

YWCA Malawi Protection from Sexual Exploitation, Abuse and Harassment (PSEAH) at Work Policy

Purpose

This Protection from Sexual Exploitation, Abuse and Harassment (PSEAH) at Work policy aims to provide a safe working environment free from sexual exploitation, abuse and harassment (SEAH). YWCA Malawi has a zero tolerance policy for SEAH in the workplace in any shape or form. All members of staff are entitled to have their personal integrity respected in the workplace. The organization's culture is based on mutual respect and collaboration. SEAH are a serious violation of those principles. Perpetrators of sexual violence will be punished, and those who defend themselves against SEAH will not suffer any adverse professional consequences.

This policy provides guidance and direction to anyone associated with YWCA Malawi so that:

- All YWCA Malawi staff and other representatives understand the importance of preventing SEAH, and their responsibility to ensure that they and their work do not deliberately or inadvertently cause harm to staff and other representatives.
- All YWCA Malawi staff and other representatives understand their role in preventing SEAH, and the consequences of breaching this policy.
- All YWCA Malawi staff and other representatives understand their responsibility to report any concerns relating to SEAH, and have access to clear guidelines on how to report suspected harassment.
- All organizational processes and structures reflect our duty of care towards each other as staff and other representatives, and put in place safeguarding procedures in every aspect of our work so that we build a culture free from SEAH.
- YWCA Malawi commits to uphold the highest level of personal and professional conduct among its staff, contractors, volunteers, board members and partners working in or visiting all programming contexts, including meetings and conferences, ensuring zero tolerance of all forms of SEAH.

In line with YWCA Malawi's human rights-based principles, employees have rights to a safe and secure workplace and freedom from violence. This policy therefore raises awareness and forms the basis for action to protect and promote these rights. This policy also adheres to the UN Resolution (ST/SGB/2003/13) to prevent and eliminate sexual harassment particularly against women and girls, and for employers to be held accountable for any violations of sexual harassment laws and regulations.

Scope

This policy applies to everyone – staff whether full time or part time, contractors, volunteers, Board members, partners and anyone interacting with YWCA Malawi, regardless of race, gender identity, sexual orientation, level, function, seniority, status or other protected

characteristics. This policy is binding both inside and outside working hours, and in all aspects of a staff member's life.

This policy should also relate to child protection as is outlined in the Child Protection Policy.

Definitions

- **Sexual harassment** in the workplace is defined as any behavior with a sexual aspect within the workplace environment that is unwanted by and/or humiliating to another person.

Sexual harassment may take a variety of forms, such as:

- insinuating and suggestive remarks about the appearance of employees;
- comments or jokes about sexual characteristics, gender identity, unwanted disclosure of sexual behavior 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.

The list above is not exhaustive. In assessing whether or not observed behavior constitutes sexual harassment, the key point is not the intention of the harasser, but exclusively how their behavior is received by the affected person, i.e. whether it is wanted or unwanted. Severe verbal sexual harassment is also punishable by law.

All members of staff, regardless of their sexual orientation, gender identity and expression and sex characteristics, may be victims of sexual harassment. Sexual harassment in the workplace also covers harassment at work-related events such as work parties, retreats, etc. If the harassment occurs outside work, it is still workplace-related if it impacts on the working relationship.

- **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, threatening or profiting monetarily, socially or politically from the sexual exploitation of another.¹

Sexual exploitation can be in a number of ways that include, but not limited to, invasion of someone's sexual privacy, forced or coerced transactional sex, non-consensual filming of a sexual act or exposure of genitals, online grooming, or knowingly spreading a sexually transmitted disease or infection. It is not limited to sexual intercourse, and includes acts of intimidation that are intended to cause discomfort and embarrassment.

¹ WHO, Sexual Exploitation and Abuse Prevention and Response, March 2017

- **Sexual abuse** is the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.²

Safeguarding Measures

Working with Partners

- YWCA Malawi must abide by its Code of Conduct and all safeguarding related policies. All memoranda of understanding (MoU) with partner organizations and consultancy agreements should include this policy as an appendix when starting any project. Breaches can lead to termination of contractual and/or partnership agreements.
- YWCA Malawi will work with all partners to ensure that spaces are created to share knowledge on best practices to address SEAH. Staff working with partners must ensure that partner organizations and their staff sign up and abide by the YWCA Malawi Code of Conduct.
- YWCA Malawi and partners must have agreements in place to ensure that all relevant information relating to SEAH and harm towards staff is shared in a confidential and need-to-know basis.
- Concerns regarding partner staff members must be reported immediately via the reporting mechanisms detailed in this policy.

Safer Recruitment and Employee Lifecycle

In line with best practice, stringent recruitment processes will be put in place to reduce the likelihood of engaging someone who may pose a SEAH or safeguarding risk to people, particularly the adolescent girls and young women (AGYW) that we work with, and to staff and representatives within the organization.

The following steps must be included in all recruitment and selection procedures:

- Job adverts and job descriptions clearly detail the organizational values and zero tolerance of SEAH.
- All interviews will include questions that assess an applicant's understanding of SEAH, and assess their ability to reflect on the YWCA Malawi's values.
- Interviews for positions that involve working with children and youth, especially young women must include behavioral based questions that assess the candidate's suitability to work with these groups.
- As a principle and practice, YWCA Malawi will not knowingly appoint any person with a history of perpetrating any form of SEAH, e.g. child abuse, or gender-based violence. YWCA Malawi will ensure that recruitment of staff and other representatives will include reference checks (written and verbal where necessary).
- Consent will be sought from the successful applicant to request three references, including one from their most recent employer (or place of education), which provides, where permitted, the reason for leaving.
- Relevant police/criminal records checks will be carried out in line with country requirements, as appropriate. It is recognized that it may be difficult or impossible to obtain police checks, statutory declarations of previous convictions, and references in

² Ibid.

some operating contexts, or that time constraints may justify the need to start work before obtaining the outcome of the police checks. In such instances, recruiting managers must ensure they put in place all reasonable steps to manage risk including extensive questions on safeguarding and YWCA Malawi's values at the interview, and a more intensive form of reference check (e.g. mandatory written submissions and telephone conversations with referees).

- The Code of Conduct and the PSEAH policy is included alongside the offer letter to all new staff and other representatives. The Code of Conduct must be signed by all staff and other representatives before commencing duties.
- Ensure exit processes are carried out in person or remotely, learning is recorded and acted upon as appropriate, and any SEAH concerns raised at this stage are addressed appropriately.

Staff Awareness and Training

Training and refresher courses on SEAH must be planned and delivered to all staff, at least once annually. This can include:

- International and local laws relating to SEAH
- Information on how to recognize SEAH
- Information on how to report SEAH

Evidence of training must be captured and retained in central filing (e.g. training attendance records, training materials). Informal discussions in team meetings are also encouraged.

Safer Initiatives

Measures to address SEAH must be included as a fundamental part of all programme design. Recognizing that any of our staff, representatives, and partners may experience or have experienced SEAH, YWCA Malawi is committed to ensuring that all organizational structures aim to prevent and respond robustly to SEAH.

Risk assessments should be conducted as appropriate to help identify areas in our work where there is risk of SEAH taking place, or not being responded to adequately. Risk assessments must be carried out at programme/project inception stage and reviewed as part of regular monitoring activities.

Reporting Procedure

Any concerns raised relating to SEAH of YWCA Malawi staff or other representatives will be addressed as a priority, in line with our PSEAH Policy. The organization will ensure that the safety, dignity and rights of the affected person are respected at all times (e.g. when they report, during any internal response, and in the provision of assistance).

There are a number of appropriate courses of action. The affected person may take informal or formal action, or both at the same time.

Informal Procedure

Personal Reaction to the Harasser

The staff member is encouraged to approach the person responsible for the behavior, explain their concerns and request that the behavior be modified or ceased.

Confidential Mediator in the Department and / or Line Manager

Due to the nature of the violation, if the staff member does not feel comfortable in approaching the colleague concerned directly, they can approach a confidential mediator within the department. The confidential mediator is a person of trust who can offer information, advice and support and is subject to a duty of confidentiality. The confidential mediator does not have any decision-making authority. They advise the affected person and take appropriate action to ensure that his or her physical and psychological integrity in the workplace is restored as soon as possible. Where requested by the person that has faced abuse, the confidential mediator can mediate a dialogue with the person who allegedly perpetrated the abuse. Without the consent of the affected person, the confidential mediator will not take any further steps and line managers will not be informed of the incident(s).

The staff member can also seek support and assistance from their line supervisor to explore ways in which the behavior can be addressed. If the issue involves their direct line supervisor, they should seek support and assistance from the Executive Director. If the issue involves the Executive Director, the matter can be escalated to the Board. It should be noted here, however, that a supervisor, the Executive Director or the Board may be forced to take action even if this is not wanted by the affected person. The affected person should be kept informed of actions taken.

If the problem is serious or remains unresolved or the employee wishes to raise the matter formally, the employee can use the formal grievance procedure.

Should a confidential mediator or a line manager personally notice sexual violence, or should they learn of it from a third party, they seek to talk to the affected person and will then take any action that may be appropriate.

Formal Procedure

If the informal procedure does not improve the situation and change the behavior of the harasser, or if the affected or the accused person does not want to pursue the informal procedure, then the employee can use the formal procedures.

Raise the Grievance in Writing

The employee should raise a grievance with their line manager without unreasonable delay, normally within one month of the incident (or final incident) which gives rise to the complaint.

If the grievance is against the line manager, that matter should be raised with the Executive Director. In the case of the Executive Director, the matter should be raised with the Chairperson of the Board of Directors. (Whoever deals with the initial stage of the grievance will be excluded from hearing any appeal, if an appeal is applicable.)

The employee must detail in writing the specific circumstance or circumstances which constitute the grievance, with dates, times, witnesses, etc. as applicable. Employees should stick to the facts and avoid insulting or abusive language. Where employees have difficulty expressing themselves because of language or other difficulties they may like to seek help from other employee representatives.

Incident Management Process

Anyone can raise a concern or complaint. An individual can raise a concern or complaint even if they have no evidence to support their account. YWCA Malawi will work with survivors and complainants to understand how they would like the issue they raised to be addressed. Support options will be offered to survivors and complainants regardless of whether or not they decide to make a formal complaint.

If a survivor or complainant makes a formal complaint and wants an investigation to be carried out, or if YWCA Malawi takes the view that they have a duty of care to carry out an investigation, then an investigation process will be initiated.

The organization will ensure that any investigations carried out are objective, timely, fair and transparent. All parties should be able to participate in the investigation in a free, open and transparent manner without fear of retaliation.

Step 1: Complaint received (timeframe: actions taken within 48 hours)

- i. Within 24 hours the complaint is acknowledged and the Executive Director (or other staff member as appropriate) will engage with complainant/survivor to ensure they are safe and their concerns are understood.
- ii. An ad hoc panel, which includes management staff should be convened to look into the matter will assess what action can be taken. If an investigation cannot be carried out (e.g. if survivor does not want an investigation or there is insufficient information to proceed) then the panel will close the case and assess what other actions can be taken to address concerns e.g. awareness raising.
- iii. A risk assessment carried out to address any immediate security or welfare concerns, and legal guidance sought.

Step 2: Investigation (timeframe: approx. 4 weeks but this may differ depending on nature and complexity of case)

- i. This includes carrying out any interviews, gathering any available evidence, and producing an investigation report.
- ii. The complainant/survivor should be interviewed first (or submit a written statement), followed by any witnesses and the complainant if they are not the same person as the survivor, and then the subject of complaint. It is important to note that sexual exploitation and abuse in all its forms usually occurs away from the public eye and it therefore may be difficult to produce evidence. An individual can raise a complaint even if they have no evidence to support their complaint.
- iii. An investigation report should be produced by the panel and submitted to the Executive Director or the Board Chairperson, as appropriate.

Step 3: Decision (timeframe: actions taken within 72 hours)

- i. The report should be reviewed and a decision made based on its findings.
- ii. The Executive Director, Board Chairperson or others as appropriate are to carry out any recommendations agreed on (e.g. disciplinary hearing, termination, awareness raising, and policy development) with support from HR as required.

Step 4: Outcomes shared and lessons learnt (timeframe: up to 1 week following decision made)

- i. The next step is to inform the complainant and subject of complaint about the decision.
- ii. The subject of complaint has the right to appeal against the decision.
- iii. Feedback must be sought from the survivor/complainant and incorporated into the lessons learnt conversation. Lessons learnt to be shared as appropriate, removing identifiable information, with governance boards and other relevant bodies to ensure key learning is shared and improvements made to practice.

Retaliation against Complainants, Victims and Witnesses

YWCA Malawi will take action against any staff or other representatives who seek to or carry out retaliatory action against complainants, survivors, witnesses or any others involved or believed to be involved in an incident management process. Staff who are found to have done this will be subject to disciplinary action, up to and including termination of employment.

False or Malicious Complaints

False or malicious allegations of SEAH are extremely rare. However, if a member of staff is found to have made an allegation that they knew to be false they will be subject to disciplinary action, up to and including termination of employment. It must be noted that if a case is not upheld that does not mean that the complaint was false, rather that there was insufficient evidence to confirm the allegation took place or that the complainant/survivor decided not to follow the formal procedure.

Complaint against a Partner

If YWCA Malawi receives a complaint about a member of staff at a partner organization, YWCA Malawi will work with the appropriate counterparts at the partner organization to ensure this is responded to quickly and appropriately. If an investigation finds that the partner staff member carried out SEAH, YWCA Malawi will work with the partner organization to advocate for action to be taken. If there is reason to believe that a complaint has been dealt with inappropriately or inadequately by a partner, YWCA Malawi must consider whether they will withdraw from the partnership, end the relationship or take further action as deemed appropriate. The signed contract with the partner should also provide guidance on actions to be taken.

Support Options

Support will be offered to survivors and complainants, and others as appropriate, regardless of whether a formal response is carried out (e.g. an investigation). This can include specialist psycho-social counselling, medical support, legal support and/or access to other specialist and appropriate support as needed. Survivors and complainants can choose if and when they would like to take up the support options available to them, sponsored by the YWCA Malawi. YWCA Malawi is committed to learning from survivors and being guided by them, where safe and appropriate to do so.