about recognising sexual harassment, what is, and what is not, sexual harassment, how to report concerns and how to use the complaint process.
- Incorporating the PSEAH policy into So They Can Employee Handbook which also contains expected Code of Conduct and which is a components of an induction process of new staff, volunteers, and contractors.
- Outline a commitment to developing materials that promote reporting mechanisms in languages and media that are appropriate and understandable to communities and contexts where your organisation is working.
- Working with So They Can partners to ensure their commitment to PSEAH and provide assistance with development and implementation PSEAH policy.

To report alleged or suspected SEAH So They Can Representative can approach any of the following:

- the PSEAH focal person
- their immediate manager or another manager
- the CEO of So They Can directly
- any member of the So They Can Board of Directors
- a trusted person, colleague or friend, who is willing to support them to raise a concern and/or test their perception of events
- Whispli, an online platform available to all Representatives to report concerns of suspected or anticipated wrongdoing or unethical behaviour including sexual harassment and bullying by another person, or a group of persons, within the So They Can organisation using the following link <https://app.whispli.com/SoTheyCan> also available on the So They Can website.

SEAH COMPLAINT HANDLING PROCEDURE

Once a SEAH incident report is received it gets forwarded to the CEO or, if the complaint is about the CEO, to the COO. The CEO or the COO respond to the author of the complaint thanking them for their concern and bringing it to So They Can's attention and informing them the matter will be investigated.

Reports of SEAH of individuals under the age of 18 will be handled according to procedures outlined in So They Child Protection Policy.

The CEO will instruct a case manager to investigate. The Board, the CEO, or the relevant Country Director will become the case manager in charge of the investigation according to:

- If a complaint is about a So They Can Country Director then the CEO will manage the investigation.
- If the complaint is about the CEO then the COO will instruct the So They Can Board to manage the investigation.
- Where a complaint does not involve the CEO, and the complaint is of a medium or high risk as specified by a Risk Rating matrix in So They Can's Risk Management Policy, the CEO will inform the So They Can International Board and relevant in country Board of the complaint.

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The case manager will do an initial assessment to confirm it is a valid report and begin investigation. This can include corresponding with the informant via the Whispli platform or another channel if details are disclosed by the information. The case manager will keep the So They Can Board and/or the CEO updated on the progress of the investigation.

Once the case manager has finalised their investigation and report, management and the informant will be updated. At this point, the case manager will hand everything over to So They Can executive management for any subsequent action to take place.

Where the complaint is medium or high risk the CEO will inform the author and the Boards of the result of the investigation.

Representatives may also raise their concerns verbally or in writing with their immediate manager, Project Supervisor or Country Manager, or, if not comfortable with doing so, they have the option to raise the matter directly with the CEO or a Board director, and should include full details together with any supporting evidence that may be available. They should state they are using the Whistleblowing Policy and specify whether they wish for their identity to be kept confidential. People choosing to raise their concerns in writing must use the template So They Can Incident Report contained within So They Can Incident Management Plan.

So They Can will ensure that if a complaint is made about SEAH:

- It is handled in accordance with the principles outlined in this policy
- as employer, So They Can meets its equal obligation to both the complainant and the respondent to uphold their rights and provide support
- complaints are dealt with impartially, without bias and in a timely and sensitive manner
- information about a complaint is only provided to those people who need to know in order for the complaint to be actioned properly
- the respondent is informed about any allegations made against them and is given the opportunity to respond to those allegations
- those involved are informed about the process for resolving complaints
- those involved are protected against any victimisation or reprisals and employees are assured that no action will be taken against them if they speak up
- there is a clearly defined review process to ensure the resolution is working satisfactorily and to confirm that no victimisation has resulted from the complaint
- issues are resolved at the most appropriate level of intervention, subject to the rights of the complainant.

INTERVENTIONS

If an employee believes they have been exposed to SEAH, or has witnessed SEAH, trying to resolve issues at the lowest appropriate level of intervention may sometimes be the most effective and satisfactory way of dealing with unacceptable behaviour.

Self-help and supported self-help

Self-help involves an employee letting the respondent know that their behaviour is unwelcome, inappropriate or offensive and needs to stop. This may resolve the matter quickly and in a low key

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manner. This may be appropriate where sexual harassment is minor and the employee does not feel seriously harmed or threatened by approaching the person.

Self-help actions could be that the employee:

- tells the person directly about the behaviour they do not like, and asks them to stop it
- writes a letter on a 'private and confidential' basis to the person
- takes a support person to tell the person that the behaviour needs to stop.

Employees should not approach someone directly about their behaviour if by doing so they would feel unsafe or threatened in any way.

Resolution may involve a verbal or written apology or agreement on how the parties will behave towards one another in future.

Informal intervention

Another informal way of dealing with sexual harassment and bullying is for an employee to ask for someone else to intervene on their behalf on an informal basis, either their manager or a colleague or friend.

The person who is intervening will:

- discuss what happened and what is needed to resolve the situation
- listen impartially
- clarify the facts being reported
- discover what appropriate action the employee is seeking
- clarify the complaints procedure options and So They Can sexual harassment and bullying policy
- discuss options with the employee and, if appropriate, the respondent and decide on an informal or formal approach
- document the situation and outcome.

If there is agreement on what happened and what will resolve the situation, the issue can be resolved confidentially between the people concerned.

Mediation may be pursued to resolve complaints at this level.

Mediation

In some instances arranging for a complainant and respondent to discuss the complaint with a skilled mediator may be an appropriate way to address the issue. Both parties need to agree to mediation.

Mediation is not always appropriate to resolve behaviour issues, particularly if there is a power imbalance. Mediation may be suitable where:

- there is basic agreement on the facts
- both parties agree to try to resolve the situation through this method
- the harassment is of a low level and serious disciplinary consequences do not appear warranted.

If a complainant and the respondent cannot resolve the complaint through mediation, then formal options are available.

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Formal intervention

The decision whether or not to proceed to a formal investigation will be made by the person receiving the complaint in consultation with CEO, or if the CEO is the initial recipient of the complaint, the COO in consultation with at least one member of the So They Can Board of Directors.

OUTCOMES

Where allegations are admitted or substantiated, the outcomes for the respondent of breaching this policy may range from an apology, counselling and training to warnings and dismissal. Disciplinary action will match the seriousness of the breach. Factors considered in determining the level of seriousness include the nature of the conduct and whether or not the person breaching the policy was in a position of trust or authority in relation to the complainant. Outcomes may also include interventions such as supportive counselling, a change in the work environment, or participation in mediation.

Where allegations are not substantiated it may still be appropriate to undertake some action, for example, refresher training or communications training. This ought not to single out or punish the respondent if there has been no finding.

RELATED DOCUMENTS

- So They Can Policy and Manual Register
- So They Can Whistleblowing Policy
- So They Can Partner Engagement and Capacity Building Policy
- So They Can Risk Management Policy
- So They Can Recruitment Policy
- So They Can Child Protection Policy
- DFAT PSEAH Risk Guidance Note, June 2019

PSEAH MINIMUM STANDARDS

The Policy takes a risk-based, proportional approach to PSEAH. So They Can’s staff and partners must assess the level of risk for SEAH occurring, and apply minimum standards accordingly. The PSEAH Minimum Standards are then applied commensurate with the level of risk identified.

Minimum standard	Obligations for Organisations	Applies to			
		Low Risk	Med Risk	High Risk	Very High Risk
1. Have a PSEAH policy or other documented policies and procedures in place and clearly communicate expectations of this Policy.	Must have a PSEAH policy or other documented policies and procedures in place, which clearly meet the expectations of this Policy.	✓	✓	✓	✓
2. Have reporting and investigation procedures in place.	The PSEAH policy, or equivalent, documents how SEAH incidents will be managed, reported and investigated. Reporting and investigation processes must include engagement of and reporting to senior management and executive boards.	✓	✓	✓	✓
3. Have risk management processes that include the risk of SEAH.	Have effective risk management processes that include consideration of the risk of SEAH. The process must document the controls already in place or to be implemented to reduce or remove risks.	X	✓	✓	✓

Minimum standard	Obligations for Organisations	Applies to			
		Low Risk	Med Risk	High Risk	Very High Risk
4. Effective PSEAH training in place.	PSEAH training for personnel, including downstream partners and individuals that deliver DFAT business.	X	X	✓	✓
5. Recruitment and screening processes and employment practices address and manage the risk of SEAH.	Can demonstrate robust PSEAH recruitment and screening processes for all personnel/consultants including having in place appropriate and enforceable standards of conduct.	X	X	✓	✓
6. Prohibit transactional sex for all personnel, while engaged in the direct delivery of DFAT business	Prohibits transactional sex in the field for all staff and downstream partners while engaged in the delivery of So They Can's business	X	X	X	✓
7. Prohibit fraternisation for all non-national personnel, while engaged in the direct delivery of the DFAT business	Prohibits fraternisation for all non-national personnel in the field while engaged in the delivery of So They Can's business	X	X	X	✓