

# Preventing Sexual Exploitation and Abuse (PSEA) Guidelines

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## **1. PURPOSE**

This guideline elaborates on the Institute Code of Conduct to provide further information and interpretation for the implementation of the Policy with regards to preventing and effectively responding to sexual exploitation and abuse (SEA) of beneficiaries and vulnerable members of the community in the delivery of humanitarian and development projects by the Institute.

## **2. APPLICABILITY**

These Guidelines are applicable to all Institute operations and all Representatives of the Institute. They also apply to any project where the Institute has responsibility for the functions of the Responsible Official. Any deviation from these Guidelines requires the approval of the Responsible Official.

## **3. DEFINITIONS**

“Beneficiary” is a term used to describe a person who receives assistance as part of humanitarian relief or development programs.

“Bullying” can be defined as any unsolicited or unwelcome act that humiliates, intimidates or undermines the individual involved and includes cyber-bullying. Bullying is a form of abuse, which can come from staff or peer behavior.

“Child” or “Children” means a person or persons who is or are below the age of 18, regardless of the age of majority/consent in the relevant country. Where the age of majority/consent in the relevant country is anyone aged 18 or above 18 then that higher age limit shall apply and take precedence.

“Commercial Sex Act” means any sex act on account of which anything of value is given or received.



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“Complainant” is the person reporting (or “making a complaint” about) SEA. This could be the survivor or another person who becomes aware of the alleged wrongdoing.

“Complaints Procedure” a framework that describes the course of action for receiving and processing allegations of SEA. This includes systems for processing complaints within an organization, as well as procedures for beneficiaries to bring complaints forward.

“Duty of Care” refers to the obligation of the Institute to take reasonable care to prevent foreseeable harm to any Representative and provide a safe system of work.

“Employee” means any person who has a part-time, full-time, intermittent, continuous, or fixed-term employment relationship with the Institute.

“Gender-Based Violence (GBV)” is an umbrella term for any harmful act that is perpetrated against a person’s will and that is based on socially-ascribed (gender) differences between males and females.

“Guidelines” means the written elaborations on Institute policy that provide further information and interpretation for the implementation of policy.

“Incident” is defined as a work-related health, safety, security or environmental event which results in, or has the potential to result in, an undesired outcome.

“Institute” refers to INSTITUTO DE TECNOLOGIA DE SOFTWARE E SERVIÇOS ITS and all of its subsidiaries.

“Investigation Procedure” means a framework that describes the course of action to be taken when conducting SEA investigations.

“Implementing Partner” means an organization executing a project or undertaking work in the name of another organization.

“Representative” means an Employee or any person who has an independent individual contractual relationship with the Institute, whether a contractor, consultant, or agent of the Institute. This includes non-executive directors of the board.

“Safeguarding Focal Person” means the project Representative responsible for coordinating Safeguarding measures and acting as an escalation point for local issues.

“Sexual Abuse” is a term used to describe any actual or threatened physical intrusion that is of a sexual nature, whether by force or under unequal or coercive conditions.

“Sexual Exploitation” is a term used to describe 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. This definition includes human trafficking and modern slavery.

“Sexual Harassment” means, including but not limited to, unwanted sexual advances, sexual jokes, subtle or overt pressure for sexual favors, sexual innuendoes and offensive propositions.

“Survivor” refers to the person who has been abused or exploited. The term ‘survivor’ is often used in preference to ‘victim’ as it implies strength, resilience and the capacity to survive, however it is the individual’s choice how they wish to identify themselves.

“Witness” is a person who gives testimony or evidence in an SEA investigation. A witness may be the survivor, the complainant, a beneficiary, a staff member of any project contractor, the subject of the complaint, or a Representative.

## **4. GUIDELINES**

### **4.1. Scope**

These Guidelines expand upon the Institute Code of Conduct which outlines the ethical standards and acceptable behaviors that are applicable to all Institute operations and all Representatives of the Institute.

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Breaching the Institute Code of Conduct is considered a serious offence and carries with it disciplinary action, up to and including dismissal and/or termination of contract. Further, if criminal activity is suspected, the Institute will report to the relevant authorities as applicable.

## **4.2. Principles**

The below principles are clearly set out and underpin the Institute's intent to do no harm, safeguard the vulnerable and respect the communities we support and serve, and to protect the reputation of the Institute and its clients.

- Prevention: The Institute considers that it is best to act before harm occurs;
- Proportionality: The least intrusive response appropriate to the risk presented;
- Protection: Support and representation for those in greatest need, protection of survivors of sexual exploitation and abuse, and protection of those reporting concerns;
- Partnership: Acknowledging communities have an important part to play in preventing, detecting and reporting abuse;
- Accountability: Accountability and transparency in delivering project outcomes and supporting communities.

## **4.3. The Institute Commitment**

The Institute believes that everyone we come into contact with, regardless of age, gender, disability, sexual orientation, religion or ethnic origin has the right to be protected from all forms of harm, abuse, neglect and exploitation. The Institute will not tolerate abuse and exploitation by Representatives or contractor personnel. The Institute commits to addressing SEA throughout its work, through the three pillars of prevention, reporting and response.

These Guidelines follow the United Nations Inter-Agency Standing Committee (IASC) summary of good practice in Preventing Sexual Exploitation and Abuse and Sexual Harassment and Abuse of Aid Workers published 31 May 2018.

Additional reference documentation includes;

- CHS Alliance PSEA Handbook (2017);
- DFID Strategic Vision for Gender Equality (2018);
- DFID's enhanced due diligence guidelines for safeguarding (2018);
- IASC Global Review of Protection from SEA (2010);

#### **4.4. Key Clarifications and Aligned Policy Reference(s)**

##### **4.4.1. What is Safeguarding?**

The Institute defines Safeguarding as “the preventative action taken globally by the Institute to protect the communities we work with, our people and clients from harm.”

DFID defines Safeguarding as follows in its Enhanced Due Diligence (June 2018): “Safeguarding in its broad sense means protecting people and the environment from unintended harm, but in this guidance, DFID is focusing on preventing and responding to harm caused by sexual exploitation, abuse, harassment or bullying. The aim is to minimize the likelihood and impact of these actions towards both the people we are trying to help, and also people who are working in the sector”.

##### **4.4.2. What is Sexual Exploitation and Abuse?**

SEA refers specifically to acts committed against children and adults. Further, SEA has two key components;

- Sexual Exploitation: 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.
- Sexual Abuse: The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

#### **4.4.3. What is the difference between SEA and sexual harassment?**

SEA occurs against a beneficiary or vulnerable member of the community; it occurs when power differentials between staff and beneficiaries are abused. Sexual harassment occurs between Institute Representatives when power differentials are abused.

Sexual harassment is usually used to describe bullying or coercion of a sexual nature and the unwelcome or inappropriate promise of rewards in exchange for sexual favors within the staff member's organization. If a Representative is concerned with any single or ongoing interaction between Institute Representatives, please reference Code of Conduct guidelines and Whistle-blowing Guidelines.

#### **4.4.4. What is the difference between SEA and Gender-Based Violence (GBV)?**

GBV is violence that is perpetrated against someone because of his/her gender. Thus, SEA is viewed as a form of GBV, as survivors of SEA are often abused because of their vulnerable status as women, girls, boys, or even men (in some circumstances).

#### **4.4.5. What is the difference between SEA and Child Exploitation and Abuse?**

Child Exploitation and Abuse means one or more of the following: committing or coercing another person to commit an act or acts of abuse against a Child; possessing, controlling, producing, distributing, obtaining or transmitting child exploitation material; committing or coercing another person to commit an act or acts of grooming or online grooming. Therefore, Child Protection means the responsibilities and activities undertaken to prevent children being harmed through abuse.

Whilst there are common issues connecting SEA and child exploitation and abuse, separate categorization and organizational response is considered

important as children are particularly vulnerable and issues require tailored responses.

If a Representative is concerned, has witnessed or encountered a potential or an actual Child Protection event please reference the Institute's Child Protection Guidelines.

## **4.5. Prevention of Sexual Exploitation and Abuse Risks**

### **4.5.1. Institute Responsibilities**

Representatives are required to consider SEA risks and develop plans to manage them within projects as part of a comprehensive approach to Safeguarding. The project Safeguarding plan should cover recruitment, partner due diligence, program interventions and consider whether these can be managed with existing controls or whether additional activities are required.

The Institute will:

- Ensure all Representatives have access to, are familiar with, and know their responsibilities;
- Design and undertake all its projects and activities in a way that protects people from any risk of harm that may arise from their interactions with clients. This includes the way in which information about individuals in our programs is gathered and communicated;
- Implement stringent Safeguarding procedures when recruiting, managing and deploying Representatives;
- Ensure Representatives receive training on Safeguarding at a level commensurate with their role in the organization;
- Follow up on reports of Safeguarding concerns promptly and according to due process.

#### **4.5.2. Representative responsibilities**

Representatives must not:

- Exchange money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior. This includes exchange of assistance that is due to beneficiaries of assistance.
- Engage in sexual activity with Children. Mistaken belief regarding the age of a child is not a defense.

Additionally, Representatives must commit to:

- Contributing to creating and maintaining an environment that prevents Safeguarding violations and promotes the implementation of these Safeguarding Guidelines.
- Reporting any concerns or suspicions regarding Safeguarding violations by a Representative.

In addition:

- Sexual relationships between Representatives and beneficiaries are strongly discouraged since they may be based on inherently unequal power dynamics. Where this becomes an issue for a Representative, it should be discussed with the Representative's line manager or main Institute Contact.

#### **4.5.3. Recruitment**

We believe that key to prevention of SEA is a high standard of management practice and quality control consistently applied to Representatives at recruitment and selection and subsequently through induction, performance management and review, support, supervision and monitoring.

As part of recruitment and personnel management processes, the Institute will:

- Ensure all potential applicants are aware of our Safeguarding commitments via the job advert announcements.
- Adhere to recruitment and selection processes which ensure employment and due diligence checks are completed and references obtained before an individual start work; this includes DBS checks for Employees recruited in the UK. Gaps in work or employment history should be questioned.
- Ensure all Representatives read and acknowledge the Code of Conduct and associated policies (including Child Protection Guidelines, PSEA Guidelines and Whistle-blower Protection Policy).
- Provide Safeguarding training on induction.
- Review performance of Representatives throughout their employment or period of contracting with the Institute including, as appropriate, probation reviews.

#### **4.5.4. Awareness Raising and Training**

Project Safeguarding Focal Persons (SFPs) and the Directors of the Institute are responsible for providing appropriate training and for supporting the operationalization of, and compliance with, PSEA policy and associated guidelines across projects and at corporate level.

The Institute will ensure all supporters, donors, sponsors and media representatives involved with Institute work have access to the Code of Conduct and will take appropriate steps to communicate that availability.

#### **4.5.5. Project Risk Assessment**

Project Directors are responsible for ensuring that PSEA risks are assessed as part of a project level Safeguarding risk assessment and that risks identified are addressed as part of project design activities. The assessment should be updated

as part of ongoing project risk management activities and where significant adjustments to project activities are planned.

## **4.6. Reporting**

### **4.6.1. Community Complaint Mechanisms**

There has been recognition that there is chronic under-reporting of incidences of SEA. To address this shortfall, projects that work directly with communities, or whose downstream partners work directly with communities, may be required to put in place appropriate and accessible reporting mechanisms. Whilst the specific mechanism used will vary from project to project, further guidance is provided in the Safeguarding Handbook.

### **4.6.2. Incident Reporting**

A Safeguarding complaint can be made by:

- A Representative;
- Partner organization or subcontractor;
- Community or individual with whom we work;
- Any member of the public whether an individual, Institute or other entity in the UK or around the world.

All Representatives must report internally any concerns, including both specific complaints and rumors, regarding possible sexual exploitation or abuse by a Institute Representative or any other person involved in or connected with the project or its activities.

Reports can be made to:

- Project specific Safeguarding Focal Persons (SFPs) or any Director of the Institute.
- The Institute whilst-Blowing Hotline, according to Whistle-blower Protection Policy. The person reporting a complaint will have the choice to

remain anonymous. The information is passed to the most appropriate party for investigation and action.

- If a Representative does not feel comfortable reporting to their project Safeguarding Focal Point or a Director of the Institute, they may report to any other appropriate Institute Representative. For example, this could be the Project Director, a senior manager or a member of the Institute's HR Team.

Failure to report information could result in disciplinary action. Complaints should be reported even when the institutional affiliation of the perpetrator is unknown.

Concerns that must be reported include, but are not limited to:

- A practice or behavior suggesting that a Representative or any other person involved in or connected with the project or its activities has abused the power invested in him/her, by virtue of his/her post, to sexually exploit or abuse a community member / beneficiary or any other individual;
- An allegation that a Representative or (as above) has breached the Institute's Code of Conduct and/or policy and rules regarding sexual exploitation and abuse within or outside the work environment (e.g. by engaging in a sexual relationship with a child or procuring sex);
- Concerns that cover a wide range of issues involving the exploitation of women and/or children ranging from inappropriate behavior to possible criminal offences;
- Concerns regarding the current or past behavior of a Representative or (as above);
- Concerns expressed by a government partner, UN agency, NGO or INGO about the behavior of a Representative or (as above).

#### **4.6.3. Investigation**

The Institute will follow up reports and concerns of incidences of sexual exploitation and abuse according to policy and procedure, and legal and statutory obligations.

The Institute will apply appropriate disciplinary measures to Representatives found in breach of policy.

The Institute will offer support to survivors of harm caused by Representatives or (as above), regardless of whether a formal internal response is carried out (such as an internal investigation).

Decisions regarding support will always be led by the survivor.

#### **4.7. Confidentiality**

It is essential that confidentiality is maintained at all stages of the process when dealing with SEA concerns. Information relating to the concern and subsequent case management will be shared on a need to know basis only and will be kept secure at all times.

#### **4.8. Periodic review**

These Guidelines will be reviewed every five years, or more frequently if required.

#### **4.9. Duty to comply**

It is the responsibility of each Representative of the Institute to comply fully with these Guidelines. Failure to comply may be subject to disciplinary action including contract termination, contract non-renewal or other appropriate action.