



Prevention of Sexual Exploitation Abuse, and Harassment (PSEAH) Policy

Approved by the Board on _8_ September 2020

Statement of Purpose

1. The following policy presents the position taken by the Love Mercy Foundation Limited (ACN 142 069 645) (**LMF**) in respect of the prevention of Sexual Exploitation, Abuse, and Harassment (**SEAH**).
2. LMF is committed to ensuring that it complies with all applicable laws and manages, and mitigates any risk of SEAH.
3. LMF aims to provide a safe and trusted environment that safeguards all stakeholders from SEAH including beneficiary communities, workers, project participants and partner organisations
4. The purpose of this policy is to promote awareness and the prevention of sexual exploitation, abuse and harassment. Specifically, this Policy seeks to prevent, detect and deter such conduct. This policy has been established to ensure that LMF implements controls so as to fully comply with guidance of the Australian Council for International Development and all applicable laws and regulations, and to ensure that LMF's business is conducted in a socially responsible manner.
5. LMF has a culture based on mutual respect and honesty and has policies in place to ensure that we operate in a lawful manner with our colleagues and clients. Our comprehensive employment contracts and employee policies ensure that we have consistent regulations in place on ethical behaviour and all employees are required to adhere to applicable rules of professional conduct. In addition, ongoing training is provided to all employees in relation to applicable rules of professional conduct and ethics.
6. LMF is committed to safeguarding the people it helps and who it works alongside. We recognise that the nature of LMF's work places, its workers and project participants in positions of authority

and trust in relation to the communities it works with, especially vulnerable adults and children. LMF workers and project participants have an obligation to uphold high standards of personal and professional conduct at all times and must not abuse this position in order to exploit or abuse another person.

Policy statement

7. It is our policy to conduct all of our business in an honest and ethical manner. We take a zero-tolerance approach to SEAH. We are committed to acting professionally, fairly and with integrity in all our business dealings and relationships wherever we operate and implementing and enforcing effective systems to counter the risk of SEAH.
8. LMF will actively prevent and respond to SEAH and maintain an organisational culture that prioritises safeguarding against SEAH so that it is safe for those affected to come forward and report incidents and concerns with the assurance they will be handled sensitively and appropriately.
9. We take our legal responsibilities very seriously.

Scope

10. This policy applies to:
 - (a) LMF staff;
 - (b) LMF board members;
 - (c) LMF volunteers, contractors and interns; and
 - (d) members of partner organisations of LMF; and
 - (e) any persons who visit LMF projects or activities, e.g. donors and family members of LMF staff.

Definitions

11. The following definitions apply to this policy:
 - (a) **Accompanying adult dependent** is any person over the age of 18 supported by LMF to accompany a person undertaking an assignment, volunteer or otherwise, on an international or domestic project managed by LMF.
 - (b) **Child** means any person under the age of eighteen (18) years as defined by the Convention on the Rights of the Child irrespective of local country definitions of when a child reaches adulthood.
 - (c) **Child exploitation and abuse** (involves one or more of the following):
 - (i) committing or coercing another person to commit an act or acts of abuse against a child;
 - (ii) possessing, controlling, producing, distributing, obtaining or transmitting child exploitation material; or
 - (iii) committing or coercing another person to commit an act or acts of grooming or online grooming.

- (d) **Child Sexual Abuse** means the use of a child for sexual gratification by an adult or significantly older child or adolescent. Sexually abusive behaviours can include fondling genitals; masturbation; oral sex; vaginal or anal penetration by a penis, finger or any other object; fondling breasts; voyeurism; exhibitionism; and exposing the child to, or involving the child in, pornography (see **LMF Child Protection Policy**).
- (e) **Emotional abuse** is a parent or caregiver's inappropriate verbal or symbolic acts toward a child or a pattern of failure over time to provide a child with adequate non-physical nurture and emotional availability. Such acts have a high probability of damaging a child's self-esteem or social competence.
- (f) **Grooming** generally refers to behaviour that makes it easier for an offender to procure a child for sexual activity. It often involves the act of building the trust of children and/or their carers to gain access to children in order to sexually abuse them. For example, by encouraging romantic feelings or exposing the child to sexual concepts through pornography.
- (g) **Neglect** is the failure by a parent or caregiver to provide a child (where they are in a position to do so) with the conditions that are culturally accepted as being essential for their physical and emotional development and well-being.
- (h) **Project Participant** is as any person engaged to undertake an assignment, volunteer or otherwise, on an international or domestic project managed by LMF.
- (i) **Online grooming** is the act of sending an electronic message with indecent content to a recipient who the sender believes to be under 18 years of age, with the intention of procuring the recipient to engage in or submit to sexual activity with another person, including but not necessarily the sender.
- (j) **Partner Organisations** are any organisation either in Australia or overseas that receives a benefit from an LMF project and where volunteers and project participants are placed
- (k) **Physical abuse** occurs when a person purposefully injures or threatens to injure a child or young person. This may take the form of slapping, punching, shaking, kicking, burning, shoving or grabbing. The injury may take the form of bruises, cuts, burns or fractures.
- (l) **Project beneficiaries:** any person who, either directly or by association, derives a benefit from an LMF or LMF affiliated project. Examples include but are not limited to; Partner Organisation employees and community members who directly receive a service or engage with a project participant in the course of the participant's work with a Partner Organisation.
- (m) **Sexual Abuse** is the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions
- (n) **Sexual Exploitation** means any actual or attempted abuse of a 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.
- (o) **Sexual exploitation, abuse and harassment (SEAH)** occurs against a child or an adult and can occur between people of the same or different genders. It includes situations such as:
 - (i) Sexual Exploitation and Abuse;

- (ii) Sexual Harassment;
 - (iii) child sexual abuse and exploitation;
 - (iv) women and men sexually exploited through sex work; and
 - (v) possessing, controlling, producing, distributing, obtaining or transmitting sexually exploitative images of adults and children.
- (p) **Worker** means employees (Australia and overseas), consultants, contractors, office volunteers, interns, the LMF Board, visitors, or anyone engaged to undertake work for this organisation.
- (q) **Sexual Harassment** includes any verbal or physical conduct or any conduct of a sexual nature that is unwelcome, uninvited or not reciprocated in circumstances in which a reasonable person, having regard to all the circumstances would have reasonably anticipated the possibility that the person harassed would be offended, humiliated or intimidated. This can include unwelcome sexual advances or unwelcome requests for sexual favours or displaying or sending sexually explicit images or asking intrusive questions about someone's personal life, including their sex life.
- Sexual harassment can take various forms. It can be direct and/or indirect, physical and/or verbal, repeated or one-off instances and perpetrated by any person of any gender towards any person of any gender. Sexual harassment can be perpetrated against beneficiaries of LMF's projects, community members, citizens, as well as employees and workers.
- (r) **Vulnerable adults** are those aged over 18 years and who identify themselves as unable to take care of themselves/ protect themselves from harm or exploitation; or who, due to their gender, mental or physical health, disability, ethnicity, religious identity, sexual orientation, economic or social status, or as a result of disasters and conflicts, are deemed to be at risk.
- (s) **Survivor** means a person who has SEAH perpetrated against them or an attempt to perpetrate SEA against them.

Policy

12. All LMF workers and LMF project participants or other project approved adult dependents, in both their personal and professional lives must, at all times:
- (a) Comply with their duty to act at all times in a manner which upholds the values and reputation of LMF.
 - (b) Undertake to create and maintain a safe and trusted environment that promotes the implementation of this Policy and safeguards everyone from SEAH.
 - (c) Comply with all relevant Australian and local laws of the country to which they are placed, or in which they are travelling.
 - (d) Be aware that sexual behaviour is an area of particular sensitivity, where conduct may more easily be seen as offensive or be misinterpreted.

- (e) Ensure personal conduct towards co-workers are not exploitative or such that it reasonably leads to a perception of exploitation.
 - (f) Read and agree to abide by the expected behaviours outlined in the relevant code of conduct.
 - (g) Immediately report to LMF any concern, suspicion or allegation of SEAH or breach of the this LMF PSEAH Policy. Reporting procedures are outlined below.
13. In addition, LMF workers must adhere to the following expected behaviours:
- (a) LMF workers must not engage in sexual relationships with project participants, approved adult dependents, or LMF project beneficiaries as these relationships are based on inherently unequal power dynamics and there is the potential for abuse of power. Such relationships undermine the credibility and integrity of LMF and its projects.
 - (b) Workers must immediately inform their direct manager if they become engaged in a personal relationship which may be perceived as inappropriate or exploitative, or where real or perceived unequal power dynamics exist. Workers who are unsure if their relationships falls into this category should discuss the situation with their line manager and/or the CEO or member of the Board of Directors.
14. Project participants and accompanying adult dependents must adhere to the following expected behaviours:
- (a) Project participants/adult dependents should exercise caution when engaging in sexual relationships with LMF project beneficiaries or other adult community members as these relationships may be based on inherently unequal power dynamics and there is the potential for abuse of power. As such, project participants should be mindful of the unique challenges and perceptions associated with such relationships and are encouraged to seek counsel from an LMF Project Manager (defined as any senior LMF employee acting in a project management capacity, regardless of job title) or CEO before entering into a relationship of this nature.
 - (b) Project participants must immediately inform their LMF Project Manager or CEO if they become engaged in a personal relationship which may be perceived as inappropriate or exploitative, or where real or perceived unequal power dynamics exist. Participants and dependents who are unsure if their relationship falls into this category should discuss the situation with their LMF Project Manager or CEO.
15. It is strictly prohibited for LMF workers, project participants and LMF approved adult dependents to:
- (a) Sexually exploit or abuse or sexually harass a child or adult.
 - (b) Use their position of trust and authority to request any service or sexual favour from beneficiaries of LMF projects, adults, children or others in the communities in which LMF works, in return for protection or assistance, or coerce a person to engage in sexual intercourse or any sexual activity.
 - (c) Exchange or withhold from beneficiaries of LMF projects (adults, children or others in the communities in which LMF works) money, food, employment, goods, assistance or services for sex or sexual favours or other forms of humiliating, degrading or exploitative behaviour.

- (d) Have sex with sex workers when working or volunteering overseas, even when it is legal in the country.
- (e) Use, LMF or partner organisation facilities, personnel or resources for the purpose of arranging or facilitating access to sex workers by any person, including visitors to LMF offices or projects.
- (f) Engage in sexual activity with a child under any circumstance. Even in a country where the age of majority or the age of consent is lower than 18 years, LMF workers, project participants and LMF approved adult dependents are forbidden to have sexual activity with anyone under the age of 18 years. A mistaken belief that the child is over 18 is no defence.
- (g) Use computers, mobile phones, video cameras, cameras or other technology inappropriately, or to exploit or harass children and/or adults, or access or disseminate child exploitative material and/or sexually exploitative material through any medium, including social media.
- (h) Procure sex for others, and/or use a third party to do so.

Breach of Policy

- 16. Sexual exploitation, abuse and harassment by LMF workers, project participants and LMF approved adult dependents constitute acts of gross misconduct and are therefore grounds for termination of employment or volunteer assignment.
- 17. Disciplinary actions/possible outcomes for breach of the LMF Prevention of Sexual Exploitation, Abuse and Harassment Policy can include:
 - (a) Referral to local law enforcement authorities (as per national and any mandatory reporting laws), where appropriate
 - (b) Referral to Australian Federal Police, where appropriate
 - (c) LMF internal investigation which may include an externally engaged investigator
 - (d) Standing aside with pay pending investigation
 - (e) Performance management and disciplinary action including formal warnings
 - (f) Re-education, training, mentoring and support where appropriate
 - (g) Where substantiated, termination of employment for workers or termination of assignment for project participants.

Responsibilities to prevent and respond to SEAH

- 18. All LMF workers are responsible for championing good practice and maintaining an organisational culture that prioritises safeguarding against SEAH.
- 19. Managers and leaders at all levels have responsibilities to support and develop systems that maintain an environment that facilitates implementation of this Policy and which prevents SEAH. They must ensure that LMF workers and project participants understand and comply with this Policy.

20. Managers and leaders must create a safe environment at LMF for anyone to come forward and raise allegations or concerns of SEAH and take action to immediately respond to any reports.

PSEAH Training

21. PSEAH training will be provided for LMF staff, Board Directors, and project participants and any other training as required by DFAT where applicable.

Recruitment and Performance Management

22. LMF will apply robust recruitment and screening procedures for all LMF workers, project participants and LMF approved adult dependents to reduce the risk of engaging a person with a background of unacceptable risks to children or adults, particularly vulnerable children and adults.
23. These procedures include:
 - (a) Criminal history checks
 - (b) Referee checks from an applicant's last place of employment/volunteer/project placement including when working in overseas locations and will include a question regarding any concerns of sexual misconduct.
 - (c) Personnel records to include performance or conduct issues regarding concerns or allegations of SEAH.
 - (d) All employment/assignment contracts must contain provisions for potential disciplinary action including termination of employment/assignment following breach of this policy.

LMFs risk management processes

24. LMF will design and implement an effective risk management processes that includes consideration of the risk of SEAH. The process will document the controls in place or to be implemented to reduce or remove the risks of SEAH.

Reporting and Investigation

How to report

25. LMF provides a safe, supportive and secure environment to report incidences of SEAH and breaches of this Policy. LMF will take all concerns seriously and respond immediately and in accordance with LMFs and DFAT reporting requirements. All reports of SEAH will be recorded, regardless of whether substantiated or full investigation required. The principles of natural justice will apply to all investigations.
26. LMF workers, project participants and accompanying adult dependents must immediately report any concerns, suspicions or allegations of SEAH or breach of the LMF Prevention of Sexual Exploitation, Abuse and Harassment Policy.
27. Project participants and Accompanying Adult Dependents may report a concern regarding sexual exploitation, abuse and harassment or Policy breach to any of the following people:
 - (a) The LMF Project Manager: if comfortable doing so, and if the LMF Project Manager is not directly or indirectly implicated in the alleged report.
 - (b) CEO, who shall be the PSEA Officer

28. LMF Workers may report a concern regarding sexual exploitation abuse and harassment or Policy breach to any of the following people:
 - (a) Their manager: if the worker feels comfortable doing so, and if their manager is not directly or indirectly implicated in the alleged report.
 - (b) The CEO, who shall be the PSEA Officer.
 - (c) The LMF Project Manager, where applicable.
 - (d) Member(s) of the LMF Board.
29. Visitors, Beneficiaries of our projects, and Members of the Public may report a concern regarding sexual exploitation, abuse and harassment through LMF's complaints handling procedures and/or to the CEO/PSEA Officer
30. Children and young people may also report a concern regarding sexual exploitation, abuse and harassment to any LMF staff member who will in turn report disclosures in line with LMF's reporting procedures. LMF will provide information about this Policy and the reporting mechanisms in child friendly language and ensure it is easily accessible

Managing Reports

31. Anyone wishing to make a report anonymously which would be protected by the Whistleblowers Protection Act 2001 needs to refer to the LMF Complaints Handling Policy (and included clauses on our whistle-blower policy for information on protected disclosures and as specified in the Policy.
32. Any person reporting a case of SEAH, in good faith, or any person who has cooperated with an investigation into a report of SEAH, will be protected by this Policy. Malicious and vexatious reporting of SEAH with the intention and/or result of harming another person's integrity or reputation amounts to serious misconduct and is subject to disciplinary action up to and including termination of employment. This is distinct from reports made in good faith based on the judgment and information available at the time of the report, which may not be substantiated by an investigation.
33. Reporting and investigation progress will include engagement of and reporting to the CEO and LMF Board members.

Investigations

34. Investigations of SEAH will be carried out in a manner that is timely, fair, objective and as far as is practicable, confidential. This includes the use of appropriate interviewing practice with complainants and witnesses. All information and documented evidence will be held securely and in the strictest confidence as far as is appropriate.
35. Sensitive information related to reports of SEAH whether involving LMF workers, project participants, accompanying adult dependents or others in the communities in which LMF works shall be shared only with Australian or local law enforcement authorities, when a notification to police or appropriate authorities must be made or on a 'need to know' basis. Information of alleged perpetrators that may be provided to law enforcement authorities and/or to DFAT will be handled in accordance with the Privacy Act 1988 and any and all privacy legislation and principles that may apply.

Survivor support and assistance

36. LMF will adopt a survivor-centred approach in preventing and responding to SEAH. LMF will ensure that all responses are developed in a manner that balances respect for due process with a survivor-centred approach in which the survivor's wishes, safety and wellbeing remain a priority in all matters and procedures. Furthermore, all actions taken should be guided by respect for choices, wishes, rights and dignity of the survivor.
37. LMF will ensure survivors of SEAH are offered support and assistance such as referral to safe health/medical, psychosocial and legal/justice response where appropriate and where required to specialised children's or women's services
38. Children have the right to participate in decisions that will affect them. If a decision is taken on behalf of a child, the best interests of the child shall be the overriding guide. Referrals should be done in consultation with child focused agencies specialising in the special needs of child survivors of sexual abuse, and who are familiar with local procedures relating to the protection of children.
39. Survivors will be provided with information on the progression of an investigation and final outcomes.

Partner Organisations

40. LMF will work with Partner Organisations in the prevention of SEAH and Partner Organisations will be advised of avenues available to report concerns regarding SEAH.

RELATED POLICIES

- LMF Code of Conduct
- Child Protection Policy
- Complaints Handling Policy
- Planning, Monitoring, Evaluation and Learning Policy
- Partnerships Policy
- International Development Policy

RELEVANT LAWS AND INTERNATIONAL CONVENTIONS

- International Bill of Human Rights
- *Privacy Act 1988* (Cth)
- The UN Convention on the Elimination of all Forms of Discrimination Against Women
- The UN Convention on the Rights of the Child
- UNSC Resolution 1325: Women, peace and security (WPS)
- SDG 5: Achieve gender equality and empower all women and girls
- DFAT Child Protection Policy 2017

- ACFID Code of Conduct 2017
- *Commonwealth Criminal Code Act 1995* (Cth) - It is a crime for Australian citizens, permanent residents or bodies corporate to engage in, facilitate or benefit from sexual activity with children (under 16 years of age) while overseas. These offences carry penalties of up to 25 years imprisonment for individuals and up to \$500,000 in fines for companies (extraterritorial legislation).

Training and communication

Training on this policy forms part of the induction process for all new employees. Our zero-tolerance approach to SEAH should be communicated to all suppliers, contractors and business partners at the outset of our business relationship with them and as appropriate during the business relationship.

Complaint mechanisms

Any complaints regarding involving any actual or potential breach of this policy are to be reported in accordance with the Love Mercy Foundation Complaints Handling Policy.

Risk mitigation, responsibility, monitoring and review

The Board has overall responsibility for ensuring this policy complies with our legal and ethical obligations and that all employees comply with it.

The CEO has primary and day-to-day responsibility for implementing this policy, and for monitoring its use and effectiveness and dealing with any queries on its interpretation.

All employees are to be trained upon induction and at regular intervals in respect of this policy. Employees may be required to sign a form to confirm that they have read and understood this policy. This policy is intended to be incorporated by reference in any terms of engagement between LMF and an employee.

All employees are responsible for the success of this policy and should ensure they use it to disclose any suspected danger or wrongdoing.

Employees are invited to comment on this policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the CEO.

This policy does not form part of any employee's contract of employment and it may be amended at any time.

Review

This policy may be amended at any time by the Board in its absolute discretion.

It is intended this policy may be reviewed on an annual basis.

Any annual review of this policy may include collection and review of all relevant documents of Love Mercy (in Australian and Uganda) including board minutes, training materials, reports and other associated documents in respect of this policy.

Further Information

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