

**ANTI SEXUAL HARASSMENT
IN THE WORKPLACE**
policy & procedures

introduction

ActionAid has articulated through Fighting Poverty Together and its Gender Policy a strong stand on gender justice and through this policy seeks to create a work environment free from intimidation and abuse, communicating a zero tolerance of any action that may be construed as sexual harassment.

This policy draws from existing good policy practices on Anti Sexual Harassment from within the organization and a special recognition must go to ActionAid Pakistan and ActionAid India for helping inspire this document to a significant level. The document has also consulted other worthy external guidelines and borrowed from the learning and insight from capacity building interventions held in 2003 on the issue.

This policy document is divided into three parts. **Section 1** outlines what is sexual harassment, definition of terminology used, scope and communication of the policy and information regarding enquiry committees. **Section II** deals with procedures for investigation and finally the **Appendix** outlines supportive guidelines for both Sections I and II.

policy and procedures

i. policy

1.1 Understanding Sexual Harassment in the Workplace

Sexual harassment at work is **unwelcome** physical, verbal or non-verbal conduct of a sexual nature. It includes demeaning comments about a person's appearance, indecent remarks, questions about a person's sex life, sexual demands by members of the same sex or opposite sex, attempts to punish refusal to comply with such requests, name calling with demeaning terminology which is sexual in nature, sharing jokes with sexual overtones, unwelcome physical contact and other conduct of a sexual nature that creates an intimidating, hostile or humiliating work environment interfering with work performance.

There are two significant manifestations of sexual harassment in the workplace, which are important to describe:

- (i) Abuse of authority (Quid Pro Quo)
A demand by a person in authority, for sexual favours in exchange for work related benefits (e.g. a wage increase, a promotion, training opportunity, a transfer or the job itself).
- (ii) **Creating a hostile environment**
Any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature, which interferes with an individual's work performance or creates an intimidating, hostile, abusive or offensive work environment.

The intimidating behaviour or act of a person in authority who controls conditions of the complainant's employment or from a co-worker, who as a result of intimidation can make the work environment hostile for the complainant.

It is not possible to list all those additional circumstances that may constitute sexual harassment the following however are some example of this behaviour.

- *Unwelcome sexual advances whether they involve physical touching or not.*
- *Sexual epithets, jokes, written or oral references to sexual conduct, gossip about an individual's sexual activity, deficiencies or prowess*
- *Displaying sexually suggestive objects, pictures, cartoons, calendars*
- *Passing on pornographic material in print or electronic form or passing written offensive messages of a sexual*

- *nature (including through emails and text messages)*
- *Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.*
- *Retaliation from a person in authority due to refusal of sexual favours which may include limiting opportunities for the complainant and generating gossip against the employee or other acts that limit access).*
- *Expressions that suggest superiority of one gender over the other including jokes demeaning one gender, unwelcome references to ones appearance or body where they cause psychological harassment- such expressions if persistent may constitute sexual harassment.*
- *Recurring acts which may have a cumulative effect or a single severe incident would be considered enough to establish sexual harassment.*

Harassment is viewed from the perspective of the complainant, therefore it is important to regard the impact of the action rather than intention of the accused and that it is unwelcome to the recipient.

1.2 The Harasser

Sexual harassment is related to display of power and in most cases the harasser is one who is in a position of higher authority. Most victims are women and in lower positions, though some rare exceptions are cited where the reverse has been stated to be true. *

*One case cites a junior male worker harassing his senior female officer and another a senior female officer is accused of harassing her junior male colleague.

1.3 Definitions of terminology used

- (i) **Accused:** means an employee or employer of an organization against whom an action is being taken under this policy.
- (ii) **Policy:** refers to this policy on Anti Sexual Harassment at the Workplace
- (iii) **Complainant:** aggrieved person who has filed a complaint under this Policy
- (iv) **Employee or staff:** means a person who is hired by ActionAid International on permanent or temporary basis (including short term and contract workers)

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- (v) **Workplace:** means the place of work or the premises where ActionAid International offices operates or a larger geographical area where the activities of the organization are carried out.
 - (vi) **Committee:** refers to the standing committee or adhoc committee to investigate grievances regarding sexual harassment.
 - (vi) **Management:** refers to the Senior Management Team in each given location of ActionAid International.

1.4 Scope of the policy

This policy is binding on all offices of ActionAid International including external incidents that involve ActionAid staff and all local organisational policies on Anti Sexual Harassment within the organization shall be informed by the guidelines in this policy.

However, if a particular country already has in place a policy and procedure and is backed by strong national legal provisions against sexual harassment, complying with the minimum standards and the spirit of this policy, then that particular country policy may be used in cases of claims of sexual harassment.

The senior management team in each ActionAid office is responsible for following this Policy in letter and spirit. They will ensure:

- That each complaint is addressed responsibly and impartially facilitating just and fair inquiry process without retaliation (for complainants or the witnesses).
- Constitute and maintain a standing / or ad hoc* Enquiry Committee to deal with Sexual Harassment grievances selecting members who are sensitive and competent to deal with the issue.
- That the recommendations received from the Enquiry Committee are implemented within two weeks of receipt.
- That they maintain confidentiality and an attitude of empathy at all times towards both the accused and the accuser.

The HR/OD functions in each given location will play the following specific roles on an ongoing and need basis.

- Ensure that the policy is displayed at prominent places in the organization and to make it accessible to all members of staff
- Carry out capacity building interventions for members of Enquiry Committees and staff focusing on building

skills on identification and handling of grievances (for the former)

- Document proceedings from the time of receipt of complaint until its conclusion.
- Be aware of the country's national policies regarding sexual harassment and obtain legal opinion and procure the services of a lawyer specialising in the issue whenever necessary. This includes information on the international instruments they may be signatory to under Violence Against Women and Human Rights and Gender Justice
- Engage the services of an occupational psychologist/ professional counsellor to be on call for a variety of needs, including being on call at predetermined hours/ days to be accessible to grievances from staff on the issue and may counsel complainant and accused (when necessary).
- Counsel and maintain a sensitive attitude towards both accused and accuser at all times.
- Be a part of the Enquiry Committee to investigate such complaints.

Any person who aids or abets and covers the commission of any such act committed shall also be held liable under this Policy.

1.5 Communication of the Policy

This Policy will be available in English and in the local language in country to ensure that it is read by the majority of the workforce. It shall be displayed at conspicuous places within the organization and made easily accessible so that it is read and understood by all members of staff.

- HR/OD functions in each ActionAid should ensure that the policy is presented to new staff during the time of inductions.
- Both line managers and HR/OD functions should jointly ensure that staff read and understand the policy.

1.6 Enquiry Committee

All ActionAid International offices will ideally have a standing Enquiry Committee to deal with complaints related to sexual harassment. However if that is not possible then an adhoc committee may be constituted but it should be the responsibility of the head of the country programme to ensure that the adhoc committee members are technically qualified and are sensitive to deal with the issue.

- (i) The committee will consist of three (3) or five (5) persons (odd numbered) with the majority membership held by

women. Competent external members may also be nominated.

- (ii) Each member of the committee by rotation may chair each enquiry procedure or the chair may be selected for a specified period of time. The chair shall be instrumental in getting the committee together, summoning meetings, initiating enquiries and ensuring that the enquiry process is documented through nominated members.
- (iii) Even in countries that have adhoc committees a chair should be designated in advance to facilitate the grievance procedures.
- (iv) All members who sit on the committee will have high credibility, sensitivity and technical competency to handle such grievances.
- (v) In the case of standing enquiry committees at least half of the board members will be replaced every two years. Outgoing members may nominate names from within the organization and outside.
- (vi) The Enquiry Committee is bound to maintain confidentiality of all grievance cases and proceedings and will give written recommendations to the management after the completion of such cases.
- (vii) Any dissenting note among the enquiry committee members should be noted along with the reasons for dissent.
- (viii) Members of enquiry committees will design relative degrees of punishment to deal with grievances based on a case-to-case basis.

ii. procedures

The following process is suggested for addressing complaints.

2.1 Launching the complaint

The complainant will present their written grievance about conduct of the accused to the Chair of the Enquiry Committee or the Head of the HR/OD function or the Head of the Country Programme in the absence of both. Help should be given to the complainant in writing the complaint on the person's request (if person is not able to write). All records should be maintained in writing, all incidents noting dates, places, descriptions of act,

notification to accused and names of those connected with the incident.

2.2 Creating conducive environment for inquiry

- (i) The management should make temporary adjustments to avoid interactions between complainant and accused for related official purposes during the investigation period. This may include temporarily changing the office (if both share an office), the accused may be sent on leave, or suspend the accused during the time period of the investigation based on the seriousness of the case.
- (ii) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluations, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side.
- (iii) If the complaint is launched against a member of the Enquiry Committee they may be replaced with a member from another ActionAid office or from committees in local like-minded organizations and the same investigative procedures may be instituted against the accused.

2.3 Evidence

It is acknowledged that sexual harassment usually occurs away from the public eye and it therefore may be difficult to produce evidence. It is strongly recommended that staff should report an offensive behaviour immediately to someone they trust, even if they do not wish to launch a formal complaint at the time though failure to report promptly should not affect the merits of the case.

- (i) Detailed account of the complainant and the accused form a part of the evidence.
- (ii) Witness statements (if any).
- (iii) Statements of persons with whom the complainant might have discussed the incident, statements of persons from whom advice may have informally been sought, should be considered as evidence.
- (iv) Any other documentary, audio or video records can be submitted. Expert technical advice can be sought for such submissions.

2.4 Process of Inquiry

- (i) Upon receiving a formal complaint, the Committee shall ask the complainant to prepare a detailed statement of incidents if written complaint is sketchy. A statement of allegations will be drawn up by the Committee and sent to the accused.
- (ii) The accused will be asked to prepare a response to the statement of allegations and submit to the Committee within the given time.
- (iii) The statements and other evidence acquired in the inquiry process will be considered confidential materials.
- (iv) An officer in the organization could be designated to provide advice and assistance to each party if requested by either of them. Similarly, the complainant and the accused, will have the right to be represented or accompanied by a member of staff committee, a friend or a colleague.
- (v) The Committee will organize verbal hearings with the complainant and the accused.
- (vi) Statement of Complainant will be recorded first in the presence of the accused. The accused may cross question the complaint if there is a need to do so in the presence of some members of committee.
- (vii) The Committee will take testimonies of other relevant persons and review the evidence whenever necessary. Care should be taken to avoid any retaliation against the witnesses by giving the necessary protection.
- (viii) The Committee will take the decision after carefully reviewing the circumstances, evidence and relevant statements in all fairness.
- (ix) If the accused, being provided fair opportunity to participate in the inquiry and defend him/herself fails to participate in the inquiry, the Committee will conduct the inquiry ex-parte.
- (x) The Committee will ensure confidentiality during the inquiry process.

2.5 Period of Inquiry

The investigation procedure should be completed as soon as possible and should not take more than two months.

2.6 Decision of the Committee

After a decision is reached regarding the complaint, the Committee will recommend disciplinary action if the accused is found guilty. This action can vary from leave without pay to demotion and dismissal from services. A range of creative punitive measures may be identified by the committee based on the seriousness of the case. In serious cases and repeat cases the accused should be dismissed. The decision will be submitted to the Senior Management Team through the Head of the ActionAid office of that given location and the recommended actions will be binding on them.

Informal Way of Dealing with Sexual Harassment At the Workplace

- (i) An informal approach to resolve a complaint of sexual harassment can be through mediation between the parties involved and by providing advice and counselling *on a strictly confidential basis* only on the specific request of the complainant. The procedures though less stringent than formal procedures will be conducted in the full spirit of this policy document.
- (ii) A staff member can report an incident of sexual harassment informally to his/her supervisor, or a member of the Enquiry Committee. The request may be made orally or in writing.
- (iii) The case will be taken up for investigation at an informal level by the same member of the Enquiry Committee in a confidential manner. The matter will be reviewed and the alleged offender will be approached with the intention of resolving the matter in a confidential manner.
- (iv) If the incident or the case reported does constitute sexual harassment of a higher degree the member will suggest taking it up the practiced disciplinary action or *with the agreement of the complainant*, the case can be taken as a formal complaint.

appendix

guidelines for reviewing facts of cases

- 1) Sexual harassment can include and is not limited to: verbal harassment or abuse, subtle pressure for sexual acts, sexual advances in the pretext of narrating sexual incidents, exhibiting pornographic material, touching, patting or pinching, leering at a person's body, demanding sexual favours accompanied by subtle or overt threats concerning employment or advancement; and physical assault including rape.
- 2) To constitute sexual harassment, the conduct must be 'unwelcome'. Exploration of the case must consider whether the person indicated advances were unwelcome initially, even if there was subsequent acquiescence (or vice versa). Individuals are best able to decide what behaviour is acceptable to them and what is offensive or unwelcome as perceptions differ between individuals. Behaviour that may not be offensive to one individual may be so to another.
- 3) 'Abuse of authority' cases are complex because of power imbalance between complainant and accused, and may require severe disciplinary actions. Such cases could be linked with hiring and firing of employee, promotion, work duties, relocation, leave, training and other aspects affecting employment.
- 4) Cases which create a 'hostile work environment' could range from patterns of offensive behaviour or single severe incidents of harassment.
- 5) The above-mentioned forms of harassment are not always distinct from each other and can occur simultaneously. Additionally, harassment can happen to men and women at all levels of job hierarchy and between all relationships of equal and unequal power.
- 6) The harassment can occur outside working hours and workplace. It is the access that a perpetrator has to the person being harassed by virtue of a job situation or relation that is relevant here.
- 7) Supervisory employees and co-workers should be asked about their knowledge of alleged harassment. When witnesses are not identified, testimony may be obtained from persons who observed change in demeanour of the charging party after alleged incident. Other persons who the charging party discussed incident with should be interviewed.
- 8) In appropriate cases, sexual harassment determination may be based solely on credibility of complainant's allegation if the account is sufficiently detailed and internally consistent.
- 9) Lack of corroborative evidence where such evidence should exist would undermine allegation. By the same token, a general denial by the accused will carry little weight when contradicted by other evidence.
- 10) When dealing with sexual harassment through a series of incidents, the investigator should not consider the series of incidents as specific but should consider the impact of separate incidents as an accumulative case and the work environment may exceed the sum of individual episodes.