

**Centre for Mental Health and
Counselling – Nepal
(CMC – Nepal)**

Thapathali, Kathmandu



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

(Approval from the General Assembly of dated 3rd October, 2021)

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1. Background:

Centre for Mental Health and Counselling-Nepal (CMC-Nepal) is committed to promoting a culture where people are treated with dignity and respect at the workplace, including its offices, projects/programs, and its partnership projects with the government and other organizations. Sexual harassment, exploitation and abuse violate the core values of the CMC-Nepal. These are also the acts and behaviors that violate the human rights as defined by the United Nations. The UN prohibits all forms of sexual harassment and sexual exploitation and abuse. Therefore, Globally Protection against Sexual Exploitation and Abuse and Sexual Harassment (PSEAH) is anurging policy development for safeguarding and ensuring the human progress by eliminating the discrimination, violence, harassment against humankind. Globally it has become one step forward in humanitarian and development initiatives to protect people from exploitation, abuse and sexual harassment in their workplace and by their employers and fellow employees.

CMC-Nepal respects and reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men, women and people of all gender/sexual identities by noting the Universal Declaration of Human Rights. In the organizational evolution it has already commenced the Gender Equity and Social Inclusion (GESI) Policy based on the clause No. 28 of the constitution of CMC – Nepal and approved by the General Assembly. It also has started incorporating the gender mainstreaming and social inclusion responsive programs & projects in its organizational development by complying with the conventions and National Policies and the Constitution.

CMC Nepal has developed PSEAH Policy as a guideline for its employees, members and other associates to ensure safeguarding and protection against any form of sexual exploitation, abuses and harassment. The Policy is a reference document that mandates the rights and dignity of women or people working and associated with all the programs and projects run by CMC – Nepal and its beneficiaries.

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2. Purpose:

CMC – Nepal mandates zero tolerance against sexual exploitation, abuse and harassment. It is committed to promoting a culture where people are treated with dignity and respect and have its partners equally responsible. It also ensures the rights and protection of its beneficiaries or rights holders in program or project. This policy outlines the commitments of CMC – Nepal to ensuring:

- Effective mechanisms and structures are in place to prevent these behaviors of sexual exploitation, abuse and harassment;
- These preventive mechanisms and practices are integrated into the workplace and in the delivery of CMC-Nepal's projects and programs;
- Reflection of policy and effective enforcement in workplace and program / project implementation;
- Procedures are in place for raising concerns or reporting suspected or actual incidence of abuses, exploitation and harassment and thereby effective action is taken against allegation, including investigation and sanction or other measures such as mediation or restorative justice;
- Transparency is maintained with regard to gender equity and equality in the professional domains;
- Zero-tolerance against inaction in case of violations occur.

All employees of CMC – Nepal, including project & short term contract employees share a common responsibility and commitment to prevention and reporting of sexual exploitation, abuse and harassment. CMC – Nepal promotes an ethical and transparent culture to build a respectful working environment responsive to any inappropriate behaviors, and where employees, beneficiaries and partners feel supported and valued. PSEAH intends to provide guidance to all in the scope of this policy on the definition of sexual exploitation, abuse and harassment and on the steps to be taken when actual or suspected incident occurs.

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3. Scope

PSEAH Policy applies to all employees, including time-bound consultants, Board Members & General Members, interns, volunteers, family members accompanying with employee on travel and in assignment and beneficiaries & partner organizations directly or indirectly associated with CMC – Nepal. Policy is applicable in regardless of the location of the aforementioned persons.

4. Definitions

"Policy" in this document refers to the PSEAH Policy. For the purposes of this policy, the following definitions apply:

4.1 Sexual misconduct

Sexual misconduct refers to the sexual exploitation, sexual abuse or sexual harassment.

4.2 Sexual exploitation

Sexual exploitation is any actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, including, but not limited to, pursuit of personal sexual satisfaction and profiting monetarily, socially or politically from the sexual exploitation of another. Examples of acts of sexual exploitation include, but are not limited to:

- Using a position of power to demand or imply an expectation of sex in any context or making sex a condition (or implied condition) for assistance;
- Forcing someone to have sex with anyone;
- Videotaping or photographing private sexual content without consent and potentially leaking it to the public.

4.3 Sexual abuse

Sexual abuse is any actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions or when a person is incapable of giving consent or resist, such as when they are under pressure or under the influence of drugs or alcohol. Sexual abuse may include a range of behaviors up to and including rape. Examples of acts of sexual abuse include, but are not limited to:

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- Sexual assault (any unwanted or forced sexual act committed without consent including rape)
- Non-consensual kissing and touching of a sexual nature
- Forcing a person to engage in prostitution or pornography
- Refusing to use safe sex practices

4.4 Sexual harassment

Sexual harassment as per UN definition is any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behavior of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment.

Sexual harassment may occur in the workplace or in connection with work. Sexual harassment usually involves a pattern of behavior, although it can also refer to one incident. It includes a range of physical, verbal and non-verbal conduct of a sexual nature such as crude jokes, sexual comments, vulgar pictures, sexual gestures, blackmail, or sexual assault in the workplace or in connection with work. Examples of behavior that could be considered sexual harassment include, but are not limited to:

- Unwanted physical contact or sexual suggestions
- Making obscene or sexually suggestive remarks, insults or jokes that may cause offense
- Sending explicit or sexually suggestive emails or messages/phone-calls
- Intrusive enquiries into a worker's private sex life and personal relationships
- Showing body parts
- Name-calling with sexual epithets
- The insistence of any sex-related conducted (e.g. jokes or discussion of a sexual nature) that may be uncomfortable, frightening or hurtful
- Sharing verbal or non-verbal erotic contents for personal satisfaction/desire.

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5. Core Principles

Policy enforcement will comply and abide by the existing laws of the land, particularly the Act of the Prevention against Sexual Abuses at Workplace (कार्यस्थलमाहुने यौनजन्यदुर्व्यवहार (निवारण) ऐन, २०७१)

CMC – Nepal seriously considers sexual exploitation, abuse and harassment as the gross misconduct. Any person found involved in Sexual Misconduct will be a subject to disciplinary action, including but not limited to termination of employment or engagement. CMC – Nepal may refer any person engaged in Sexual Misconduct to law enforcement authorities for further investigation.

Everyone associated with CMC – Nepal mentioned in the scope of this Policy must comply with all relevant legislations and Acts of the country, including labor laws in relation to sexual abuse, exploitation or harassment and must work and behave in a manner that respects and fosters the rights of the people they are interacting with. The principle of prohibition of conducts includes, but not limited to:

- Any act of sexual exploitation, abuse or harassment is prohibited.
- Sexual activity with children (persons under the age of 18) is prohibited, regardless of the legal age of consent or majority in the jurisdiction in which the activity occurred. Mistaken belief in the age of a child shall not be considered as defense for the purposes of disciplinary proceedings
- CMC – Nepal employees and any other personnel are forbidden to have sexual activity with anyone under the age of 18
- Exchange of money, employment, goods or services for sex or sexual favors. This includes any exchange of money, food, employment, goods, assistance, or services for sex or sexual favors
- Sexual activity with prostitutes, even when it is legal in the country
- Using a child or adult to procure sex for others

For prevention and educating people CMC – Nepal will:

- Induct employees/members/affiliates on the Policy in the recruitment/affiliation process and each employee/affiliate must confirm the compliance with the Policy

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and signs in the declaration form (Please refer to Annex 1 for the declaration form)

- Provide training and orientation on Policy for raising awareness within the organization and in the communities and making people responsive and act on preventing the incidence of sexual exploitation, abuse and harassment and reporting of actual or suspected cases
- Create an environment that prevents sexual abuse, exploitation or harassment and empower its employees in challenging and reporting the inappropriate behavior or sexual harassment
- Assign the Project/Program Coordinator as the Focal Person for reporting and listening to the first concern

6. Enforcement

Allegations of misconduct or inappropriate behavior defined in this Policy will be handled fairly and in accordance with the policies, procedures and regulations of CMC – Nepal. Any misconduct will be handled as per the provisions of disciplinary actions outlined in the organization's personnel policy. CMC – Nepal will always be alert against sexual exploitation, abuse and harassment and in the protection and support of victims or survivors. The concerns will be taken by applying the survivor-centered approach.

The following steps will be taken in the regulation of the Policy:

- Designate a PSEAH focal person in the organization for over-seeing the execution and abiding all concern persons in the prevention of sexual exploitation, abuse and harassment. The PSEAH Focal Person will work in close cooperation with all the project/program coordinators has the ultimate responsibility to prevent and respond to sexual exploitation, abuse and harassment and facilitate the reporting protocols. S/he will also monitor the effectiveness and progress in the prevention of sexual exploitation, abuse, and harassment and promotion of the Policy.
- Perform a risk analysis to find out the specific vulnerabilities within the organization and develop specific prevention mechanisms as needed.
- In compliance with applicable laws and to the best of the capacity of CMC – Nepal, prevent perpetrators of sexual exploitation, abuse and harassment from being hired or

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referred by CMC – Nepal. This will include reference checking for personal and criminal records during the recruitment process.

- Investigate allegations of sexual exploitation, abuse and harassment in a timely and professional manner by ensuring the process in line with the organizational investigation protocol. As necessary the Executive Committee will form an investigation team and give mandate for detail investigation following investigation protocol.
- The Executive Director, assisted by the PSEAH Focal Person will act on the findings of investigation and recommend for approval from the Executive Committee, and ensure that the lessons learned are used to improve policy and processes as appropriate.
- Maintain strict confidentiality. All concerns and reports will be treated in confidence and kept secured by the PSEAH Focal Person. Information related to a case will be shared on a strictly need-to-know basis, and as per the requirement in legal procedures.
- Include PSEAH policy information in partnership or in sub-grant agreements, when and where possible, and requiring them to report to the Focal Person / the Executive Director of CMC – Nepal immediately as and when any behavior occurs violate the Policy.
- Have necessary emergency assistance and psychosocial counseling support ready and in place for survivors and others affected people by sexual exploitation, abuse, and harassment (SEAH).

Note that while taking action in the violation of PSEAH Policy the alleged person will be given an ample opportunity to present his / her evidences and the investigation team will hear him / her fairly and neutrally. He/she will also be provided a chance for appealing to the higher level for justice.

7. Responsibility

Executive Committee	Over-seeing of the Policy Approval of any revisions
Executive Director	Overall implementation, monitoring and review of the Policy
PSEAH Focal Person	<ul style="list-style-type: none"> • Training and orientation to staff, interns, volunteers and board members and make them aware of their responsibilities in preventing incidents of sexual

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	exploitation, abuse and/or harassment or reporting in suspected case <ul style="list-style-type: none"> • Assist and support to the Executive Director in overall implementation and monitoring of the Policy
Project/Program Coordinator	<ul style="list-style-type: none"> • Ensure compliance and execution of the Policy in projects / programs to prevent and respond to sexual exploitation, abuse, and harassment

8. Reporting and Recording

CMC – Nepal will take the following steps in reporting and recording;

1. Maintain confidentiality, victim/survivor-centered procedures in responding to reports or concerns relating to SEAH. Even if there is no sufficient information to follow-up and take action on the report or concern that will be kept in record.
2. Reports made verbally (in person, phone) or in writing (email, letter, form, SMS) shall be accepted, followed by the form as prescribed in Annex 1.
3. Take SEAH concerns or report seriously and proceed to resolution immediately
4. Funder, donor and statutory bodies will be informed and solicited for report of SEAH if necessary.
5. Give first priority to the safety and well-being of the victim/survivor, and support will be provided immediately after a concern is received and will be provided to the victim/survivor as per the necessary.
6. Delegate or hire an experienced and qualified person/s within the organization, trained in the investigation such as allegations of SEAH or consider out-sourcing for such qualified person/s for neutral and fair investigation.
7. Facilitate staff members, subject of an allegation, for a fair process to find out actual happenings, rather than being subject to gossip and rumors.
8. Encourage and facilitate employees to take action on the incidents they experience, witness or suspect the occurrence of sexual abuse, exploitation or harassment. Make them feel comfortable in doing so to the best of their ability.
9. Reports should be made in accordance with the processes outlined in the annex - 2
10. Suggested information to include in the report;
 - a. Broad description of the suspected violation, detailed information includes:
 - What happened?

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- Detailed description of what the reporter knows about the issue or incident(s), and how they came to know about it.
- Who is involved? Who is responsible, and was anyone else involved?
- When did the incident(s) occur? Information about dates and times, if available.
- Where did the incident(s) occur?
- Were there any additional witnesses we may contact?
- Anything else? It is not the job of the person reporting to investigate, but s/he may provide any available documents, photos, screenshots, messages, etc. that they already hold, if those help to clarify the report.
- Date of report
- Preferred contact details

9. Related policies and procedures

PSEAH Policy is inter-linked to and must be read in conjunction with:

- Staff Code of Conduct
- Personnel Policy of CMC – Nepal (Personnel and Administrative Manual)
- Child and Vulnerable Adult Safeguarding Policy of CMC – Nepal
- Gender Equality and Social Inclusion Policy

9. Review Process

This policy will be reviewed initially after one year and afterwards every three years by the Policy, Monitoring and Internal Control Committee in consultation with Executive Director and Executive Committee.

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Annex 1

Declaration Form (PSEAH Policy of CMC-Nepal)

Name: _____

Employee / Intern / Volunteer / Consultant / Associate (Please check the right one)

Position: _____

Project/Program/Unit: _____

I have received, read and I fully understood the Prevention of Sexual Exploitation, Abuse and Harassment (PSEAH) Policy and its content. I confirm that I am in complete compliance with all the provisions of PSEAH Policy and its content. I will comply with the guidelines set out in the Policy with my full understanding and failure to do so might result in disciplinary or legal action.

Date: _____ Signature: _____

Please sign and return to CMC-Nepal's Administration. This document will be filed in the personal record file.

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Annex 2

Reporting Protocol

Please follow the following procedures for report the incident or concern (in writing or in telephone). Note that after telephone for emergency reporting, the provided form must be completed and sent to the Focal Person.

What are the circumstances?

- 1) Did you experience the abuse/harassment/sexual exploitation? Yes/No
- 2) Did you witness abuse / harassment / sexual exploitation? Yes/No
- 3) Has someone informed you about the incident? Yes/No
- 4) Does your suspector know the person violating the Policy? Yes/No
- 5) Has someone disclosed the incident to other? Yes/No

6) When did the incident happen?

- 1. Day / Date
- 2. With-in one week / within two weeks / a month or more (Check the appropriate one)

6) Where did the incident happen?

- 1. Work-place
- 2. Home
- 3. Other place

7) What is/are the type of abuse or abuses or exploitation?

- 1. Physical
- 2. Sexual
- 3. Others

4) Incident has been reported to the Police or in concern Office? Yes/No

Your observation and notes:

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