

# SEXUAL HARASSMENT



<b>Effective Date</b>	23 January 2019		
<b>Accountable Department</b>	HR		
<b>Policy Number</b>	HR_29_v01_2015	<b>Version</b>	2
<b>Applicability</b>	All employees, agents, consultants, volunteers, and any other representative of m2m. In addition, staff and representatives of partner agencies (i.e., subrecipients, subcontractors, suppliers/vendors) who have a formal relationship with m2m.		

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## **I. PURPOSE**

The purpose of this policy is to introduce a framework and guidelines to protect mothers2mothers (m2m) employees and beneficiaries from sexual harassment.

## **II. POLICY STATEMENTS**

- a. All employees, job applicants, and other persons, who have dealings with the organisation, have the right to be treated with dignity.
- b. Sexual harassment in the workplace will not be permitted or condoned. The organisation has a "zero tolerance" approach towards sexual harassment.
- c. Persons who have been subjected to sexual harassment in the workplace have a right to raise a grievance and appropriate action will be taken by the organisation.
- d. Allegations of sexual harassment will be dealt with seriously, expeditiously, sensitively, and confidentially.
- e. Employees will be protected against victimisation and retaliation for lodging grievances and from false accusations.
- f. Management will take disciplinary action against employees, agents, consultants, and volunteers who do not comply with the policy.

## **III. SCOPE OF THE POLICY**

This policy applies to all m2m employees, agents, consultants, and volunteers. This policy also applies to the employees and representatives of partner agencies (i.e., subrecipients, subcontractors, suppliers/vendors) who have a formal relationship with m2m. All employees, including supervisors and managers, will be subject to discipline, up to and including discharge, for any act of sexual harassment.

It must be noted that the perpetrators and complainants of sexual harassment may include job applicants, clients, suppliers, contractors, and other persons who have dealings with m2m. A non-employee who is a complainant of sexual harassment may lodge a grievance with the employer of the harasser where the harassment has occurred (e.g., in the workplace or other place/site).

With the above noted, m2m recognises that anyone can be a complainant of sexual harassment, regardless of their sex or the sex of the harasser. m2m recognises that sexual harassment may also occur between people of the same sex. What matters is that the sexual conduct is unwanted and unwelcome by the person against whom the conduct is directed. m2m recognises that sexual harassment is a manifestation of power relationships and often occurs within unequal relationships in the workplace, for example between manager or supervisor and employee.

## **IV. DEFINITIONS**

Sexual harassment is unwanted conduct of a sexual nature. It includes inappropriate gestures, innuendos, advances, suggestions, comments, hints, touching without consent, statements and/or remarks of a sexual nature, and sexual assault. Sexual harassment creates an intimidating, hostile or offensive environment.

For the purposes of this Policy, consensual sexual attention becomes sexual harassment if the:

- a. Behaviour is persistent, although a single incident of harassment can constitute sexual harassment; and/or
- b. Recipient has made it clear that the behaviour is considered offensive.

## V. FORMS OF SEXUAL HARASSMENT

Sexual harassment may include unwelcome physical, verbal or non-verbal conduct, and is not limited to the examples listed below:

- a. *Physical conduct* of a sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and rape, and includes a strip search by or in the presence of the opposite sex.
- b. *Verbal forms of sexual harassment* include unwelcome innuendoes, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or directed toward them, unwelcome and inappropriate enquiries about a person's sex life, and unwelcome whistling directed at a person or group of persons.
- c. *Non-verbal forms of sexual harassment* include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
- d. *"Quid pro quo" harassment* occurs where an owner, employer, supervisor, member of management or co-employee, undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefit of an employee or job applicant, in exchange for sexual favours.
- e. *Sexual favouritism* exists where a person who is in a position of authority rewards only those who respond to his/her sexual advances, while other deserving employees who do not submit themselves to any sexual advances are denied promotions, merit rating or salary increases.

The content of the behaviour amounting to sexual harassment may be:

- a. Verbal sexual innuendo such as jokes, suggestions or hints about sexual behaviour, comments about physical appearance, particularly in front of others in a group, and particularly where there is a gender imbalance in the group such as a single woman in a group of men.
- b. Any unwanted physical contact such as touching an arm or hand when not necessary or touching any sensitive part of the body.
- c. Non-verbal communication such as gestures of a sexual nature or removal of clothing to display parts of the body (flashing).
- d. The display, giving or sending of offensive pictures, or verbally offensive material, particularly of a sexual nature.
- e. Inappropriate demands or offers such as those for sexual attention or to spend time together.
- f. Following, stalking, persistent visiting, telephoning, sending of SMS/text messages or other invasions of personal privacy.

## VI. PROCEDURES FOR HANDLING SEXUAL HARASSMENT

This Policy acknowledges that sexual harassment is a sensitive issue and a complainant may feel unable to approach the perpetrator, lodge a formal grievance or turn to colleagues for support.

There are two options available to the aggrieved individual to resolve a problem relating to sexual harassment. Either an attempt can be made to resolve the problem in an informal way or a formal procedure can be initiated. The aggrieved individual shall be under no duress to accept one or the other option.

### Informal Procedure

- a. It may be sufficient for the aggrieved individual to explain to the alleged harasser that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, or interferes with their work.
- b. If this approach does not prove successful, or if the aggrieved individual does not wish to directly engage the alleged harasser, the aggrieved individual should follow the formal procedure outlined below. Severe cases of sexual harassment should always be reported and the formal procedure instigated. Severe cases may include: sexual assault, rape, a strip search, and/or "quid pro quo" harassment.

### Formal Procedure

- a. The aggrieved individual should lodge a complaint to his/her direct supervisor and/or line manager immediately after the alleged misconduct. If the alleged harasser is the direct supervisor or line manager, the grievance should be lodged to the next senior line manager in accordance with the Grievance Policy and Procedure of the organisation.
  - o If the aggrieved individual is not an m2m employee, they may lodge their complaint directly with m2m's Human Resources (HR) Director ([Gillian.Mthandi@m2m.org](mailto:Gillian.Mthandi@m2m.org)), or anonymously to [whistleblower@m2m.org](mailto:whistleblower@m2m.org).
  - o If the alleged harasser is not an m2m employee (e.g., a volunteer, agent, consultant, etc.), the complaint may be lodged with the Liaison Officer (identified in the Consultant Agreement, Service Level Agreement, and/or Contract), with m2m's HR Director ([Gillian.Mthandi@m2m.org](mailto:Gillian.Mthandi@m2m.org)), or anonymously to [whistleblower@m2m.org](mailto:whistleblower@m2m.org).
- b. All m2m employees who receive a sexual harassment complaint from an aggrieved individual are required to report the complaint to HR immediately when possible or within 48 hours. There is no excuse for failing to report an allegation of sexual harassment. Any supervisor or manager who fails to report an allegation of sexual harassment may face disciplinary action up to, and including, discharge from their employment with m2m.
- c. The aggrieved individual's complaint will be dealt with in a timely manner. A prompt and thorough 3rd party investigation of the alleged incident will be conducted in accordance with local law and appropriate corrective action will be taken.
- d. Under certain circumstances, m2m may be required to report incidents of sexual harassment to relevant regulators in the country of operation. m2m employees (also applies to 3rd party investigators) investigating sexual harassment allegations should ensure that m2m's Grants & Compliance (G&C) Department is consulted on all cases. G&C will advise on any reporting requirements.

- e. In certain countries, m2m may also be legally required to report cases of serious sexual harassment to local authorities. This is especially true in cases of rape and sexual assault. m2m will always follow local law regarding reporting of sexual harassment to local authorities and will take care to maintain the confidentiality of the complainant as much as legally possible.

### **Investigation and Disciplinary Action**

Aggrieved individuals should report complaints of conduct believed to violate m2m's Sexual Harassment Policy according to the Policy's complaint procedures. To initiate a formal investigation into an alleged violation of this Policy, aggrieved individuals may be asked to provide a written statement about the alleged misconduct to the Line Manager/Country Director/Project Director or HR Director. Complaints should be submitted as soon as possible after an incident has occurred. The HR Director may assist the complainant in completing the statement.

To ensure the prompt and thorough investigation of a sexual harassment complaint, the complainant should provide as much of the following information as possible:

- a. The name, department, and position of the person or persons allegedly causing the harassment.
- b. A description of the incident(s), including the date(s), location(s), and the presence of any witnesses.
- c. The effect of the incident(s) on the complainant's ability to perform his or her job, or on other terms or conditions of his or her employment.
- d. The names of other individuals who might have been subject to the same or similar harassment.
- e. What, if any, steps the complainant has taken to try to stop the harassment.
- f. Any other information the complainant believes to be relevant to the harassment complaint.

The formal investigation process will be guided by the following:

- a. Care shall be taken during any investigation of a grievance of sexual harassment that the aggrieved individual is not disadvantaged, and that the position of other parties is not prejudiced if the grievance is found to be unwarranted.
- b. Management will decide on the appropriate corrective action to be taken based on the report of the investigation of the complaint.
- c. Serious incidents of sexual harassment or continued harassment after warnings are dismissible offences.
- d. In cases of persistent harassment or single incidents of serious misconduct, disciplinary action shall be taken in terms of the Disciplinary Code and Procedure of the organisation.
- e. It is a disciplinary offence to victimise or retaliate against an employee who in good faith lodges a grievance of sexual harassment.

## **VII. CRIMINAL AND CIVIL CHARGES**

A complainant of sexual assault has the right to press separate criminal and/or civil charges against an alleged perpetrator, and the legal rights of the complainant are in no way limited by this Policy.

## **VIII. MANAGEMENT RESPONSIBILITY**

- a. Management (i.e. the line manager and senior management) has a general responsibility to ensure a safe and secure workplace, and if there is any indication that there may be a physical threat of danger to any person, professional advice should be sought from internal persons responsible for safety and security, and where appropriate from external authorities and professional persons.
- b. Management has an additional responsibility to ensure that all allegations of sexual harassment are handled in a sensitive manner, with respect for the dignity of the persons involved.
- c. Management is responsible for ensuring that the allegations are dealt with timeously, with due seriousness and confidentiality; and that the allegations are dealt with in a manner which achieves a resolution of the problem, rather than in a mechanistic procedural manner.

## **IX. CONFIDENTIALITY AND RECORD-KEEPING**

Confidentiality will be maintained throughout the resolution of a sexual harassment complaint by:

- a. Ensuring that complaints about sexual harassment are investigated and handled in a manner that ensures the identity of the people involved is kept confidential.
- b. Having only the appropriate members of management, the aggrieved individual and their representative, the alleged perpetrator and their representative, witnesses, and interpreter, if required, present at the disciplinary inquiry.
- c. Disclosing to either party or to their representatives only such information as may be reasonably necessary to enable the parties to prepare for any misconduct inquiry.
- d. At all stages of the procedure, informal or formal, and from the first discussions when the potential allegations of sexual harassment are discussed, all parties to the discussion shall be required to respect the sensitivity of the matters under discussions and the potential impact on individual lives and careers, and to exercise extreme caution in the disclosure of the information, and where possible to maintain the confidentiality of the receiver and complainant and the person responsible for the behaviour.
- e. Once the procedures are concluded, the documents shall be filed in sealed envelopes marked confidential and lodged with the HR Director for personnel records.

## **X. COUNSELLING AND SUPPORT**

m2m will arrange counselling and provide appropriate and reasonable support to complainants of sexual harassment.

Where an employee's existing sick leave entitlement has been exhausted, the organisation will give due consideration to the granting of additional sick leave in cases of serious sexual harassment where the employee, on medical advice, requires trauma counselling.

## XI. TRAINING AND DEVELOPMENT

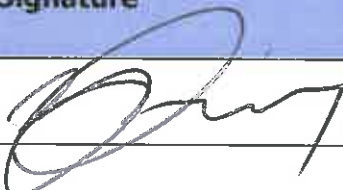
Senior Managers and Directors are required to attend executive briefings on their legal duties and responsibilities in the handling of sexual harassment allegations.

Line Managers and Supervisors are required to attend training on how to handle allegations of sexual harassment brought to their attention, either informally, or as part of the formal Grievance Procedure.

Awareness education and training will be provided for all employees to ensure common understanding of the policy and procedure to handle sexual harassment.

Specific skills training will also be provided for those who may be required to receive the complaints, not only on how to deal with the complaints, but also on mediation and conflict resolution skills.

### Approved and Reviewed by:

Name	Title/Department	Signature	Date
Gillian Mthandi	HR Director		23-01-19

<b>Related Policy(ies)/Procedures</b>	Employee Wellness Policy Trauma Management Guidelines Disciplinary Policy and Procedures
<b>Source/Reference</b>	USAID Standard Provisions for Non-U.S. NGOs: M18