



## Prevention of Sexual Abuse, Exploitation, and Harassment Policy

### Amendment Log

Change	Section	Date	Responsible
Definition of Sexual Harassment updated in line with Bullying and Harassment Policy	Definitions	27.03.2024	Operations
Clarification that policy is in line with DFAT guidelines	2.3.8	23.03.2024	Operations

### Introduction and Statement of Commitment<sup>1</sup>

The Environmental Defenders Office (EDO) is committed to the prevention of sexual exploitation, abuse and harassment (PSEAH), through a survivor-centred approach.

Fundamental to the operation of EDO is respect for the dignity and basic human rights of people within Australia and throughout the world. Every person who represents EDO is expected to reflect these values in their professional conduct, regardless of who they are dealing with, or where they are working.

Sexual exploitation, abuse and harassment (SEAH) is a violation of basic human rights. EDO aims to provide a safe and trusted environment that safeguards everyone from SEAH including EDO staff, communities we work with and represent, program participants, and partner organisations.

EDO staff and others who represent EDO, have an obligation to uphold high standards of personal and professional conduct at all times and must not abuse their position in order to exploit or abuse another person.

EDO will actively prevent and respond to SEAH and maintain an organisational culture that prioritises safeguarding against SEAH so that it is safe for those affected to come forward and report incidents and concerns with the assurance they will be handled sensitively and appropriately.

Where safe to do so, and when in accordance with the wishes of the survivors and whistleblowers, all alleged SEAH incidents that involve a criminal aspect should be reported through the correct local law enforcement channels.

### Purpose

The purpose of this policy is to exist alongside EDO's Bullying and Harassment policy to ensure that EDO employees, volunteers, contractors, and Board members understand their responsibilities in relation to the prevention of sexual abuse, exploitation and harassment.

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<sup>1</sup> This policy has been developed in accordance with the Australian Council for International Development's (ACFID's) Code of Conduct (Compliance Indicator 1.5.1) and the Department of Foreign Affairs and Trade's policy on PSEAH.

## Scope

All EDO workers must comply with this Policy in the course of their work and when representing EDO. However, this policy is relevant for the whole EDO community, including our clients, partners and supporters.

## Definitions

**Child/Children:** A child or young person is regarded to be any person under the age of 18 years, unless a nation's laws recognise adulthood earlier.

**Contractors and consultants:** a person or company that undertakes a contract to perform a service or do a job for EDO. They include ICT consultants and technicians, graphic designers, project and management consultants, and some office services\*. The terms and conditions of their services should be set out in a separate agreement and are not covered by this policy.

**EDO Worker:** Employees, consultants, contractors, volunteers, interns, the EDO Board, visitors, or anyone engaged to undertake work for the EDO.

**Partner Organisations:** Partner Organisations of EDO are any organisation either in Australia or overseas with which EDO jointly delivers international projects or programs, including organisations where EDO workers or program participants are sent or placed.

**Perpetrator:** A person (or group of persons) who commits an act of sexual exploitation, abuse, harassment or other type of crime or offence.

**Sexual Abuse:** The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. All sexual activity with someone under the age of consent is considered to be sexual abuse.

In relation to a child sexual abuse occurs when a child or young person is used by an older or bigger child, adolescent or adult for his or her own sexual stimulation or gratification - regardless of the age of majority or age of consent locally. These can be contact or non-contact acts, including sexualised language, voyeurism, and exposure to pornography.

**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 harassment:** For the purposes of this policy and under the Sex Discrimination Act, sexual harassment is when a person harasses another person (the person harassed) on the ground of sex if:

- a. by reason of:
    - i. the sex of the person harassed; or
    - ii. a characteristic that appertains generally to persons of the sex of the person harassed;  
or
    - iii. a characteristic that is generally imputed to persons of the sex of the person harassed;
- the person engages in unwelcome conduct of a demeaning nature in relation to the person harassed; and

- b. the person does so 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 is any form of unwanted, unwelcome or uninvited behaviour of a sexual nature which can take various forms and may include behaviour such as:

- Staring or leering
- Inappropriate physical conduct such as unwelcome physical touching
- Making sexual or suggestive comments, jokes, insults or taunts
- Displaying or circulating clearly sexual material, including photos or pinups
- Sending explicit or sexually suggestive emails or text messages
- Asking intrusive questions about someone's private life or body, including their sex life
- Unnecessary familiarity, such as deliberately brushing up against a person
- Making an unwelcome sexual advance, or an unwelcome request for sex or sexual favours
- Repeatedly asking someone to go on a date or meet in a private or social capacity when the person has made it clear that the invitation is unwelcome

Sexual harassment can occur regardless of the intention of the person engaging in the conduct. It is the effect of the behaviour and the degree to which this effect could be reasonably anticipated that makes it harassment.

A one-off incident can constitute sexual harassment.

Some forms of sexual harassment (such as sexual assault, indecent exposure and stalking) are regarded as criminal offences and may result in legal action being taken against the offender.

Sexual harassment is not sexual interaction, flirtation, attraction, or friendship which is invited, mutual, consensual, or reciprocated. However, such behaviour may be inappropriate as it may be offensive to other employees in the work environment.

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

**Survivor:** A person who is, or has been, sexually exploited, harassed or abused, or who has had an attempt to perpetrate SEAH against them

## Policy Principles

EDO is guided by the following principles in devising and implementing this policy:

### ***Principle 1: Zero tolerance of inaction***

- Sexual exploitation, abuse and harassment are never acceptable.
- Zero tolerance means acting on every allegation in a fair and reasonable way with due regard for procedural fairness. It is not the same as zero incidents. Increasing reports may indicate growing awareness of SEAH and changing attitudes, with 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: Strong leadership accelerates culture change***

- Leaders of EDO set organisational culture by providing clear expectations and model respectful behaviour in their interactions at work. This will support communities, survivors and whistleblowers to feel safe, report concerns and be assured their allegations will be taken seriously.
- EDO recognises that a diverse and inclusive environment has lower levels of harassment and discrimination. By taking measures to ensure diversity and inclusion, the leadership of EDO demonstrates a commitment to address SEAH.

***Principle 3: Complainant/ survivor needs are centred and prioritised***

- In addressing SEAH, EDO adopts the approach centring and prioritising the rights, needs, and wishes of the complainant/ survivor, while ensuring procedural fairness to all parties.
- This approach:
  - treats the complainant/ survivor with dignity and respect.
  - centres and involves the complainant/ survivor in decision making.
  - provides the complainant/ 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 survivor with their recovery.

***Principle 4: PSEAH is a shared responsibility***

- EDO recognises that Preventing Sexual Exploitation, Abuse and Harassment is everyone's responsibility.
- EDO recognises it has a responsibility to build capacity within the organisation to deal sensitively and effectively with SEAH that occurs in the course of its work.

***Principle 5: Gender inequality and other power imbalances are addressed***

- Gender inequality has been a major cause of SEAH. However, other power imbalances also result in SEAH, and in particular, children are at high risk of SEAH. So far as reasonably practicable, this policy aims at covering inequalities based on the distinctions of ability/disability; ethnic and Indigenous status; religion; gender identity and sexual orientation; age; health and poverty.

***Principle 6: Stronger reporting will enhance accountability and transparency***

- EDO recognises that stronger reporting allows the organisation to better monitor SEAH, understand risks, improve assurance and work with organisations to improve systems and safeguards accordingly.

## **1. Working with partners**

- 1.1. EDO will work with Partner Organisations in the prevention of SEAH and Partner Organisations will be advised of avenues available to report concerns regarding SEAH. This policy will be incorporated in partnership agreements, MOUs or the equivalent between EDO and our Partner Organisations ('the partner agreements') as an attachment. The partner agreements will expressly state that the failure of those entities or individuals, as appropriate, to take preventive measures against SEAH, to investigate and report allegations, or to take corrective actions when SEAH has occurred, may constitute grounds for EDO to terminate such agreements.

- 1.2. EDO will incorporate the consideration for PSEAH in our due diligence or partner capacity assessment processes and will continue to monitor the partners' ongoing compliance. This includes facilitating or recommending trainings on PSEAH and the safeguarding measures to the partners, where appropriate.
- 1.3. EDO will communicate our PSEAH expectations to partners and help support them to develop their own approach which maintains an equivalent standard. This includes consultation with both onshore and offshore partners to ensure that PSEAH mechanisms and processes are contextualised, so that they are culturally and gender appropriate and reflect an understanding of local legislative frameworks.
- 1.4. Where an EDO partner does not have its own PSEAH policy, it will be expected to meet and abide by the principle and processes as outlined in this EDO policy.

## 2. Standards of Conduct

- 2.1. Expected standards of conduct of staff and volunteers are detailed in the *EDO Code of Conduct*, and the *EDO Child Safeguarding Code of Conduct*.
- 2.2. At all times, all EDO workers must:
  - 2.2.1. act in a manner which upholds the values and reputation of EDO.
  - 2.2.2. Undertake to create and maintain a safe and trusted environment that promotes the implementation of this Policy and safeguards everyone from SEAH.
  - 2.2.3. Comply with all relevant Australian and local laws of the country to which they are placed, or in which they are travelling.
  - 2.2.4. Be aware that sexual behaviour is an area of particular sensitivity, where conduct may more easily be seen as offensive or be misinterpreted.
  - 2.2.5. Ensure personal conduct towards a co-worker is not exploitative or such that it reasonably leads to a perception of exploitation.
  - 2.2.6. Read and agree to abide by the expected behaviours outlined in EDO's relevant codes of conduct.
  - 2.2.7. Immediately report any concern, suspicion or allegation of SEAH or breach of this *Prevention of Sexual Exploitation, Abuse and Harassment Policy*.
- 2.3. It is strictly prohibited for any EDO Worker to:
  - 2.3.1. Sexually exploit or abuse or sexually harass a child or adult.
  - 2.3.2. Use their position of trust and authority to request any service or sexual favour from adults, children or others in the communities in which EDO works, in return for protection or assistance, or coerce a person to engage in sexual intercourse or any sexual activity.
  - 2.3.3. Exchange or withhold from adults, children or others in the communities in which EDO works - money, food, employment, goods, assistance or services for sex or sexual favours or other forms of humiliating, degrading or exploitative behaviour.
  - 2.3.4. Use the facilities, personnel or resources of EDO or Partner Organisations for the purpose of arranging or facilitating access to sex workers by any person, including visitors of EDO programs.

- 2.3.5. Engage in sexual activity with children (persons under the age of 18) regardless of the age of the majority or age of consent locally. Mistaken belief in the age of the child is not a defence.
- 2.3.6. Use computers, mobile phones, video cameras, cameras or other technology inappropriately, or to exploit or harass children and/or adults, or access or disseminate child exploitative material and/or sexually exploitative material through any medium, including social media.
- 2.3.7. Procure sex for others, and/or use a third party to do so.
- 2.3.8. Have sex with sex workers when on duty or traveling for the EDO, under the conditions as specified by DFAT - <https://www.dfat.gov.au/sites/default/files/guidance-on-assessing-the-risk-of-seah.pdf> - , even when it is legal in the relevant country.

### **3. Breach**

- 3.1. Sexual exploitation, abuse and/or harassment by EDO workers constitute acts of gross misconduct and are therefore grounds for disciplinary actions up to and including termination of employment or assignment.
- 3.2. Conduct that is criminal will be reported to the relevant authorities where appropriate, including the local law enforcement authorities as per national and any mandatory reporting laws.
- 3.3. Where the survivor of SEAH is an adult onward reporting to local enforcement will only occur at the wishes/welfare of the survivor.

### **4. Responsibilities to Prevent and Respond SEAH**

- 4.1. All EDO Workers are responsible for championing good practice and maintaining an organisational culture that prioritises safeguarding against SEAH.
- 4.2. EDO will ensure that all employees, volunteers, Board members and other relevant stakeholders are made aware of the PSEAH policy and their responsibilities. EDO commits to creating a safe environment at EDO to enable anyone to come forward and raise allegations or concerns of SEAH.

### **5. Reporting**

- 5.1. All EDO Workers must report any suspected or alleged incidents of sexual exploitation, abuse or harassment or Policy non-compliance perpetrated by anyone within scope of the Policy in connection with official duties or business. If in doubt, EDO Workers should report an alleged incident. Reports of abuse or exploitation of individuals under the age of 18 years must follow EDO's Child Safeguarding Policy.
- 5.2. There is no obligation for an individual to report any incident that has happened to them. The information of complainant/ /survivors will be treated confidentially, in line with Principle 3 — Complainant/ /survivor needs are centred and prioritised — The complainants'/ survivors' safety and wellbeing remain paramount to reporting.
- 5.3. At the request of the complainant or survivor the complaint can be de-identified.
- 5.4. EDO clients, partners or other stakeholder may report a concern regarding a breach of this Policy

in accordance with EDO's *Complaints Handling Policy – Clients or Stakeholders*.

- 5.5. EDO staff and volunteers may report a concern regarding a breach of this Policy in accordance with *EDO's Workplace Grievance, and Dispute Resolution Policy for Staff and Volunteers*.
- 5.6. EDO will take all concerns seriously and respond in accordance with the relevant complaints policy.
- 5.7. EDO's PSEAH focal person is the Head of People and Culture.

## 6. Survivor support and assistance

- 6.1. EDO commits to ensuring that any survivor of sexual exploitation or abuse is provided with the necessary means for protection and rehabilitation. We do so by ensuring that the survivors are referred to competent support services, including counselling, medical assistance and legal counselling, as appropriate and available. EDO will ensure that all responses are developed in a manner that balances respect for due process with a survivor-centred approach in which the survivor's wishes, safety and wellbeing remain a priority in all matters and procedures. EDO will provide victims and survivors with the progression of an investigation and final outcomes.
- 6.2. Children have the right to participate in decisions that will affect them. If a decision is taken on behalf of a child, the best interests of the child shall be the overriding guide. Referrals should be done in consultation with child focused agencies specialising in the special needs of child survivors of sexual abuse, and who are familiar with local procedures relating to the protection of children.

## Related EDO Documents

- EDO Staff and Volunteer Code of Conduct
- Child Safeguarding Policy
- Workplace Grievance, and Dispute Resolution Policy for Staff & Volunteers
- Recruitment and Selection Policy
- Staff Performance Improvement and Disciplinary Policy (currently under revision)
- WHS Policy and Procedures

<b>Approval, Implementation and Review</b>	
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