

## PREVENTION OF SEXUAL EXPLOITATION, ABUSE & HARASSMENT POLICY

Policy number	2.18	Version	2022v2
Responsible Person	CFOO	Approval date	16-08-2022

### INTRODUCTION

ASHM recognises the right of every employee, volunteer and representative to be able to attend work and to perform their duties without being subjected to any form of sexual exploitation, abuse or harassment. This policy therefore applies to all ASHM Board members, sub-committee members, consultants, services providers, employees and volunteers.

It is the obligation and responsibility of every ASHM representative, employee and volunteer to ensure that the workplace is free from sexual exploitation, abuse or harassment.

ASHM is fully committed to its obligation to eliminate sexual exploitation, abuse and harassment in the workplace.

### PURPOSE

The purpose of this document is to

1. prevent any cases of sexual exploitation, abuse or harassment occurring within ASHM and its projects;
2. work towards a respectful working culture;
3. ensure that all parties are aware of their responsibilities for identifying possible occasions for sexual exploitation, abuse and harassment and for establishing controls and procedures for preventing such incidents and/or detecting them when it occurs;
4. provide guidance to ASHM personnel as to action that should be taken where they suspect any incidents within or outside of the organisation;
5. provide a clear statement to ASHM personnel forbidding any such abuse;
6. provide assurance that any and all suspected incidents will be reported and fully investigated.

The ultimate purpose of this policy is to help eliminate the risk of anyone working for and with ASHM being involved in sexual exploitation, abuse and harassment.

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## DEFINITIONS

**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.

**Sexual abuse:** The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. It covers sexual offences including but not limited to: attempted rape (which includes attempts to force someone to perform oral sex); and sexual assault (which includes non-consensual kissing and touching). All sexual activity with someone under the age of consent (in the law of the host country or under Australian Capital Territory law [16 years], whichever is greater) is considered to be sexual abuse.

**Sexual harassment:** A person sexually harasses another person if the person makes an unwelcome sexual advance or an unwelcome request for sexual favours or engages in other unwelcome conduct of a sexual nature, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated, or intimidated.

Sexual harassment can take various forms. 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. Sexual harassment can be perpetrated against beneficiaries, community members, citizens, as well as staff and personnel.

**Survivor-centred approach:** where the rights, needs, wishes and empowerment of survivors of sexual exploitation, abuse and harassment are prioritised, in both the prevention of and response to sexual exploitation, abuse and harassment.

**ASHM personnel** includes all staff, volunteers, interns, contractors, committee members, visitors to projects, ASHM partners' downstream personnel and subcontractors engaged by ASHM to perform any part of ASHM project activities.

## SCOPE

This policy applies to all ASHM personnel which includes:

- staff/volunteers/interns/contractors/visitors to projects
- ASHM partner's downstream personnel
- Subcontractors engaged by ASHM to perform any part of ASHM project activities

This policy applies to conduct that takes place in any work-related context, including conferences, work functions, social events and business trips.

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## POLICY

### Policy principles

- **Zero tolerance:** ASHM has zero tolerance for sexual exploitation, abuse or harassment. Every ASHM personnel is responsible for reporting incidents and growing awareness of prevention of sexual exploitation, abuse and harassment and for the care and protection of the people within our care and reporting information about suspected abuse.
- **Survivor approach:** ASHM will exercise its commitment to the prevention of sexual exploitation, abuse and harassment through a survivor-centred approach. Wherever possible, all reporting of alleged sexual exploitation, abuse and harassment should de-identify the victim/survivor, consistent with a survivor-centred approach.

This approach prioritises the rights, needs, wishes and empowerment of survivors of sexual exploitation, abuse and harassment in both the prevention of and response to sexual exploitation, abuse and harassment.

- **Shared responsibility for prevention of sexual exploitation, abuse and harassment:** ASHM requires the commitment, support and cooperation of partner organisations and individuals who help to deliver programs to effectively manage risks to people in all of our projects and activities.
- **Promotion of a gender equality culture:** 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.
- **Procedural fairness:** ASHM will apply procedural fairness when making decisions that affect a person’s rights or interests. ASHM’s partners are expected to adhere to this principle when responding to concerns or allegations of sexual exploitation abuse and harassment.
- **Natural justice:** All investigations concerning suspicions and allegations of sexual exploitation, abuse or harassment will be conducted according to the rules of natural justice. In line with this principle, ASHM will ensure that personnel must be fully aware of their responsibilities to protect the survivor and how to report concerns or allegations about sexual exploitation, abuse and harassment.
- **Risk assessment approach:** People safety risk assessment is a part of ASHM’s overall risk assessment for all projects and partnerships. This assessment will identify risks, and document steps being taken to reduce or remove those risks.



## **General policy statements**

ASHM will not tolerate sexual exploitation, abuse or harassment under any circumstances.

Prevention of sexual exploitation, abuse and harassment is a shared responsibility between the ASHM, all employees, workers, contractors, associates, and members of the ASHM community.

Both federal and state Equal Employment Opportunity legislation provide that sexual exploitation, abuse or harassment is unlawful and establish minimum standards of behaviour for all employees.

All cases of suspected and actual sexual exploitation, abuse and harassment must be reported by all ASHM personnel to their supervisors or managers.

ASHM strongly encourages any representative, employee or volunteer who feels they have been sexually harassed to take immediate action.

No ASHM representative, employee or volunteer at any level should subject any other representative, employee, volunteer, customer or visitor to any form of sexual exploitation, abuse or harassment.

The alleged harasser also has the right to have support or representation during any investigation, as well as the right to respond fully to any formal allegations made.

There will be no presumptions of guilt and no determination made until a full investigation has been completed.

No ASHM representative, employee or volunteer will be treated unfairly as a result of rejecting unwanted advances.

All representatives, employees and volunteers have the right to seek the assistance of the relevant tribunal or legislative body to assist them in the resolution of any concerns.

## **RELATED POLICIES**

- 2.05 Bullying Policy
- 2.06 Misconduct Policy
- 2.07 Anti-Discrimination Policy
- 2.09 Child Protection Policy
- 2.10 External Complaints Policy
- 2.13 Code of Conduct Policy
- 2.14 Whistleblower Policy

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- 2.17 Gender Equality Policy
- 3.11 Privacy Policy
- 4.09 Recruitment Policy
- 4.24 Staff Complaints and Grievance Policy

## AUTHORISATION

ASHM Board

## HISTORY

Version	Approved Date	Comments/ Amendments
2018v1	20-11-2018	First version
2018v2	24-01-2019	Change scope of the policy. Update policy statement.
2019v1	21-11-2019	Update as per new ACFID Code of Conduct changes.
2020v1	24-08-2020	Add policy principles and scope to this policy
2021v1	N/A	New template
2022v2	16-08-2022	Change scope of the policy. 2-year review

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## PREVENTION OF SEXUAL EXPLOITATION, ABUSE & HARASSMENT PROCEDURE

Procedures number	2.18	Version	2022v2
Responsible person	CFOO	Approval date	16-08-2022

### RESPONSIBILITIES

The Board of ASHM has ultimate responsibility for the detection and prevention of sexual exploitation, abuse and harassment and is responsible for ensuring that appropriate and effective internal control systems are in place. The Board is also responsible for ensuring that appropriate PSEAH policies and procedures are in place.

The CEO of ASHM is responsible for:

- Dealing with and investigating reports of SEAH;
- Ensuring that all staff, contractors, visitors to projects and volunteers are aware of relevant laws, organisational policies and procedures, and the organisation's Code of Conduct;
- Ensuring that all adults within the ASHM community are aware of their obligation to report any exploitation or abuse in accordance with these policies and procedures;
- Ensuring that all staff, contractors, visitors to projects and volunteers are aware of their obligation to observe the Code of Conduct (particularly as it relates to PSEAH);
- Providing support for staff, contractors, visitors to projects and volunteers in undertaking their PSEAH responsibilities.

It is the responsibility of the Human Resources Manager to be the ASHM focal person for the prevention of sexual exploitation, abuse and harassment. The HR Manager must ensure that:

- they understand and are committed to the rights and entitlements of all representatives, employees and volunteers to attend work and perform their duties, without fear of being sexually harassed in any form;
- they understand what constitutes an act of sexual exploitation, abuse or harassment;
- all reasonable steps are made to eliminate sexual exploitation, abuse or harassment;
- all representatives, employees and volunteers are regularly made aware of their obligations in relation to providing a workplace free from sexual exploitation, abuse or harassment;



- they provide an environment which discourages harassment and victimisation and set an example by their own behaviour;
- they treat all complaints seriously and confidentially; and
- they take immediate and appropriate corrective action if they become aware of any offensive action.

It is the responsibility of the Human Resources Department to ensure that:

- policies and procedures are regularly reviewed and (if necessary) amended;
- policies and procedures are complied with;
- regular guidance and education are provided to representatives, employees and volunteers regarding sexual exploitation, abuse or harassment and inappropriate behaviour in the workplace;
- managers are aware of their obligations and responsibilities in relation to sexual exploitation, abuse or harassment, and the rights and entitlements of their representatives, employees and volunteers;
- ongoing support and guidance are provided to all representatives, employees and volunteers in relation to the prevention of sexual exploitation, abuse or harassment and the result of any complaint or inquiry does not end in retaliatory action for the complainant/victim.

All managers must ensure that they:

- Promote PSEAH safety at all times;
- Assess the risk of SEAH within their area of control and eradicate / minimise any risk to the extent possible;
- Assess a partner's capacity to implement key safeguarding and risk policies including PSEAH (as per ASHM Contracts Due Diligence Checklist);
- Educate employees about the prevention and detection of SEAH; and
- Facilitate the reporting of any inappropriate behaviour or suspected abusive activities.

Management should be familiar with the types of abuse that might occur within their area of responsibility and be alert for any indications of such conduct.

All staff/volunteers/contractors/visitors to projects share in the responsibility for the prevention and detection of SEAH, and must:

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- Familiarise themselves with the relevant laws, the Code of Conduct, and ASHM's policy and procedures in relation to PSEAH, and comply with all requirements;
- Report any reasonable belief that an incident of SEAH has occurred to ASHM management and fulfil their obligations as mandatory reporters;
- Provide an environment that is supportive of emotional and physical safety.

## PROCEDURES

### **RECRUITMENT AND SELECTION**

ASHM undertakes a comprehensive recruitment and screening process for all workers and volunteers which aims to:

- Promote and protect the safety of all people under the care of the organisation;
- Identify the safest and most suitable people who share ASHM's values and commitment to PSEAH; and
- Prevent a person from working at ASHM if they pose a risk to PSEAH.

ASHM requires all workers/volunteers to pass through the organisation's recruitment and screening processes prior to commencing their engagement with ASHM.

ASHM will undertake thorough reference checks as per the approved internal procedure. Once engaged, workers/volunteers must review and acknowledge their understanding of this Policy.

For guidelines on how to apply all of these recruitment and selection measures please refer to the Recruitment Policy and Procedure.

### **REPORTING AND HANDLING SEXUAL EXPLOITATION, ABUSE AND HARASSMENT CONCERNS**

Sexual exploitation, abuse or harassment can occur at any level of the organisation, can be experienced by people of all genders and may involve a co-worker, volunteer, supervisor, manager, service provider, client or customer. Lack of intent is no defence in sexual exploitation, abuse or harassment cases.

ASHM representatives, employees or volunteers who believe they are the subject of sexual exploitation, abuse or harassment should take firm, positive and prompt action.

#### **Reporting**

It is mandatory for all those under the Scope of the ASHM Prevention of Sexual Exploitation, Abuse and Harassment Policy to confidentially report any witnessed, suspected or alleged incidents of abuse or any breach of the PSEAH Policy using the process outlined in the flowchart over-page.

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Community members with whom ASHM works will be provided with information about how to report any breach of the policy concerns about ASHM personnel members and associates.

If a representative, employee or volunteer feels comfortable in doing so, it is preferable to raise the issue with the person directly with a view to resolving the issue by discussion. The representative, employee or volunteer should identify the harassing behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stops.

Alternatively, or in addition, they may report the behaviour in accordance with the relevant procedure. Once a report is made the organisation has the right to determine how the report should be dealt with in accordance with its obligations and this policy.

Any reports of sexual exploitation, abuse or harassment will be treated seriously and promptly with sensitivity. Such reports will be treated as completely confidential up to the point where a formal or informal complaint is lodged against a particular person, at which point that person must be notified under the rules of natural justice.

Complainants/survivors have the right to determine how to have a complaint treated, to have support or representation throughout the process, and the option to discontinue a complaint at any stage of the process.

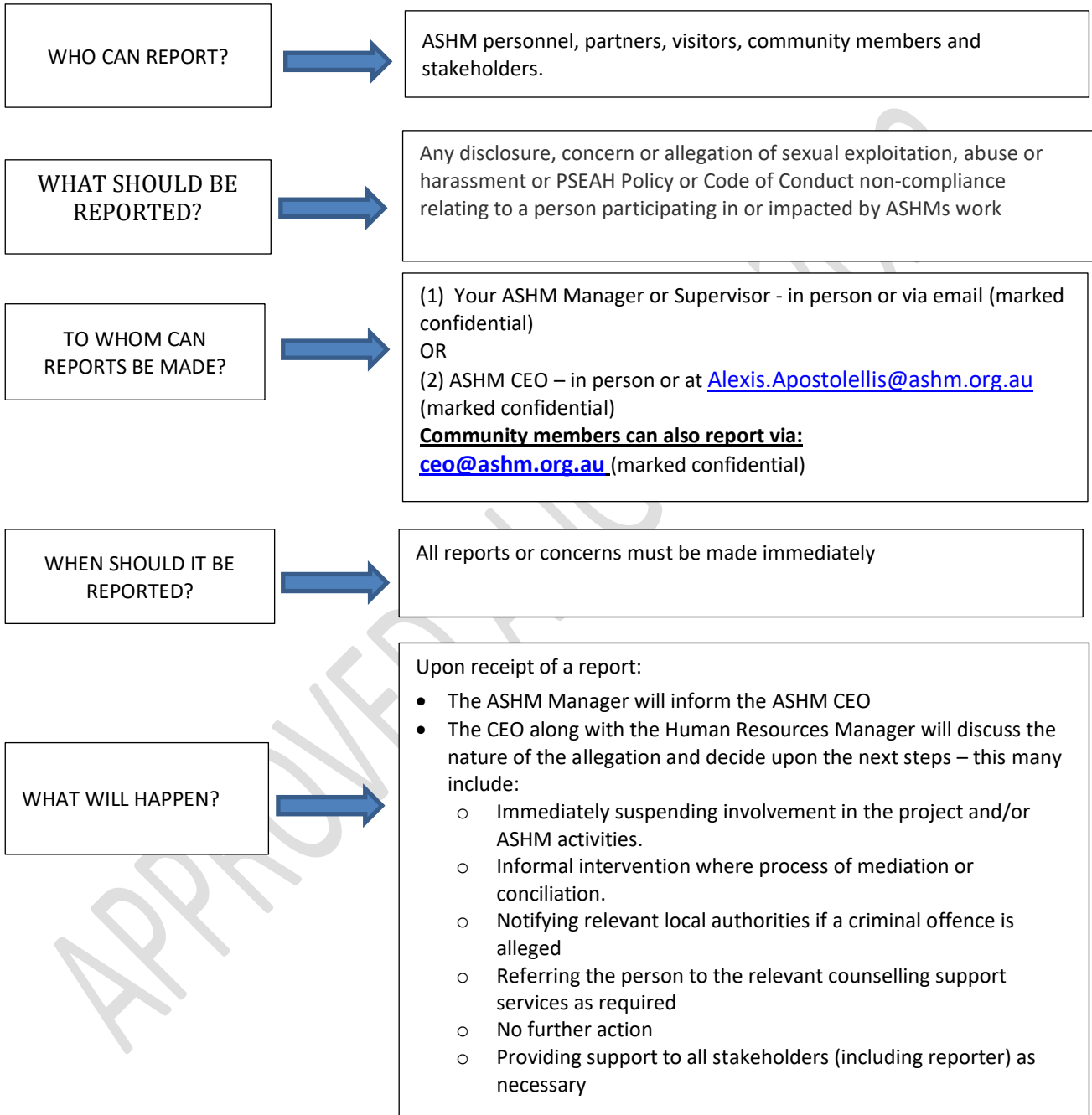
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**REPORTING FLOWCHART**





### ***What should be reported?***

Any disclosure, concern or allegation from a person, community member, personnel regarding the safety, abuse or exploitation of a person participating in or impacted by ASHM's work (this includes actual, suspected, or risk of sexual exploitation, abuse or harm).

Any observation or concerning behaviour exhibited by ASHM personnel that breaches this policy.

Sexual exploitation, abuse or harassment can occur at any level of the organisation, can be experienced by people of all genders and may involve a co-worker, volunteer, supervisor, manager, service provider, client or customer. Lack of intent is no defence in sexual exploitation, abuse or harassment cases.

Examples of sexual exploitation, abuse and harassment include, but are not limited to:

- staring or leering
- unnecessary familiarity, such as deliberately brushing up against you or unwelcome touching
- suggestive comments or jokes
- insults or taunts of a sexual nature
- intrusive questions or statements about your private life
- displaying posters, magazines or screen savers of a sexual nature
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- requests for sex or repeated unwanted requests to go out on dates
- engaging in transactional sex or fraternization
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Behaviour that is based on mutual attraction, friendship and respect is not sexual harassment.

### ***Who to report to?***

Where possible, the representative, employee or volunteer should make the perceived harasser(s) aware that they find their behaviour offensive, unwelcome, unacceptable, and that it needs to stop

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immediately. If the behaviour continues, or if the representative, employee or volunteer feels unable to speak to the person(s) directly, they should contact their supervisor or Manager or report directly to the CEO. If a complainant/survivor is not comfortable raising this matter with the CEO, they may report directly to the HR Manager.

Alternatively, a representative, employee or volunteer may contact another Manager they feel comfortable with. The Manager will provide support and ascertain the nature of the complaint and the wishes of the complainant/survivor. Any Manager who receives a report of sexual exploitation, abuse or harassment must then forward that information to the CEO immediately.

The CEO will report to the HR Manager. In the event that there is a conflict of interest between the complaint and the CEO or the HR Manager, they will report to the Chair of ASHM's Board.

If the HR Manager believes that a CEO has not addressed a complaint of sexual exploitation, abuse or harassment appropriately, they should report this directly to the Chair of the ASHM Board.

## **COMPLAINTS PROCESS**

### ***Informal intervention***

The HR Manager will explain the victim's/survivor's rights and responsibilities under ASHM's policy, procedures and Equal Employment Opportunity or anti-discrimination legislation.

Informal intervention may be undertaken through a process of mediation or conciliation. During informal intervention the alleged harasser will be made aware of the allegations being made against them and given the right to respond.

This procedure will be complete when the victim/survivor and the respondent come to an agreement on the procedure to be followed. If this occurs, no record will be made of the proceedings, and any subsequent proceedings will begin anew. If this does not occur, the formal procedure should be followed.

### ***Formal complaints procedure***

The HR Manager may be obliged to carry out a formal investigation in relation to a complaint of sexual exploitation, abuse or harassment. The formal procedure will be co-ordinated by the HR Manager, who will be guided by the CEO or Chair of the Board. Formal investigations may be conducted internally or by an external investigator.

An investigation involves collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred.

Once a finding is made, the investigator will make recommendations about resolving the complaint.

The investigator may need to interview the parties involved (which may include the complainant/survivor, the respondent, and any witnesses) to obtain information regarding the

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complaint. The investigator will comprehensively and accurately document all information obtained during the interviews including the parties involved, timing, location, and nature of conduct complained against.

If the investigator considers it appropriate for the safe and efficient conduct of an investigation, workplace participants may be stood down from work or provided with alternative duties during an investigation in which case they will be paid their normal pay during any such period.

Throughout the investigation process, all parties involved in the investigation will be regularly kept informed about the investigation.

Records are to be kept and filed in a confidential and secure place. If no confidential area is available, these notes may be sealed and forwarded to the Human Resources Department, where they will be maintained, unopened, in a confidential filing system. These records should be kept for a period of seven years. Under no circumstances will records be placed on the complainant's/survivor's personnel file.

The findings as to whether sexual exploitation, abuse or harassment has occurred will be determined on the basis of the evidence, and on the balance of probabilities.

On the basis of the findings, possible outcomes of the investigation may include, but will not be limited to, any combination of the following:

- Counselling/psychosocial care which may include:
  - Medical assistance;
  - Referral to appropriate organisations to address victim/survivor needs;
- Disciplinary action against the harasser (e.g. demotion, transfer, suspension, probation or dismissal);
- Official warnings that are noted in the respondent's personnel file;
- Disciplinary action against the person who complained if there is strong evidence that the complaint was vexatious or malicious;
- Formal apologies and undertaking that the behaviour will cease;
- Conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution;
- Reimbursing any costs associated with the harassment;
- Re-crediting any leave taken as a result of the harassment.

### ***Investigation findings***

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On completion of the investigation, all parties will be informed about the investigation findings and the outcome of the investigation.

Following an investigation concerning a sexual exploitation, abuse or harassment complaint (irrespective of the findings), the HR Manager will:

- consult with the parties involved to monitor the situation and their wellbeing;
- educate and remind all representatives, employees and volunteers of their obligations and responsibilities in relation to providing a workplace free from bullying

Outcomes will depend upon factors such as:

- The severity and frequency of the exploitation, abuse or harassment;
- The weight of the evidence;
- The wishes of the person who was harassed;
- Whether the harasser could have been expected to know that such behaviour was a breach of policy;
- The level of contrition;
- Whether there have been any prior incidents or warnings.

If the investigation determines that sexual exploitation, abuse or harassment has occurred, the HR Manager must forward a summary of the complaint and the action taken to the CEO/Chair of Board. A copy may be placed in the respondent's personnel file by the Human Resources Department, in accordance with Performance Counselling procedures. The HR Manager will monitor the outcome to ensure that the offensive behaviour has ceased, and that neither party has been victimised. This may involve follow-up interviews. If there has been any substantiated victimisation, disciplinary procedures will be followed.

### ***Disciplinary Action***

If it is alleged that a member of staff, contractor, visitor to project or a volunteer may have committed an offence or have breached the organisation's policies or its Code of Conduct the person concerned may be stood down (with pay, where applicable) while an investigation is conducted.

If the investigation concludes that on the balance of probabilities an offence (or a breach of the organisation's policies or Code of Conduct) has occurred then disciplinary action may follow, up to and including dismissal or cessation of involvement with the organisation. The findings of the investigation will also be reported to any external body as required.

Disciplinary action may be taken against anyone who victimises or retaliates against a person who has complained of sexual exploitation, abuse or harassment, or against any representative, employee or

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volunteer who has been alleged to be a harasser or has made a false accusation of sexual exploitation, abuse or harassment.

Managers or Supervisors who fail to take appropriate corrective action when aware of sexual exploitation, abuse or harassment of a person will be subject to disciplinary action.

### **PROCEDURES FOR DEALING WITH CRIMINAL CONDUCT**

Some forms of severe sexual exploitation, abuse or harassment (e.g. sexual assault, stalking, indecent exposure, physical molestation, obscene phone calls) may constitute criminal conduct. While ASHM is committed to treat most sexual exploitation, abuse or harassment complaints at a company level as far as possible, this type of conduct is not suited to internal resolution. Such complaints should be treated by the criminal justice system, where it is safe to do so and is in accordance with the wishes of the victims/survivors.

In relation to alleged criminal offences such as rape or sexual assault, the matter must be immediately referred to the Human Resources Manager or CEO.

Employees/volunteers should be advised of the option of police support or intervention. It is not the obligation or duty of the company to report such matters to the police on behalf of the complainant.

### **PSEAH RISK ASSESSMENT**

ASHM will ensure that PSEAH is a part of its overall risk management approach. ASHM has a Finance Risk Management and Audit Committee (FRMA) to identify and manage risks at ASHM. Whenever necessary, FRMA committee members will receive appropriate training in relation to PSEAH.

#### ***Program risk assessment and monitoring***

ASHM will ensure that PSEAH is a part of its overall risk management approach.

ASHM will undertake a risk assessment to reduce the risk of any person breaching this policy as result of operations or activities funded by ASHM.

All programs and projects are then required to complete a sexual exploitation, abuse and harassment risk assessment, assessing and identifying all potential risks within the program/project before commencement of any activities. The risk assessment must include actions and recommendations that are to be put in place to minimise or remove any risks to breach this policy and these (and any emerging risks) must be actively monitored throughout the activity/program cycle.

#### ***Organisational risk management***

PSEAH is a standing item on the agenda of the ASHM Board.

ASHM has a Finance Risk Management and Audit Committee (FRMA) to identify and manage risks at ASHM. PSEAH is a standing item for this committee.

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## **WORKING WITH PARTNERS TO PREVENT SEXUAL EXPLOITATION, ABUSE AND HARASSMENT**

ASHM's PSEAH policy applies to

- all personnel,
- international partner's downstream personnel, and
- subcontractors that are engaged by ASHM to perform any part of ASHM international project activities.

When ASHM is the managing partner it will ensure that international downstream partner organisations or individual subcontractors receive training in the relevant minimum PSEAH standards.

ASHM is committed to building our partners' capacities in prevention of sexual exploitation, abuse and harassment practices.

Before engaging with international partners, ASHM will conduct due diligence assessments, that includes their prevention of sexual exploitation, abuse and harassment practices to ensure that they meet the minimum standards.

All ASHM international downstream partners must sign the ASHM ACFID Code of Conduct Agreement.

### ***Working with government partners***

ASHM acknowledges that where an implementing partner is a government department of the partner country, ASHM is unable to require that they have or develop their own PSEAH Policy. However, ASHM commits to actively working with these partners to ensure that PSEAH standards are included, where possible, in partnership agreements, MOU's and at program activity level.

ASHM will actively monitor the implementation of agreed PSEAH measures and obligations with our field- based partners on an ongoing basis.

ASHM field- based partners share the responsibility for identifying, reducing and monitoring sexual exploitation, abuse and harassment risks to people benefitting from and in contact with ASHM international funded programs.

### ***Individuals***

An individual contractor is not required to have a PSEAH policy. However, they will be required to adhere to ASHM PSEAH policy.

A current criminal record check will also be sourced for all individuals working in ASHM projects.

## **TRAINING AND AWARENESS RAISING OF PSEAH PROTECTION**

PSEAH forms part of the ASHM induction process

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In addition, ASHM will conduct PSEAH training each year for ASHM personnel and downstream partners, to ensure that personnel are:

- fully aware of the requirements of this policy;
- fully aware of their responsibilities and obligations stated in this policy;
- fully aware of how to report concerns or allegations about sexual exploitation, abuse and harassment.

Members of the ASHM Board and the Finance, Risk and Audit Committee receive awareness training on ASHM's Prevention of Sexual Exploitation, Abuse and Harassment Policy and responsibilities.

### **POLICY REVIEW**

Every two years, and following every reportable incident, a review shall be conducted to assess whether the organisation's PSEAH policies or procedures require modification to better protect the stakeholders under the organisation's care.

ASHM will familiarise its staff and representatives with this policy and its procedures on an annual basis.

### **RELATED DOCUMENTS AND FORMS**

ACFID Code of Conduct Commitment 1.5

<https://acfid.asn.au/good-practice-toolkit/psea-changes-2019>

### **AUTHORISATION**

ASHM CEO

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