



POLICY

ANTI-DISCRIMINATION, BULLYING AND HARASSMENT

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ANTI DISCRIMINATION, HARASSMENT AND BULLYING POLICY

1. INTRODUCTION

SeeBeyondBorders (SBB) recognises it is the right of every employee and volunteer to be able to attend work and to perform their duties without being subjected to any form of discrimination, harassment or bullying. Equally it is the obligation and responsibility of every employee and volunteer to ensure that the workplace is free from discrimination, harassment and bullying.

2. POLICY

SeeBeyondBorders is committed to providing a safe and productive work and learning environment in which the diversity of individuals within the SeeBeyondBorders community is recognised and respected. Discrimination, harassment and bullying will not be tolerated under any circumstances and disciplinary action will be taken against any SeeBeyondBorders personnel who breach this policy.

Through this Policy, SeeBeyondBorders aims to:

- create a working environment which is free from discrimination, harassment and bullying and where all personnel are treated with dignity, courtesy and respect
- provide an effective procedure for complaints based on the principles of natural justice
- treat all complaints in a sensitive, fair, timely and confidential manner
- guarantee protection from any victimisation or reprisals
- encourage the reporting of behaviour which breaches the Anti-Discrimination, Harassment and Bullying policy
- promote appropriate standards of conduct at all times.

Reasonable Management Action

Discrimination, harassment and bullying does not include situations where a manager or supervisor gives fair and constructive feedback to an employee in relation to:

- Employee performance, including constructive feedback, setting performance goals, standards and deadlines;
- Inappropriate behaviour;
- Organisational change;
- Disciplinary action.

Victimisation

It is unlawful for a person to subject, or to threaten to subject, another person to any detriment because the other person, or someone associated with the other person, has made an allegation or complaint of discrimination, harassment or bullying on the basis of a protected attribute (see Definitions) or recognised right. SeeBeyondBorders will ensure appropriate action is taken should this come to its attention and will investigate any reports of victimisation.

3. SCOPE AND PERSONS AFFECTED

This policy applies to all SeeBeyondBorders Personnel, defined as:

- board members and trustees
- current staff and volunteers
- external consultants and contractors (paid or voluntary)
- contracted staff or personnel of contracted organisation and services
- project team participants

and any other person working for or on behalf of SeeBeyondBorders.

This policy also applies to other individuals and third parties who through their association with SeeBeyondBorders may visit our project activities (i.e. donors, Partner Organisations, service providers etc.) although the management process for these groups may differ in certain aspects given their involvement.

4. DEFINITIONS

a. **Discrimination**

Discrimination occurs when a person treats or proposes to treat another person less favourably owing to a protected attribute listed below. This is known as direct discrimination.

Discrimination also occurs when there is a requirement or condition or practice which has the intention of treating everyone the same ends up disadvantaging, or potentially disadvantaging a person with one or more of the protected attributes listed below. This is known as indirect discrimination.

Protected attributes include:

- Age
- Disability/impairment
- Industrial activity/inactivity
- Lawful sexual activity
- Sexual orientation or preference
- Gender identity
- Marital status, including de facto
- Political belief or activity
- Pregnancy
- Race includes colour, descent, or national, or ethnic origin
- Religion belief or activity
- Status as a parent or carer
- Personal association with someone who has one or more of the above attributes;
- Irrelevant criminal conviction (one that does not relate to an inherent requirement of the role).

Workplace discrimination can occur in:

- recruiting and selecting staff;
- terms, conditions and benefits offered as part of employment;
- who receives training and what sort of training is offered;
- who is considered and selected for transfer, promotion, retrenchment or dismissal.

It is important to note that from a legal perspective it is irrelevant whether or not the discrimination was intended.

b. Harassment

A person unlawfully harasses another person if he or she makes that other person (another employee or member of the public) feel offended, humiliated or intimidated because of one of the protected attributes listed above. It may involve inappropriate actions, behaviour, comments or physical contact that is objectionable or causes offence. It is important to note that from a legal perspective it is irrelevant whether or not the harassing behaviour was intended. SeeBeyondBorders will act in accordance with the laws and regulations in the relevant country, eg The Protection from Harassment Act 1997 in the UK, when investigating any allegations or incidents.

Unlawful harassment may have occurred if the behaviour makes the victim feel:

- offended and humiliated; and/or;
- intimidated or frightened.

Unlawful harassment can include behaviour such as:

- telling insulting jokes about particular social or racial groups;
- sending explicit or sexually suggestive emails;
- displaying offensive or pornographic posters or screen savers;
- making derogatory comments or taunts about an individual's culture, identity or religion;
- asking intrusive questions about someone's personal life, including their sex life.

c. Sexual Misconduct

Sexual Misconduct includes any of the following¹:

- **Sexual Exploitation** – Any actual or attempted abuse of 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.
- **Sexual Abuse** – Actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. This includes against any person under the age of 18 years, a person defined as a child.
- **Sexual Harassment** – Sexual harassment refers to prohibited conduct in the work context and can be committed against staff and related personnel. In the context of our work, sexual harassment primarily describes prohibited behaviour against another staff member or member of the SeeBeyondBorders community including all Cambodian nationals. It involves any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. This includes sexual harassment that is conducted online or via social media.

¹ Individual subcomponent definitions taken from United Nations. (2017) <https://hr.un.org/materials/un-glossary-sexual-exploitation-and-abuse-english>

Sexual harassment has nothing to do with mutual attraction or consenting friendships, whether sexual or otherwise. Sexual harassment is unlawful in pre-employment activities and in the workplace. The workplace includes any place a person goes for the purpose of carrying out any function in relation to his/her employment and can also extend to social functions.

Some examples of sexual harassment include:

- Persistent, unwelcome demands or even subtle pressures for sexual favours or outings;
- Staring or leering at a person or at parts of their body;
- Unwelcome patting, pinching, touching or unnecessary familiarity, such as unnecessarily brushing up against a person;
- Unwanted sexual comments
- Offensive comments or questions about a person's physical appearance, dress or private life;
- Sexually explicit pictures or posters or screen savers (words and images);
- Sexually explicit telephone calls, letters, faxes, emails or voice mail messages;
- Humour such as smutty or suggestive jokes or comments;
- Innuendo, including sexually provocative remarks, suggestive or derogatory comments about a person's physical appearance, inferences of sexual morality, or tales of sexual performance;
- Requests for sex;
- Insults or taunts based on sex;
- Sexually explicit physical contact.

This list is not exhaustive.

- **Sexual Violence** – Includes, at least, rape/attempted rape, sexual abuse and sexual exploitation. Sexual violence is 'any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic a person's sexuality, using coercion, threats of harm or physical force, by any person regardless of relationship to the victim, in any setting, including but not limited to home and work.' Sexual violence takes many forms, including rape, sexual slavery and/or trafficking, forced pregnancy, sexual harassment, sexual exploitation and/or abuse, and forced abortion.

The following list of acts constitute sexual violence:

- Unwanted sexual touching
- Aggressive sexual behaviour or threats
- Attempted sexual assault
- Sexual assault
- Rape
- **Transactional Sex** – The exchange of money, employment, goods or services for sex, including sexual favours.
- **Fraternalisation** - Any relationship that involves, or appears to involve, partiality, preferential treatment or improper use of rank or position including but not limited to voluntary sexual behaviour. It could include sexual behaviour not amounting to intercourse, a close and emotional relationship involving public displays of affection or private intimacy and the public expression of intimate relations.

Some types of sexual misconduct also constitute offences under the criminal law.

d. **Bullying**

Workplace bullying is repeated, unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety. "Unreasonable behaviour" means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the other person. "Behaviour" includes actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining, punishing or threatening. "Risk to health and safety" includes risk to the mental or physical health of the employee.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour could be considered to be workplace bullying:

- physical or verbal abuse;
- intimidation;
- yelling, screaming or offensive language;
- excluding or isolating employees;
- psychological harassment;
- assigning meaningless tasks unrelated to the job;
- public shaming or humiliation in front of others;
- giving employees impossible jobs;
- deliberately changed work rosters to inconvenience particular employees;
- undermining work performance by deliberately withholding information vital for effective work performance.

Workplace bullying can occur between a worker and a manager or supervisor (and vice-versa), or between co-workers. It is a significant occupational health and safety issue of concern as it can cause harm to a person's health and wellbeing, both physical and psychological. Bullying may also be unlawful if it is linked to, or based on, one of the above-specified protected attributes covered by anti-discrimination legislation.

5. **COMPLAINTS PROCEDURE/ REPORTING**

SeeBeyondBorders' Personnel who believe they are the subject of discrimination, harassment or bullying should take firm, positive and prompt action. We encourage stakeholders not to ignore discrimination, harassment or bullying, thinking it will go away, highlighting that to ignore such behaviour could be interpreted as tacit approval by the person causing it. Discrimination, harassment and bullying are not tolerated at SeeBeyondBorders.

If you reasonably feel that you are being harassed or bullied, and you feel comfortable doing so, tell the person to stop, or make it clear that you find the behaviour offensive or unwelcome. If you do not feel comfortable speaking to the person directly, this does not mean that your complaint will not be taken seriously.

If the behaviour does not stop, or even if it does stop, but you wish to raise a complaint, you should follow the steps outlined in SeeBeyondBorders' *Complaints and Feedback Handling Policy* as soon as possible after the incident or incidents have occurred. Alternatively, you can raise a formal grievance. This includes speaking to your line manager to raise your concerns, or if you do not feel comfortable speaking to your line manager, then approaching the General Manager (HR and Finance) or any other member of the SeeBeyondBorders Leadership Team with your concerns. If raising a formal grievance, you will be asked to put your concerns in writing and include what the grievance is about, any evidence of the grievance, and what steps you would like to be taken by SeeBeyondBorders. All complaints and grievances will be taken very seriously and SeeBeyondBorders will undertake an investigation and report progress and findings back to the complainant.

If any SeeBeyondBorders Personnel witness bullying or harassment, they should report this immediately so that appropriate investigations can be made. SeeBeyondBorders may also take action, if we believe an incident has occurred where someone has been discriminated against, harassed or bullied, even if an official complaint or grievance has not been received. This will be discussed with the people believed to have been the subject of discrimination, harassment or bullying and reasonable action will be taken.

Reporting Procedures for External Authorities

This policy recognises and responds to expectations and specific requirements set as part of grant conditions by partners and funding organisations.

All suspected or alleged cases of Sexual Exploitation, Abuse or Harassment related to DFAT funded programs must be reported to DFAT in Australia. Cases should be reported using DFAT's Sexual Exploitation, Abuse and Harassment Incident Notification form that can be found on DFAT's website or on SeeBeyondBorders' shared drive under Published Procedures and emailed to seah.reports@dfat.gov.au.

All suspected or alleged cases of Sexual Exploitation, Abuse and Harassment related to FCDO funded programs must be reported to Mannion Daniels, the FCDO Fund Manager in the UK, via ukaidssafeguarding@mansiondaniels.com.

6. CONFIDENTIALITY

SBB will ensure that any concern raised is handled according to the principles of confidentiality, safety, impartiality, thoroughness, timeliness and accuracy.

All complaints and reports, and the names of people involved, will be handled in the strictest of confidence. Details will only be released on a 'need to know' basis, or when required by relevant local, Australian or UK law, or when a notification to police or outside authorities has been made.

If you wish to raise a complaint and feel the need to tell a trusted friend or colleague about your complaint, you should be careful. Accusations of harassment can harm the reputation of those involved and could, ultimately, lead to an action for defamation. Treat the situation as confidential.

If your complaint is subsequently investigated in accordance with the steps outlined in the *Complaints and Feedback Handling Policy* or according to formal grievance procedures, it is even more important to ensure it remains confidential. There may be consequences (including disciplinary action) if there is a breach of confidentiality during the investigation process by any of the parties involved. If you feel you need to talk to a friend or family member about your complaint during the investigation stage, you should first discuss this with the person looking into your complaint. This does not take away your right to have a friend or a colleague present during any meetings or correspondence, but you should ensure they follow the same policies and procedures regarding confidentiality.

7. ASSOCIATED POLICIES

- Safeguarding Policy
- Workplace Health, Safety and Security Policy
- HR Manual
- Complaints and Feedback Handling Policy
- Code of Conduct

8. POLICY MANAGEMENT

This Policy has been approved by the Australian Board and the Trustees of SeeBeyondBorders' other entities as noted below.

Amendments and or developments will be recommended to the Board from time to time as deemed appropriate by senior management. Formal reviews are recommended within three years from the anniversary date of approval by the Board. Recommendations for minor changes can be approved by the CEO before the Board review every three years, and recommendations for changes to the background or policy in practice can be approved by the relevant Sub-Committee.

Doc ref	Doc type	Approved by Australian Board Date	Minute Ref	Approved by UK trustees Date	Minute ref	Approved by Irish Board Date	Minute Ref
	Policy Update	Board 20 Aug 2019	Item 8				
ADHPB/08/2019/1.1	Policy Update	ANCP Sub-Committee 23 Jul 2020	23 Jul 2020				
ADPHB/02/2021/2.0	Policy Review	Board 28 June 2021	Item 3	Trustees 11 Aug 2021	Item 5		