

Preventing Sexual Exploitation Abuse and Harassment Policy for the New Zealand Aid Programme

1. Background

The Ministry of Foreign Affairs and Trade (MFAT) has zero tolerance towards sexual exploitation, abuse or harassment (SEAH) of any kind. This applies to the management of Activities in the New Zealand Aid Programme by MFAT staff and delivery partners.¹

SEAH is unacceptable in any form. SEAH undermines the credibility and legitimacy of international aid and MFAT's ability to deliver the 2030 Agenda including the Sustainable Development Goals. Preventing exploitation, abuse and harassment (PSEAH) is a shared responsibility. Government, business, non-government organisations, institutions, communities and individuals all need to play a role.

2. Purpose

The purpose of this Policy is to outline the expectations and requirements for MFAT and MFAT delivery partners to manage the risk of sexual exploitation, abuse and harassment in the New Zealand Aid Programme.

MFAT prioritises prevention and effective response and requires its delivery partners to do the same. MFAT requires the commitment, support and investment of its delivery partners for this Policy to be effective. MFAT and delivery partners have a collective responsibility to build capacity to prevent SEAH.

3. Scope

This Policy applies to delivery partners involved in management of the New Zealand Aid Programme.²

MFAT delivery partners are required to act in accordance with, and align their PSEAH policies with this Policy. MFAT delivery partners give practical effect to this Policy through promoting healthy and inclusive work places, ensuring planning and risk management systems incorporate PSEAH, and by resolving incidents in an appropriate way.

This Policy places an onus on all MFAT delivery partners to:

- minimise the risk of SEAH occurring
- respond to SEAH in a meaningful way
- report all SEAH incidents to MFAT
- ensure incidents are resolved effectively.

¹ MFAT delivery partners include contractors, subcontractors and any other entity engaged to deliver NZ Aid Programme activities excluding foreign governments. Application of this Policy to downstream partners is the responsibility of the partner with whom MFAT has a contract.

² MFAT's *Unacceptable Behaviour Policy* and *Speak Up Safely Programme* applies to MFAT staff at all times.

4. Principles

This Policy is underpinned by six principles. The principles reflect New Zealand's international commitment to address SEAH and reduce violence against women, children, gender diverse people and those who are vulnerable.

Principle 1. Prevention is a shared responsibility

Preventing Sexual Exploitation, Abuse and Harassment is everyone's responsibility. Real change to SEAH will not occur unless every sector plays a role – government, business, non-government organisations, institutions, communities and individuals. MFAT and partners who deliver activities and manage funds under the New Zealand Aid Programme have a responsibility to build capacity to deal sensitively and effectively with SEAH that occurs within the course of their work.

Principle 2. Zero tolerance

MFAT defines zero tolerance as being proactive in the prevention of SEAH. Delivery partners need to respond to every allegation in a fair and reasonable way with due regard for procedural fairness. Zero tolerance is not the same as zero incidents.

MFAT requires delivery partners to be proactive in both monitoring and responding to SEAH in all phases of the Aid Programme. This includes recognising the impact of inequalities of the following:

- gender
- sexual orientation
- ethnicity
- religion
- power imbalance
- poverty
- disability
- age
- health.

MFAT requires delivery partners to hold SEAH perpetrators to account.

Principle 3. Victim/survivor needs are prioritised

All SEAH responses must prioritise victim/survivor³ safety and needs.

Prioritising the rights, needs and wishes of the victim/survivor requires that they are:

- immediately protected from further harm
- supported in a timely manner
- treated with dignity and respect throughout
- not discriminated against through age, gender, ethnicity, or sexual orientation
- supported to be involved in decision making to the extent they wish to be
- provided with comprehensive information
- given access to appropriate counselling and health services to assist coping and recovery
- protected through privacy and confidentiality in line with prevailing legislation to the extent possible.

³ Victim/Survivor is a person who is, or has been, sexually exploited, harassed or abused.

Where the incident appears to have a criminal aspect, careful consideration needs to be given as to whether the matter needs to be referred to the local investigation body. Relevant factors include:

- the nature of the incident
- the wishes and safety of the victim/survivor
- the safety of others
- likelihood of further harm occurring if the matter is reported / not reported
- local legislative requirements

Principle 4. Creating healthy and inclusive workplaces

The creation of a healthy, informed and open workplace supports PSEAH. A diverse and inclusive workplace should role model respectful behaviours to create an environment where people feel safe to 'speak up' with the assurance that they will be treated fairly and with respect.

Engagement with intended New Zealand Aid Programme beneficiaries should be based on respect for diversity, promotion of gender equality, social inclusion, and a strong do-no-harm focus.

Principle 5. Confidentiality and due-process

MFAT expects every SEAH investigation to be conducted in a fair and reasonable way and in accordance with the principles of natural justice. This includes fairness of procedure; freedom from bias; taking each complaint seriously; acting immediately; maintaining confidentiality except when required by law⁴; and the protection from retaliation and/or victimisation. Applying the principles of natural justice helps protect the rights of all parties.

Principle 6. Reporting enhances accountability and transparency

Delivery partners are accountable to MFAT as well as the communities that they work with. Reporting allows delivery partners and MFAT to monitor SEAH, understand risk, and provide assurance to stakeholders. Transparency and reporting of incidents and responses promotes ongoing PSEAH system improvements.

5. Application

MFAT requires all delivery partners to apply both the PSEAH Principles and Minimum Standards as set out in paragraph 10 below. All delivery partners must have robust PSEAH policies, procedures and assurance systems in place, and make these available to MFAT when requested.

It is the responsibility of delivery partners to ensure that their PSEAH processes and procedures are being followed by both their own staff as well as their downstream partners.

Each delivery partner must assess the risk of sexual exploitation, abuse and harassment occurring and take appropriate actions to mitigate all levels of risk. Assessment, reassessment and reporting must be ongoing.

Where an SEAH incident does occur the delivery partner will:

- respond in accordance with the MFAT Policy Principles in this document
- report the incident in accordance with the Minimum Standards outlined in this document.

For definition guidance please refer to paragraph 11.

⁴ Privacy Act 1993 or local legislative requirements

6. Reporting

All PSEAH reports will be managed in confidence. PSEAH reports must be emailed to safeguarding@mfat.govt.nz

7. Compliance and assurance

MFAT will monitor compliance through a range of approaches. Delivery partners are expected to apply principle-based measures to ensure they and their downstream partners comply with this Policy. Delivery partners are also expected to have robust PSEAH policies, procedures and assurance systems in place to comply with this Policy.

Non-compliance may lead MFAT to immediately suspend or terminate funding arrangements with the delivery partner.

8. Implementation

This Policy will be implemented from 4th October 2019. For enquiries, guidance or information on the Policy contact: safeguarding@mfat.govt.nz

9. Roles and responsibilities

The following roles have specific responsibilities under this standard:

Role	Responsibilities
MFAT Managers	Ensure that Ministry staff involved in the delivery of the New Zealand Aid Programme are aware of this Policy.
All MFAT staff	Apply this standard when developing and managing activities within the New Zealand Aid Programme. Attend PSEAH training and Speak Up Safely training.
Delivery partners	Apply the Principles and Minimum Standards of this Policy to their own PSEAH Policy, systems and processes to all activities in the New Zealand Aid Programme. Ensure their staff and downstream partners are aware of and apply this Policy.

10. MFAT Minimum Standards

MFAT Minimum Standards	Obligation	
	Organisation	Individual
1. Demonstrated understanding of PSEAH policies principles and standards.	Must demonstrate organisational commitment to PSEAH through a documented PSEAH Policy or equivalent that aligns with the Principles and Minimum Standards set out in this document. Must be able to demonstrate staff awareness and understanding of this Policy.	Must be able to demonstrate an ongoing understanding of and commitment to the principles and standards set out in this Policy.
2. Have SEAH reporting and investigation procedures in place.	Must be able to demonstrate that all SEAH incidents are managed, reported and investigated in a timely and consistent manner. Procedures must ensure that incidents are escalated to senior management and reported to MFAT in line with reporting standards set out in this document.	Must ensure incidents are escalated to MFAT in line with reporting standards set out in this document.
3. Have risk management processes that include the risk of SEAH.	Must have effective risk management assessments and mitigations in place that consider the risk of SEAH.	Must demonstrate effective risk management assessments and mitigations that consider the risk of SEAH.
4. Incidents and non-compliance reported to MFAT.⁵	An alleged SEAH incident must be reported to MFAT within two working days of the organisation becoming aware of the incident. Any SEAH Policy non-compliance must be reported to MFAT within five working days. The report must summarise the non-compliance and set out the actions the delivery partner has taken or will take.	Must report any alleged SEAH incident within two working days. Must report any non-compliance to MFAT's PSEAH Policy within five working days .

⁵ New Zealand Government Agencies and Multilateral Agencies are required to provide aggregated reporting of incidents and non-compliance on a periodic basis.

MFAT Minimum Standards	Obligation	
	Organisation	Individual
5. Effective PSEAH training in place.	Must be able to demonstrate ongoing PSEAH training for personnel (including downstream partners) that deliver the New Zealand Aid Programme.	Must demonstrate completion of PSEAH training. This includes recertification.
6. Recruitment and screening processes and employment practices address and manage the risk of SEAH.	Must be able to demonstrate robust PSEAH recruitment and screening processes for all personnel / consultants including having in place appropriate and enforceable standards of conduct.	
7. Transactional sex⁶ is prohibited in humanitarian and disaster response settings. It is also prohibited in locations where transactional sex is illegal or where there is no regulation to adequately protect sex workers.	<p>Delivery partners must have a policy that meets this minimum standard and considers additional risk factors that would warrant the prohibition of transactional sex.</p> <p>Must demonstrate effective communication of transactional sex policies to its staff and downstream delivery partners.</p>	Must demonstrate completion of PSEAH training. This includes recertification.
8. MFAT requires delivery partners have a policy or equivalent that specifically addresses Fraternisation⁷.	MFAT does not seek to prohibit fraternisation but does require the delivery partner to have a policy that addresses the potential harm caused by fraternisation.	

11. Definitions

Definition of Sexual Exploitation, Abuse and Harassment

***Sexual exploitation** refers to 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.

⁶ Transactional sex refers to the exchange of money, employment, goods or services for sex, including sexual favours.

⁷ Fraternisation refers to any non-transactional sexual relationship between a delivery partner and a beneficiary of the NZ Aid Programme.

Definition of Sexual Exploitation, Abuse and Harassment

***Sexual abuse** is the actual or threatened physical intrusion of any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or other behaviour directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting.

***Sexual harassment** refers to when a person makes any unwelcome sexual advance or 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.

Some examples of behaviour that may be sexual harassment include:

- staring and leering
- unnecessary familiarity, such as unwelcome affection or 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
- behaviour that may also be considered to be an offence under criminal law such as physical assault, indecent exposure, sexual assault, stalking or obscene communication.