

POLICY PROTECTION FROM SEXUAL EXPLOITATION, ABUSE AND HARASSMENT (PSEAH)



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1. PURPOSE, SCOPE AND APPROVAL

The purpose of this policy is to elaborate Swisscontact's approach to Protection from Sexual Exploitation, Abuse and Harassment (PSEAH). This policy is aligned with common PSEAH standards in international cooperation. It outlines the following:

- The principles upon which Swisscontact will base its decision in case of SEAH situations;
- Swisscontact's expectations of all its staff, including staff of partners¹;
- Swisscontact procedures to ensure effective action is taken when SEAH cases occur.

The policy applies to all Swisscontact staff and staff of Swisscontact partners during their service with Swisscontact.² "Staff" in this policy refers to Swisscontact and its partners' employees, interns, volunteers and consultants. This PSEAH policy is an addendum document to the already existing Code of Conduct (CoC) of Swisscontact, which clarifies in more detail the principles of discrimination, sexual harassment and trafficking already contained in the Code of Conduct. The CoC is an integral part of Swisscontact staff contracts and partner contracts.

This policy will be used in conjunction with relevant employment/labour laws and relevant criminal laws at Head Office and in the context of the country of operations to make decisions about how to respond to any allegations, complaints and concerns received in SEAH situations.

This policy is approved by the Swisscontact Executive Board. The effective date is presented on the cover sheet. This document replaces all previous versions of PSEAH policies.

2. DEFINITIONS

2.1 Sexual Exploitation

The term "sexual exploitation" means any "actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another".³

2.2 Sexual Abuse

The term "sexual abuse" means the "actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions"⁴.

2.3. Sexual Harassment

"Sexual harassment" in the workplace is defined as any behaviour by a staff member with a sexual aspect within the workplace environment, that is unwanted and humiliating towards another colleague working for Swisscontact or its partner organisations. This includes any "unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature"⁵, from the perspective of the person being harassed. It can be directed towards one person, groups of people or towards everyone and can occur as a one-off incident or be a pattern of harmful behaviour. The effect

¹ Based on Swisscontact Partnership Management Policy, the expression "partners" include consortia partners, subcontractors, implementing organisations and project partners.

² See also Swisscontact's Partnership Management Policy

³ sexual-exploitation-and-abuse-pamphlet-en.pdf (who.int), pp. 2.

⁴ sexual-exploitation-and-abuse-pamphlet-en.pdf (who.int), pp. 2.

⁵ <https://www.un.org/womenwatch/osagi/pdf/whatish.pdf>

of sexual harassment usually leads to violation of the dignity of another person, and/or creates an intimidating, hostile, degrading, humiliating or offensive environment for them. Both men and women may be victims of sexual harassment.

Sexual harassment at the workplace also covers harassment at official (or staff casual) events such as annual dinners, staff retreats, etc. If the harassment occurs outside work, it is still workplace-related if it impacts the working relationship. Sexual harassment can take many forms, which include but may not be limited to the following:

- Intimidating and suggestive remarks about the appearance of staff;
- Sexist comments or jokes about sexual behaviour or the sexual orientation of colleagues;
- Displaying, posting, publishing or distributing pornographic or sexist material, whether physically or electronically;
- Unwanted invitations with unmistakable intent;
- unwanted bodily contact;
- Stalking of employees either at work or outside work;
- Attempts to make a pass at another person (including written or electronic messages) accompanied by the promise of certain advantages or threat of certain disadvantages;
- Sexual assault, coercion or rape.

Severe verbal sexual harassment is also punishable by law (Art. 198 of the Swiss Criminal Code). In case of any SEAH situations, Swisscontact is concerned with the impact of behaviours on the complainant. An action or behaviour can still be considered sexual harassment even if the alleged harasser did not intend for it to be harmful. Communication and explanation from both sides are important in this context.

3. PRINCIPLES ON PSEAH⁶

The PSEAH policy is based on five key principles outlined below, which reflects Swisscontact's commitments to address SEAH.

Principle 1: Zero tolerance and zero tolerance of inaction.

Sexual exploitation, abuse and harassment are never acceptable. In this policy, Swisscontact defines zero tolerance of inaction as acting on every allegation fairly and reasonably 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. Reporting of incidents can be considered as an indicator that the risk of SEAH is being managed appropriately.

Principle 2: Strong leadership and respectful behaviour.

Strong leadership is essential for accelerating the pace of further development in the work culture within the organisation. Leaders set organisational culture. Swisscontact expects its leaders and senior management team members to set clear expectations and model respectful behaviour in their interactions at work. This will support victims/survivors and whistleblowers to feel safe, report concerns and be assured their allegations are taken seriously.

Strong leaders address SEAH by taking measures to improve diversity and inclusion. Diverse and inclusive organisations have lower levels of harassment and discrimination. This includes strong,

⁶ Based on the PSEAH policy of the Department of Foreign Affairs and Trade of the Australian government (<https://dfat.gov.au/international-relations/themes/preventing-sexual-exploitation-abuse-and-harassment/Documents/pseah-policy.pdf>)

actionable human resource procedures that embed gender equality and PSEAH. Swisscontact's CoC lays out procedures that are applicable for situations of SEAH. Other aspects of strong leadership with respect to PSEAH include discussions of policy and policy reviews at board meetings, the inclusion of specific training on CoC including PSEAH topics, having specific Compliance Officers (Ombudsperson) within the organisation who will act as PSEAH focal points, and encouraging staff gender balance, particularly in senior roles. Leaders should encourage scrutiny of their own behaviour and that of senior management.

Principle 3: Victim/survivor needs are key.

Before any actions are taken with an impact on the well-being or integrity of the victim/survivor, she or he must be asked for approval. Swisscontact will ensure that any action(s) to address SEAH will be based on a "do no harm" approach ensuring the rights, needs, and wishes of the victim/survivor while also maintaining 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: Preventing Sexual Exploitation, Abuse and Harassment is a shared responsibility.

Preventing Sexual Exploitation, Abuse and Harassment is everyone's responsibility. An effective change in reducing SEAH will happen only when every sector plays a role including government, business, non-government organisations, communities and individuals. Swisscontact hence requires the commitment, support and investment of its partners to enforce this policy. All partners have a responsibility to build their capacity to deal sensitively and effectively with SEAH that occurs in the course of their work with Swisscontact.

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

The principle acknowledges that power imbalances occur due to many reasons. The intersection of gender with other forms of inequality can further increase the likelihood of SEAH occurring. Engagement with work colleagues and with other members of contracting partner organisations should be based on respect for diversity, promotion of gender equality and social inclusion, accountability, and a strong "do no harm" focus. Inequalities based on the distinctions of worker/beneficiary; male/female; ability/disability; ethnic and indigenous status; religion; gender identity and sexual orientation; age; health and poverty, can also result in SEAH.

Principle 6: Strong procedures and reporting enhance accountability and transparency.

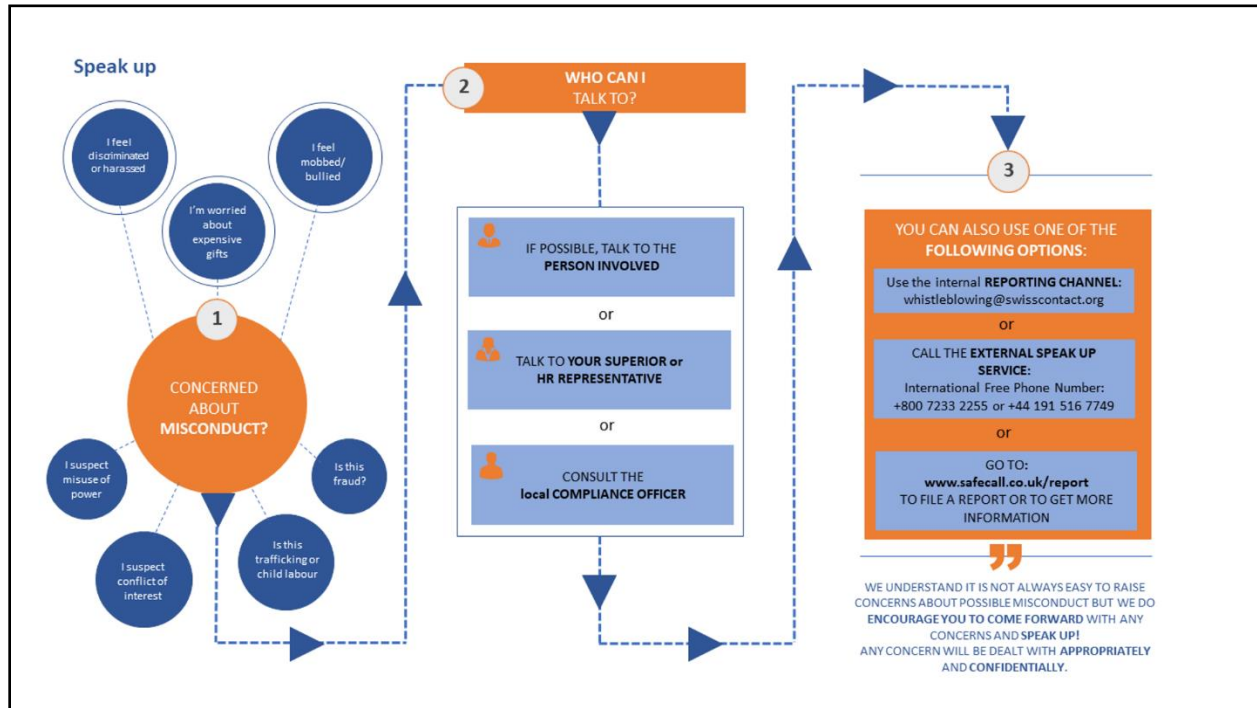
Sexual exploitation, abuse and harassment is a failure of responsibility. All processes of Swisscontact such as staff recruitment procedures, appraisals, or career progression processes, etc. should integrate aspects that avoid potential SEAH on new/existing staff of Swisscontact. Strong reporting leads to better monitoring of SEAH, understanding risks, improves systems and safeguards accordingly.

4. REPORTING AND SAFEGUARDING MECHANISMS⁷

⁷ Based on KoGe's PSEAH Manual (2020), HEKS PSEAH Policy (2019), and Swissaid's PSEAH Policy (2018).

4.1 Complaint Mechanism

Staff who feel or are aware of a SEAH situation are entitled to report and/or use the Complaints Procedure as already described in the Code of Conduct (page 7 and 8) and the Whistleblowing Policy. The following figure presents Swisscontact's overall complaint mechanism in situations relating to misconduct that includes SEAH. Please note that Swisscontact Compliance Officers (Ombudsperson) also assume the role of PSEAH Focal points.



4.2 Complaints about Swisscontact's Partners

If a partner organisation receives a complaint about the conduct of their own staff, volunteers, consultants or other representatives, Swisscontact expects the partner to respond quickly and appropriately, and to inform the Swisscontact Compliance Officer (Ombudsperson), the Project Manager or the Country Director about the case and how it will be addressed. Swisscontact will support the partners in dealing with SEAH when requested. If there is a reason to believe that an allegation has been dealt with inappropriately by a partner, then the latter risks withdrawal of funding or ending of relationship.

4.3 Overarching Guidance

Abuse may be current, recent, or historical. There are no time limitations for reporting and taking action within the remit of this policy, although Swisscontact encourages that reports are made as soon as knowledge, or suspicion, of an act of harassment, exploitation or abuse occurs. The following points present guidance in case of SEAH situations:

- a. *Anonymous complaints may be made by the victim but are discouraged as it will make it challenging to address and follow-up the issue.*
- b. *Affected individuals may address the contact person to receive support and counselling as needed. All support will be carried out with the highest confidentiality and will prioritise the*

rights, needs, and wishes of the victim/survivor while ensuring procedural fairness to all parties. A direct conversation between the affected person and the accused person only takes place if the affected person has given her or his explicit consent.

- c. *Confidentiality* will be maintained throughout the complaints process by all staff and witnesses. Staff members who breach confidentiality are subject to disciplinary action up to and including termination of employment.
- d. *All involved parties* will not experience any professional disadvantages as long as the presumption of innocence applies. For precautionary measures, affected staff can be transferred to other departments or teams, or can go on a paid leave.
- e. *Depending on the circumstances and the persons* involved, a decision to seek a qualified internal or external specialist to act as mediator in the SEAH case may be taken.

4.4 Support for Survivors and Victims

Swisscontact will make necessary arrangements for support to be offered to survivors/victims of SEAH. Support can include specialist psycho-social counselling, and/or access to other specialists (e.g. medical and/or legal aid) and appropriate support as needed. Survivors and victims have the right to choose if and when, they would like to take up the support options available to them.

4.5 Prevention of Retaliation Against Complainants, Victims and Witnesses

Swisscontact will take actions against any staff whether they are the subject of a complaint or not, who carry out retaliatory action against complainants, victims or other witnesses. Staff who are found to do this are subject to disciplinary action, up to and including termination of employment.

4.6 False Allegations

Defamation, slander, and false accusation are classified as criminal offences under the Swiss Criminal Code. Swisscontact reserves the right to impose the following sanction on a staff member if s/he is found to have made a false allegation:

- Written apology to the person concerned;
- Arrangement of a binding and controllable behaviour modification procedure with set appointments and deadlines;
- Written reprimand with a threat to terminate the contract;
- Organisational measures (e.g. transfer);
- Leave of absence;
- Oral reprimand;
- Notice of termination;
- Termination without notice;
- Report the offender to the police;
- Take legal action and contact the lawyer etc.

5. POLICY REVIEW AND UPDATE

This policy will be reviewed and updated if necessary or when the overall CoC of Swisscontact requires it to be updated.