

## Safer Recruitment 'Check List' and Guidance for Preventing Sexual Misconduct

Version July 2020

This checklist on safe recruitment and guidance is developed to support humanitarian and development organisations/agencies in preventing sexual misconduct by personnel. Measures are not intended to replace or override any agency/organizational human resource policies or procedures but to support organisations that may not have in place measures for protection from sexual exploitation and abuse and other forms of serious misconduct in their recruitment and HR policies (please see Annex A for definitions of SEA and child safeguarding). If organizational policy permits, the guidance may also be used to strengthen existing HR practices and procedures.

Below recommendations are not intended to be exhaustive or prescriptive. As the guidance applies to a wide range of functions and responsibilities, organisations can tailor sample clauses and suggested questions, depending on requirements (for example front line staff, management roles, roles that have high SEA/safeguarding risks) and cultural sensitivities.

For international organisations, please check with your organisation's Headquarters before implementing changes to ensure it is in line with the internal global policy.

**This tool is intended primarily for HR personnel but may also guide others such as general administrative staff, programme managers, technical advisors and other relevant staff involved in the recruitment process.**

### Prior to job announcement; development of TORs/Job description

- Conduct a basic assessment to identify SEA and other safeguarding risk levels related to the role. This would cover the following:
  - *Does the post involve one-to-one contact with children or other vulnerable groups as employees, customers or clients?*
  - *What level of supervision will the post-holder receive? Is it unsupervised? Does it involve working in isolation?*
  - *Does the post involve any direct responsibility for finance or items of value? - Does the post involve direct regular contact with the public?*
  - *Are there any safeguards which can be put in place to minimize any potential risks?*
- The above is not intended to be exhaustive and may be further developed or adapted by organisations. (See sample risk assessment tool in Annex G)
- Make sure HR personnel, Leadership and others involved in the recruitment process, including interviews, are fully briefed on the PSEA policy and other safeguarding policies



### **Job announcement and application stage**

- Include PSEA, child safeguarding and/or sexual harassment clause(s) in job advertisements or position terms of reference (see sample language in Annex B). Additional clauses may be applied for roles that require direct inter-action with groups who are particularly vulnerable to protection risks (e.g. children, persons with disabilities, women, etc.).
- Link to the organisations PSEA/Safeguarding/Sexual Harassment and other staff rules and regulations online/on website.
- As part of the application process, include a requirement for applicants to self-declare/disclose prior sexual or other misconduct and termination of past employment, as well as to consent to the disclosure of any misconduct or termination information by their former employers as part of the recruitment process.
- If internal HR policy allows, if candidate responds in the affirmative to prior issues of misconduct or fails to consent to the disclosure of any misconduct, or if former proven misconduct is discovered during the vetting process, depending on the type of misconduct, consider rejecting the candidate, unless there are mitigating circumstances.
- Include questions on sexual misconduct in the PSEA, child safeguarding and workplace sexual harassment to be addressed by the potential candidate in their application (see sample questions in Annex C).

### **Interview stage**

- Include questions on PSEA, child safeguarding and workplace sexual harassment in interviews (see sample questions that may be adapted according to the role, in Annex C).

### **Reference checks**

- If not already in place, develop a misconduct disclosure policy so that information of any staff found guilty following internal investigations to have committed SEA or other serious misconduct is shared with an organization considering employment of a particular staff member to avoid rehiring transgressors.
- Provide prior notification to all candidates that references will be verified and that they will be vetted for former misconduct (e.g., prior criminal records, online searches (noting that the results of such searches should not be treated as decisive, given the potential for inaccuracies or false information, prior employment checks) in accordance with national laws regarding employment, privacy and data protection (see sample reference check questions in Annex D). For the UN, many agencies now make use of the 'ClearCheck' reference system, while INGOs are starting to sign up to the Misconduct Disclosure Scheme, managed by SCHR.
- Conduct reference checks with the current/former HR department of the potential candidate, including to confirm that there have been no prior confirmed instances/conclusive investigations of misconduct.
- Pay attention to long or sudden gaps in the individual's working history, and question the reason behind the gaps, either during the interview stage and/or for potential candidates during the reference checks and selection process.



- ❑ Consider verbal/oral reference checks for positions to complement written references.
- ❑ Ensure full reference checks with prior employers and national criminal records for roles working directly with most vulnerable groups, including GBV survivors, children, persons with disabilities, LGBTIQ persons, etc. For international recruitments, an up-to-date criminal record can be requested from the candidates last country of residence and/or home country. It should be noted that in some instances, such records may be difficult to access at the international level. For national criminal records, if there are protection concerns in physically accessing this information at police stations, records can be requested via PostLiban or by giving power of attorney to another family member.
- ❑ For reference checks, it is also important that organizations have in place a specific 'Policy against Retaliation'

### **Induction process**

- ❑ Require all new candidates to sign the Code of Conduct (provided to them in a language they understand) before being offered a contract. Be sure to explain the code of conduct fully to all new staff, personnel, volunteers, etc. and clarify any questions they may have to ensure they fully understand requirements. (See sample Code of Conduct, developed by the Lebanon PSEA Network in Annex H)
- ❑ If a Code of Conduct was not signed at the time of onboarding of existing staff or other personnel, consider following up to ensure this is signed by all personnel within the organisation.
- ❑ Include a PSEA clause in employment contracts, including when sub-contracting. In the contract, outline disciplinary measures in the event of proven SEA allegations (e.g. termination of contract, legal measures, if applicable, etc.). Clarify that if proven, serious misconduct may be disclosed to future employers requesting this information prior to employment. (See sample employment information disclosure clause in Annex F)
- ❑ Include training in PSEA, child safeguarding and sexual harassment as part of all mandatory onboarding processes with an attendance track tool/mechanism and provide refresher trainings/courses at regular intervals during employment tenures. Where access to online training courses is not available, training should be completed in person.

### **Performance management**

- ❑ Include adherence to Code of Conduct (e.g. participation in PSEA and safeguarding, as well as human rights and gender equality trainings) in performance appraisals of all staff
- ❑ Clearly include in the TORs, workplans and performance appraisals for Senior Staff/Management and PSEA/ Safeguarding focal points, their roles and responsibilities in creating and maintaining an environment, which prevents and responds to sexual exploitation and abuse and/or sexual harassment. Senior Managers have specific responsibilities and accountabilities in that regard.
- ❑ Depending on the nature of the misconduct, consider limiting professional advancement opportunities or transfer options for individuals under investigation. Ensure due process is respected at all times.

- In cases of confirmed misconduct, take robust disciplinary action (e.g., dismissal, suspension, written censure or other administrative/corrective measures, depending on the nature of the violation).
- Where a case involves possible criminal conduct, if the SEA survivor/person harmed consents, report the incident to national law enforcement authorities. Before reporting, conduct a risk assessment regarding reporting to authorities and ensure the person harmed makes an informed decision by providing access to legal advice and information. Ensure safety and protection measures are applied, if required.
- Maintain a confidential database of disciplinary measures on staff found guilty after an investigation, including dismissals, to avoid rehiring them at a later point in time and to support reference checking among UN and NGO actors (see sample template in Annex E). Ensure data protection in handover processes between responsible HR staff, management and storage of records. For international organisations such records are typically held at headquarter level. Please consult with your agency/organisation's HR Department at HQ level regarding policy and practices within your organisation.

## Annex A: Key Definitions

**Sexual Exploitation** is defined as: "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." This includes acts such as "transactional sex", "solicitation of transactional sex" and "exploitative relationship".

**Sexual Abuse** is defined as: "The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. All sexual activity with a child is considered as sexual abuse." Sexual abuse includes acts including "rape", "sexual assault", "sex with a minor", and "sexual activity with a minor".

**Sexual Harassment versus SEA:** SEA occurs against a beneficiary or member of the community. Sexual harassment occurs between personnel/staff and involves any unwelcome sexual advance or unwanted verbal or physical conduct of a sexual nature.

UN Secretary-General's Bulletin (ST/SGB/2003/13): <https://undocs.org/ST/SGB/2003/13> and IASC Best Practice Guidance on CBCMs (PSEA):

[https://interagencystandingcommittee.org/system/files/best\\_practice\\_guide\\_inter\\_agency\\_community\\_based\\_complaint\\_mechanisms\\_1.pdf](https://interagencystandingcommittee.org/system/files/best_practice_guide_inter_agency_community_based_complaint_mechanisms_1.pdf)

**Child safeguarding** may be defined as actions taken by a company/organisation to prevent physical, sexual and emotional abuse and maltreatment perpetrated by employees or other persons whom the company is responsible for, including contractors, business partners, visitors to premises and volunteers. Safeguarding includes proactive measures to keep all children who come into contact with a company employee or representative safe from harm as a result of that contact. UNICEF, Child Safeguarding Toolkit, 2018: [https://www.unicef.org/csr/files/UNICEF\\_ChildSafeguardingToolkit\\_FINAL.PDF](https://www.unicef.org/csr/files/UNICEF_ChildSafeguardingToolkit_FINAL.PDF)

## Annex B: Sample PSEA Clause for Job Advertisements

**(Organization's name)** has a zero tolerance to Sexual Exploitation and Abuse of beneficiaries. Protection from Sexual Exploitation and Abuse (PSEA) is everyone's responsibility and all staff are required to adhere to the Code of Conduct, that enshrines principles of PSEA, always (both during work hours and outside work hours). Familiarization with, and adherence to, the Code of Conduct is an essential requirement of all staff, in addition to related mandatory training. All staff must ensure that they understand and act in accordance with this clause.

## Annex C: Sample Application and/or Interview Questions on PSEA

Below are sample questions. Not all questions need to be asked and questions can be adapted depending on the position (field level or national level; direct interaction with affected people, specific vulnerable groups (children, person with disabilities, etc.), level of responsibility/managerial requirements, cultural appropriateness, etc. For entry level positions, more simple clear questions made be more appropriate. Explain that to the candidate that they are not being evaluated for the role based on these questions but that their answers will provide a baseline for better understanding their prior knowledge on sexual misconduct.

- Have you ever been investigated for a breach of your organization's Code of Conduct, safeguarding or PSEA policy? *[this question can also be asked as part of the application process]*
- The Organization's Code of Conduct applies to all staff, both on and off duty. Do you have any issues with that and with signing the CoC? See sample organizational Code of Conduct below. *[this question can also be asked as part of the application process, along with an explanation of the organisation's Code of Conduct]*
- *All staff in (organisation's name) are required to complete training on PSEA and SH in the work place. Are you willing to take part in and complete such trainings?*
- Tell us about a time when you witnessed a case of abuse of power in the workplace. What action, if any, did you take? What did you learn?
- Some individuals may be more vulnerable to sexual exploitation and abuse than others. What groups or individuals do you think would be more at risk in terms of **(organization's name)**/related to the position you have applied for?
- SEA concerns: Consider this scenario: One of your team members, tells you in confidence that another team member behaved in an inappropriate way, making sexual jokes and sending pornographic images, with some female beneficiaries. Your team member feels very uncomfortable but asks you not to say anything, as they are concerned that it would damage the work relationship if their colleague discovers that they have reported on him/her. What would you do? Who else should be informed?

- For managerial level roles: What measures would you take to ensure you are promoting an environment within your team/organisation which prevents sexual exploitation and abuse and promotes the implementation of the organisation's code of conduct, and that systems are developed which maintains this environment.

## **Annex D: Sample Reference Check Questions on PSEA**

Check your organization's internal hiring policies for guidance on how many referees should be contacted. Generally, only the listed referees should be contacted; however, in some cases, in order to gain a more objective point of view on past misconduct, the Human Resources Manager /or Senior Human Resources Officer or relevant senior management staff member(s) of the candidate's last place of employment may be contacted in order to provide a reference.

*Consider also conducting oral/verbal reference checks to complement written references as referees may feel more comfortable speaking about past infringements instead of writing about them on paper.*

*If possible, consider also*

- How do you know the candidate?
- For how long have you known the candidate?
- Do you have any suspicions that the candidate violated your organization's Code of Conduct, including sexual exploitation and abuse and sexual harassment in the workplace?
- For roles with direct interaction with groups at high risk of SEA; would you consider the candidate suitable to work with children and / or vulnerable adults?
- Hypothetically, would you like to employ or work with the candidate again? Why or why not?

## Annex E: Sample Database of Disciplinary Measures

The following headings may be used if the organization does not already have a database of disciplinary measures. Ensure data protection by storing file securely (e.g. password protected, not in a shared folder and only accessible to select, relevant individuals who are trained on data protection requirements). If the organization keeps hard copy records, make sure this is safely stored in a locked cabinet.

Name of staff member	Contract start date	Contract end date	Type of misconduct alleged	Allegation substantiated/unsubstantiated	HR focal name	Comments

## Annex F: Sample disclosure of information related to breach of Code of Conduct for personnel employment contracts

**Breach of Code of Conduct and Sharing of Information:** We are required to share details of certain breaches of [insert organisation's name] Code of Conduct, specifically those related to fraud, sexual exploitation, abuse and harassment and trafficking in persons, with external organisations such as institutional donors, regulatory bodies and future employers.

In the event where you have been found to be in breach of these aspects of [insert organisation's name] Code of Conduct, your personal details (e.g. name, date of birth, address and nationality) and details of these breaches will be shared with these external bodies. Organisations may retain this data and use it to inform future decisions about you.

In addition, where we are working in partnership with another organisation and where there are allegations of breaches in the above areas against you, we will cooperate with any investigation being undertaken and will share your personal details with investigation teams.





## Annex G: Sample Tool to assess the safeguarding risk level for jobs

*Developed by Concern Worldwide for Concern Worldwide jobs*

*To be completed by Hiring Manager at job description development stage.*

Job Title of vacancy: \_\_\_\_\_ Location: \_\_\_\_\_

Assessed by: \_\_\_\_\_ Date: \_\_\_\_\_

HR

Hiring Manager

\*Requires criminal background check and 'high' level of safeguarding interview questions

\*\* No criminal background check required and low / medium level of safeguarding interview questions to be used.

Job involves:	Yes	No
Lone working, direct contact with vulnerable adults <sup>1</sup> and / or children	*	
Work at senior management overseas (CD, PD, SD, CFC or senior person in geographical area, such as an Area Coordinator)	*	
Purely office based (incidental to no contact with vulnerable adults or children and no unsupervised travel) – contact with vulnerable adults and/or children would not be a regular <sup>2</sup> occurrence in the role	**	
Work involves providing or delivering services to vulnerable adults or children creating regular or unsupervised direct or indirect contact, such as work in; <ul style="list-style-type: none"><li>• Health Centres,</li><li>• Education,</li><li>• Hygiene,</li><li>• Psychosocial Support Services,</li><li>• Camps,</li><li>• Advice &amp; information provision,</li><li>• Distribution,</li><li>• Cash Transfers,</li></ul>	*	

<sup>1</sup> an adult at risk means a person, who has attained the age of 18 years who is unable to take care of himself or herself, or is unable to protect him or herself from abuse or harm

<sup>2</sup> Regular should be defined as i) once a week or more, ii) four or more days in a 30 day period, iii) overnight





<ul style="list-style-type: none"><li>• Research,</li><li>• Home Support Visits,</li><li>• Graduation Programmes.</li></ul>		
Access and authority to disperse resources overseas directly to beneficiaries	*	
International posting	*	

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
(Director authorising the recruitment)

## Annex H: Sample Code of Conduct, including PSEA (developed and endorsed by Lebanon PSEA Network, May 2020)

### Code of Conduct for humanitarian, development and peace workers to prevent and protect against sexual exploitation and abuse (PSEA) in Lebanon

I, \_\_\_\_\_, working for \_\_\_\_\_ office in \_\_\_\_\_, am signing this Code of Conduct to confirm that I understand and commit to uphold the highest standards of professional and personal conduct. I understand that the Code of Conduct applies to me throughout the period that I am employed by or representing a humanitarian or development organization, including when I am off duty, or away from my duty station or on leave. I understand that this Code of Conduct complements, but does not replace, any other policies, rules and regulations of the organization that I am working for.

#### Maintaining high standards of personal and professional conduct

I understand that I have a personal and professional responsibility at all times to ensure that *all* women, girls, boys and men of all ages, diversity and abilities are treated with dignity and respect, regardless of nationality. As a humanitarian or development worker involved in the provision of services and assistance to people in need in Lebanon I understand that I have a responsibility to uphold humanitarian principles and to ensure the integrity of the humanitarian operation. In this regard, I will not take part in any of the following:

- Engaging in any form of discrimination, harassment, abuse, intimidation or exploitation, or in any activity that undermines people's ability to exercise their human rights;
- Engaging in or facilitating any form of theft, fraud, corruption or abuse of power/authority;
- Asking for or inviting any personal payment, service or favour from others, without exception, in return for humanitarian assistance, support, goods or services of any kind;

- Being in possession of, or profiting from the sale of, illegal goods or substances;
- Taking bribes;
- Accepting significant gifts (except small tokens of appreciation) from governments, affected people, donors, suppliers or others, which have been offered as a result of my employment or representation role with the organization, without declaring them;
- Entering into any sort of business relationship on behalf of the organization with members of my own family without prior authorization;
- Viewing, downloading, creating or distributing pornography on the organization's computer/system;
- Engaging in or facilitating any unlawful activities such as child trafficking, human trafficking, drug trafficking, trafficking of weapons or any other illegal goods or substances;
- Active participation in partisan politics or active affiliation with political groupings and/or armed groups which might compromise neutrality in the provision of humanitarian assistance.

### **Protection from Sexual Exploitation and Abuse**

I understand that sexual exploitation and abuse is unacceptable behaviour that undermines the fundamental values and principles of humanitarian and development assistance. It also jeopardizes the credibility and reputation of all organizations involved in the response and causes irreparable harm to survivors of sexual exploitation and abuse and to the faith and trust in humanitarian actors' relationship with the affected population. In order to prevent sexual exploitation and all forms of abuse including sexual, physical, emotional, spiritual and financial, I am therefore fully committed to respect and abide by the following core principles: <sup>3</sup>

- Sexual exploitation and abuse is a serious misconduct and grounds for disciplinary measures, including summary dismissal and/or legal action;
- Sexual activity with children (persons under the age of 18) is prohibited, regardless of the age of majority or local age of consent. Mistaken belief in the age of the child is not a defence;
- Exchange of money, employment, goods or services for sex, including any humiliating, degrading, or exploitive behaviour is prohibited;
- Any sexual relationship between those providing humanitarian and development assistance and protection and a person benefitting from such humanitarian and development assistance and protection that involves improper use of rank or position is prohibited. Such relationships undermine the credibility and integrity of humanitarian and development work.

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<sup>3</sup> **Sexual Exploitation** is any actual or attempted abuse of a person in 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. **Sexual Abuse** is the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.



- Workers providing assistance to beneficiaries of humanitarian assistance are obliged to create and maintain an environment that prevents sexual exploitation and abuse. Managers at all levels have an additional responsibility to do so;
- Where a staff member or associate has concerns or suspicions regarding sexual exploitation or abuse by an aid worker, he/she must report such concerns.
- In addition, all personnel are reminded that any form of sexual harassment and abuse of authority by staff members, supervisors or partner organizations is not allowed. All organizations are accountable to have internal policies and reporting mechanisms and ensure that appropriate and independent investigations of complaints of sexual harassment and abuse of authority can be executed by the organization.
- The safety, protection and wellbeing of survivors of sexual exploitation and abuse, or sexual harassment and abuse, shall be paramount to any intervention.

#### **Reporting on incidents that may breach the Code of Conduct**

I understand that I have a responsibility to report on incidents that may be a breach of this Code of Conduct and that there may be disciplinary measures for not reporting. In this regard, I commit to:

- Report any incident or concern that relates to, or may relate to, a breach of this Code of Conduct even if by a humanitarian worker in an organization other than mine;
- Raise any matters that I believe are in breach of, or may be in breach of, the Code of Conduct through the appropriate channels, in line with the internal policies and procedures of the organization.

#### **Repercussions for breach of the Code of Conduct**

I understand that failure to comply with the standards of behaviour defined in this Code of Conduct may be grounds for disciplinary measures, including summary dismissal and/or legal action. This may include referral to the relevant national authorities for appropriate action, including criminal prosecution.

*For further information, please consult your organisation's PSEA Focal Point: [insert relevant contact details]*

By signing this Code of Conduct, I confirm that I have understood it and have had it explained to me and that I hereby agree to uphold its principles.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Human Resources Department

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_