

Code of Conduct for Addressing Sexual Violence

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Leadership message

The equality effect (e²) develops and implements legal solutions to girls'/women's inequality, including eliminating impunity for rape. Using international, inter-disciplinary teams, e² creates systemic change that disrupts the existing discriminatory status quo. The equality effect provides international social justice leadership, making girls'/women's rights real.

The objective of this document is to articulate our shared commitment to preventing sexual violence in our organization and programs by defining a framework for the way we carry our work and set out expectations. However, to be efficient the Code of conduct needs to be translated into actions. Identifying gaps between policies and practices and working to close them are paramount.

As light has been shed on sexual violence within our sector, it is our Duty of Care to ensure everything is being done to mitigate risks of sexual violence and do no harm in the communities we serve. In recent literature covering sexual violence prevention, **organizational culture** has been defined both as a key factor of the **problem and** as part of the **solution**. To create cultural change in our sector, it is essential that everyone actively address issues contributing to sexual violence.

It is on all of us to change the culture around sexual violence!

Our commitments

the equality effect is committed to improving our collective ability to recognize and tackle **power imbalances and gender inequalities** that can enable sexual violence, including **intersecting forms of discrimination**.

We are committed to establishing a **culture of zero tolerance** to all forms of sexual violence in all the work that we do.

We are committed to creating a work **environment free from sexual violence** for staff, volunteers, partners and local populations within our organizations and the countries in which we operate.

We are committed to **protecting people** involved in our programs and the **communities we serve** from sexual exploitation and sexual abuse, especially children.

We are committed to building knowledge and capacity around **survivor/victim-centred approaches**.

Guiding Principles

the equality effect recognizes that sexual violence, notably sexual exploitation and sexual abuse, violate universally recognized international legal norms and standards. We deliver projects and programs grounded in a human rights framework.

Sexual violence is rooted in **power** violence, we need to explore power imbalances based on racism, sexism, ableism, homophobia, transphobia and other interrelated stereotypes. In other words, we use a holistic approach to sexual violence prevention, considering how different facets of an individual personal characteristics' interplays. This approach is also referred to as **intersectionality**. As we navigate international legal norms, Canadian laws as well as national laws in the countries we work in, we will not always be able to explore power imbalances, especially based on homophobia and transphobia. We will however engage partners in a dialogue on bases of discrimination (i.e.sexual orientation, gender identity), as defined by the Canadian legal framework.

Zero-tolerance means that inaction towards sexual violence is unacceptable. Appropriate disciplinary action will be taken against the perpetrator following an investigation process. Sexual violence can be grounds for dismissal.

In recent literature on the prevention of sexual violence, **organizational culture** has been defined both as a key driver of the problem and as part of the solution. We therefore decided to address risks of sexual violence by engaging personnel, partners, volunteers and other program stakeholders on these issues.

Sexual violence prevention is everyone’s responsibility.

the equality effect will focus on **consent** to raise awareness on issues of sexual violence. As such, sexual activities with the absence of consent will be considered as an assault. The absence of “no” is not a synonym of consent. Consent can be withdrawn at any time. Furthermore, obtaining “consent” when an individual is impaired or threatened is not a valid consent.

When we investigate, we protect the rights of both the complainant and the respondent. We are **factual, fair** and uphold **confidentiality** measures. We maintain Independence between investigation process and provision of assistance. We recognize the importance of identifying competent, skilled and experience individuals to run investigations which may be internal or external.

When responding to sexual violence, we use a **Survivor-Centered-Approach** by giving the control over the decision-making process to the survivor following an incident. However, there are limitations to this approach. Under certain circumstances the organization may reclaim decision-making authority. Depending on the laws and legal obligations related to sexual violence in each country of activities, the equality effect might not be able to provide the flexibility required by the survivor. If the survivor’s choice places them or others at risk of further harm the organization may also reclaim decision-making authority. Being transparent about these limitations mitigate risks of revictimization. In such cases, survivors may feel less in control, but the focus of the approach is ultimately on their recovery and health and on the protection of others.

By building capacity regarding sexual violence, we can better serve individuals, families and communities and ultimately do no harm.

Q&A

How to apply an intersectional lens when responding to sexual violence with a survivor-centered approach?

Individuals face different risks of sexual violence related to, among other factors, race, disability, Indigeneity, sexual orientation, gender identity and gender expression, age, and socio-economic status. Translating an intersectional approach into actions means striving to reduce barriers to survivors accessing support. The support provided shall adapt, as needed and as requested, to the different perspectives or circumstances of each survivor. Survivors may have different degrees of confidence in institutional services and remedies (e.g. courts, police, and official authorities), because of their associations of such institutions with sexism, colonialism, racism, and other forms of systemic oppression.

Addressing sexual violence with an intersectional lens means it is grounded in an understanding that each person’s experience is impacted by many factors. It is important to recognize that a person’s perspective or circumstance could make them more vulnerable to sexual violence and this could also impact their needs and choices with regard to recourses. Systemic oppression, including but not limited to, sexism, racism, colonialism, ableism, homophobia, and/or transphobia, can manifest into acts of sexual violence, and impact the resources and options a survivor may pursue.

Our Shared Responsibilities in Upholding This Code

Individual Responsibilities

Volunteers, interns, staff, managers, board members and subcontractors must:

- ✓ Familiarize themselves with this Code of Conduct and uphold it.
- ✓ Make every reasonable effort to ensure and maintain an environment free of sexual violence.
- ✓ Raise concerns regarding risks or possibilities of sexual violence.
- ✓ Report incidents of sexual violence.
- ✓ Treat any information related to sexual violence with utmost confidentiality and share related information only on a “need-to-know” basis, i.e. only with designated relevant parties.

Managers’ Responsibilities

Managers have a key role to play and bear added responsibilities to:

- ✓ Ensure volunteers, interns, staff and subcontractors under their supervision are informed, understand and comply with the Code of Conduct.
- ✓ Ensure training on sexual violence is provided.
- ✓ Set example for appropriate behaviours.
- ✓ Address concerns and respond to incidents and disclosures according to organizational standards.
- ✓ Protect individuals from retaliation.
- ✓ Use appropriate sanctions when lack of compliance is established.

Organizational Leadership Responsibilities

Executive Director and Board members are expected to ensure every effort is being made to prevent sexual violence from occurring, and verify that an adequate response and protective measures are implemented once they become aware of an incident by:

- ✓ Ensuring sufficient human and financial resources are available for the organization to follow through on its commitment,
- ✓ Ensuring the implementation of best practices in recruitment and onboarding in accordance with the Code of Conduct,

Q&A

What exactly is my responsibility?

It is your responsibility to ensure nobody feels uncomfortable, threatened or unsafe because of your behaviour. You must create an environment that is safe and respectful. It is also your responsibility to report any suspected incidents of sexual violence by individuals covered by this Code of Conduct.

What is the added responsibility of individuals in management position?

Anyone who performs management duties and who commits an act of sexual violence or who knew of the sexual violence and did not take steps to remedy the situation, engages the liability of the organization.

- ✓ Ensuring that all volunteers, interns, employees, managers and subcontractors understand, sign and comply with the Code of Conduct,
- ✓ Ensuring that every partner organizations either sign this Code, develop or have their own Code of Conduct,
- ✓ Ensuring protection from retaliation to individuals raising concerns or reporting incidents,
- ✓ Ensuring performance management to mitigate against the occurrence of sexual violence, including taking corrective action when needed,
- ✓ Review the Code of Conduct and its implementation on an annual basis.

! The previous section has been included in the Code of Conduct to illustrate the need for engagement at every level of the organization and define expectations for accountability. As we move up an organizational structure, obligations augment: managers have the combined responsibilities of individuals and managers, as they can engage liabilities if they ignore incidents.

Options to consider:

- If an organization has a Human Resources department, add specific responsibilities to this service.
- If an organization has a board committee overlooking risk management, specific responsibilities could be added to their mandate.
- An organization might also decide to include expectations regarding partners' engagement and collaboration towards awareness and prevention of PSEA in contracts and memorandum of understanding.

Further readings:

Feinstein International Center Report: Executive Summary: STOP the Sexual Assault Against Humanitarian and Development Aid Workers, <https://fic.tufts.edu/publication-item/executive-summary-stop-sexual-assault-against-aid-workers/>

EISF Guide for NGOs: Managing Sexual Violence against Aid Workers, European Interagency Security Forum, <https://www.eisf.eu/library/managing-sexual-violence-against-aid-workers/>

PSEA Task Force Website, multiple resources available, <http://pseataaskforce.org/>

Sexual Violence Briefing Notes by AQOCI, <https://www.aqoci.qc.ca/?-ressources-sur-l-egalite-femmes-hommes->

Other relevant policies and organizational documents:

N/A

Our Commitment to Our Colleagues

At the equality effect we foster a healthy work environment.

You Uphold the Code of Conduct When you:

- ✓ treat everyone with respect, not infringing on somebody else's rights,
- ✓ discourage jokes or comments that are sexist, racist, heterosexist, ableist, etc.
- ✓ respect the confidentiality of anyone involved in a complaint,
- ✓ co-operate in the investigation of complaints and the efforts to resolve them.

You Should Avoid:

- ✗ Condescending or disrespectful behavior, including derogatory messages, e-mails or comments on social media,
- ✗ Any form of sexual violence, including sharing sexually explicit materials without consent,
- ✗ Trivialise sexual violence notably by:
 1. avoid supporting myths and stereotypes around consent (e.g. once consent is given it cannot be removed, alcohol is useful to obtain consent, etc.)
 2. avoid denying or playing down sexual violence (e.g. "Boys will be boys" or "the culture is different here",)
 3. avoid making survivors responsible for being assaulted (e.g. a young person going out alone is asking for it, women wearing short skirts are partly responsible, etc.)
 4. avoid supporting myths and stereotypes around assault (e.g. people lie about being assaulted, false accusations are very common, etc.)

You Should Raise Concern:

- When suspecting possible violations of this Code of Conduct.
- When noticing risk factors in the workplace or in programs, including but not limited to:
 - acceptance of rape myths (e.g. "all men do this"),
 - strong bias against groups or individuals (e.g. remarks, jokes or banter that are crude, treating subordinates with disrespects, demeaning comments towards beneficiaries),
 - acceptance of coarsened social discourse outside the workplace (e.g. increasingly heated discussions of current events happening within or outside

Q&A

Should I raise concern about someone's behaviour even though I am not sure there is sexual violence going on?

You should share any concerns you have. It is for the investigators, not you, to follow up, investigate and confirm those concerns or suspicions. If you report allegations that subsequently prove to be untrue, you will not face repercussions where the reports were made in good faith. Your willingness to raise a concern may protect someone from further abuse.

One of my colleagues just sent me a pornographic image as a joke. I am very uncomfortable and trouble by the situation. What can I do?

Such an incident constitutes sexual violence. You are encouraged to report the incident using confidential channels to facilitate the organizational response. There is a difference between confidentiality and anonymity. If you reveal your identity, it is easier for the organization to investigate. It is also easier for the organization to protect you if you fear reprisal. The information shared and your identity is confidential.

- the workplace),
- minimization of other forms of misconduct such as bullying,
- substance abuse or encouraging alcohol consumption (e.g. excessive alcohol consumption at a work-related event).

You Should report:

- Unwanted, inappropriate or disrespectful sexual advances or harassment,
- Bullying, perceived threats, intimidation, verbal or physical outrages,
- Hostility to individuals due to race, religion, gender, gender identity, gender expression, sexual orientation, disability or other characteristic protected by law.
- Incidents of sexual violence or situations that threaten the safety, security or well-being of staff.

Our Commitments to our Partners and the Communities We Serve

Sexual violence is a considerable barrier to sustainable development and to the meaningful participation of individuals, and particularly women. Our responsibility is to do everything in our power to reduce risks of sexual exploitation and abuse for our partners and the communities we serve, especially children.

You Uphold our Commitments When you:

- ✓ Treat partners and community members with respect and dignity,
- ✓ Exercise special care to protect children against sexual exploitation and abuse,
- ✓ Recognize and acknowledge some of the power dynamics at play within our working relationships and stay alert to these realities (e.g. acknowledge your own privilege and bias and how it might influence your work, avoid reinforcing power dynamics)

Q&A

Why am I not allowed to pay for sex with sex workers? Isn't it consensual sex between adults?

In the vast majority of cases, especially in situations of poverty, the consent is far from freely given and is out of desperation, or coercion. Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited at the equality effect. This prohibition against exchange of money for sex means staff, volunteers, managers, board members, sub-contractors, partners may not pay for sex workers.

Aren't these rules an intrusion into my private life? Isn't what I do outside of office hours my own business?

When you work with the equality effect, you are a representative of the organizations during your personal time as well as during your work time. You accept this when you accept the job mandate. You are held to a very high standard of conduct because your behaviour, both professional and personal, is always associated with the equality effect.

- ✓ Build trust and recognize partners' strengths and contribution,
- ✓ Engage partners in a dialogue around sexual violence, sharing best practices, lessons learned and tools on a yearly basis.

You Should Avoid:

- ✗ Pursuing services from sex workers at all times, regardless of the local and national laws of the country of mission.
- ✗ Sexual activities with children (persons under the age of 18) and vulnerable adults³ regardless of the local age of consent⁴. Ignorance or mistaken belief in the age of the child or the status of the vulnerable adult cannot constitute a defence.
- ✗ Any action that would suggest or imply that a sexual act might be demanded as a condition for engaging in offered programs and services.
- ✗ Exchanging money, employment, lodging, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour. This includes the exchange for services to which program participants are entitled.
- ✗ Having a romantic or sexual relationship with an ultimate recipient or partners' staff since they are based on inherently unequal power dynamics.

You Should Raise Concern:

- When suspecting possible violations of this Code of Conduct,
- When noticing risk factors of sexual violence:
 - Acceptance of rape myths (e.g. "all men do this"),
 - Strong bias against groups or individuals (e.g. remarks, jokes or banter that are crude, treating subordinates with disrespects, demeaning comments towards beneficiaries),
 - Minimization of other forms of misconduct such as bullying,

Q&A

Why am I not able to have a relationship with ultimate recipients or partner's staff?

These relationships are based on inherently unequal power dynamics. Unequal power dynamics provides unsuccessful conditions to obtain consent and creates favorable conditions to abuse power and for sexual violence.

What to do if a community member reports an incident implicating another community member?

Listen empathetically and avoid expressing an opinion. You can refer him/her to pre-identified local service providers and keep a record of having done so. You are expected to report the incident and the steps taken to refer the community member. The equality effect, however, will not conduct a case documentation or an investigation but an incident report will need to be completed. If the incident involves a minor, the equality effect might be obligated to report the incident to local authorities.

³ Vulnerable adults are defined as: 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, are deemed to be at risk.

⁴ Local and national laws of the country where programs are implemented.

- Substance abuse or encouraging alcohol consumption (e.g. excessive alcohol consumption at a work-related event),
- Hostility, demeaning attitudes or objectification.

You Should Report:

- Unwanted, inappropriate or disrespectful sexual advances or harassment,
- Bullying, perceived threats, intimidation, verbal or physical outrages,
- Hostility to individuals due to race, religion, gender, disability or other characteristics protected by law of the country where the program is implemented,
- Incidents of sexual violence or situations that threaten safety, security or well-being.
- Sexual abuse of children.

Q&A

What is the difference between a formal report and a disclosure?

A disclosure does not necessarily lead to a formal complaint, but many formal complaints start by a disclosure. If you disclose, you will not be obliged to make a formal complaint however the organization might do that on your behalf, following your approval. In some cases, if you are a minor for example, the organization might be obligated to report the incident to local authorities. It is important to know that once you disclose to a person within the organizational structure, that person will have the obligation to inform other people on a need-to-know basis, as the organization is accountable to provide support. More details are available below.

Declaration of Adherence

I understand that I can significantly contribute to risk mitigation and prevention of sexual violence by translating this Code of Conduct into actions in my work.

I understand that I must uphold our collective commitments to colleagues, partners and the communities we serve by adhering to the standards of behaviour outlined in the Code of Conduct.

I, undersigned, _____ hereby declare that I have read, understood, and will comply with this Code of Conduct.

I understand that breach of any provision of the Code may result in disciplinary action up to and including termination of the contract.

SIGNATURE:

DATE:

Getting help

If you need help regarding sexual violence, support will be available and will not depend on your decision to report the incident. You do not need to complete a formal report before accessing support from the organization. We can arrange support services if you were impacted by sexual violence. Work accommodations and travel arrangements can also be made if you need care or support that is not available locally.

In order to access support, you can:

- 1. disclose the incident to Fiona Sampson or somebody you trust within the organizational structure**
- 2. consult the list of pre-identified resources available in Kenya and Canada.**

! If you decide to open disclosure to anyone within the organizational structure, it is important to make sure that individuals within the organization have received training, are adequately prepared and understand expectations around confidentiality.

How is information managed once you disclose an incident?

Following a disclosure, staff and-or managers are bound by confidentiality but have the obligation to report up to the Executive Director.

Therefore, we will avoid sharing information that can identify the survivor when it is not absolutely necessary. The organization also has the obligation to inform funders and the general public⁵ but will do so without providing information that can contribute directly or indirectly to survivor identification.

⁵ Included in Letter from Minister Bibeau to Canadian Partners in May 2018: “annual reporting to the public of the number of alleged and confirmed cases of sexual exploitation and abuse, including measures taken”

! Support is available !

The following resources are available in Quebec to support victims and survivors of sexual violence:

Canadian Association of Sexual Assault Centres

Lists of rape crisis centres and emergency lines
in every Province and Territory

<http://www.casac.ca/content/anti-violence-centres>

Guide de ressources LGBT+ (only in French)

Search engine to find resources across the province

Keyword research is necessary to find specific resources for survivors of sexual assault

<http://www.guidelgbt.org/>

Mouvement contre le viol et l'inceste

Provides bilingual assistance and support using a feminist and intercultural approach.

Bilingual emergency line : 514-933-9007

<https://www.mcvcontreleviol.org/servicios3> (only in French)

Native Women Shelter Montreal

Offer support and frontline services to First Nations, Inuit and Métis (Aboriginal) women
to promote their empowerment and independence.

1-866-403-4688

<http://www.nwsm.info/contact>

Quebec coalition of sexual assault centers

Free help line and list of sexual assault centers across the province

1-888-933-9007

<http://www.rqcalacs.qc.ca/the-calacs.php>

How and when to raise concerns

We encourage you to raise concern when you notice a risk factor, witness an inappropriate behavior or have suspicions about incidents of sexual violence. You can raise concern when you are the victim of an inappropriate behavior or when you are a bystander. One of the most tragic aspects of sexual violence is when people look the other way.

If you are unsure, you can ask yourself:

- Does my concern meet the spirit of this Code of Conduct?
- Who might be affected if I do not raise concern?
- If the event was made public, would I feel comfortable explaining why I did not raise concerns?
- Is my judgment impartial, or do I have a personal stake in the outcome that makes me less objective?
- What are the consequences if I raise concerns in good faith?

When something does not feel right, stay alert and start documenting the situation. Try to be factual by writing down what was said, what you saw, what you heard, date, time and location.

We do not expect you to become an expert in sexual violence but want to reinforce the importance of each person's involvement in strengthening mitigation strategies. As talking about sexual violence is still surrounded by many taboos, it is paramount to create channels to talk about problematic behaviors. Research shows that clear and confidential communication channels enables organizations to intervene before incidents of sexual violence escalate. **By raising concern, you participate to risk mitigation, you enable the organization to exercise its Duty of Care and ultimately contribute to prevention of sexual violence.**

If you want to raise concerns, you can:

1. **Speak-up when an inappropriate behavior is taking place, when it is safe to do so.**
2. **Talk to your supervisor during one of your regular check-ins and follow-up with an email including information about the incident** (date, time, location, details about the incident, name of people involved including witnesses)

Q&A

What will the organization do to support and assist me if I've been sexually harassed, exploited, abused or assaulted?

We provide support and assistance to people who have survived sexual violence while working or volunteering at the equality effect or who have been targeted by staff or volunteers of the equality effect. We will tailor the type of support and assistance to the wants and needs of the individual survivor. This may include work accommodation, medical treatment, legal assistance and psychosocial support.

If I know a person who was sexually abusive, should I say their name?

When you make a complaint, you should name the alleged perpetrator. We recommend that you don't reveal the person's name publicly because of the safety of everyone involved, local laws, and due process.

Other relevant policies and documents:

N/A

3. **Request a meeting with another manager to talk about your concern and follow-up with an email including information about the incident (date, time, location, details about the incident, name of people involved including witnesses)**

How to report an incident

! Reporting processes for small and medium ICOs would ideally include a third party as it is difficult to implement best practices when the size and resources or the organization is limited. For example, upholding confidentiality standards can be a real challenge. For certain incident in smaller organizations, it can also be challenging to report an incident to someone that is not involved in the incident directly or through a conflict of interest.

We encourage you to provide your name when reporting an incident. This will enable us to look into your concern thoroughly by contacting you when additional information is needed or to help us protect you from retaliation for making a good faith report. For example, there may be circumstances when disclosing your identity is required to fully investigate.

If you want to report an incident disclosing your name you can Call, Email or Text :

Kenya National Commission on Human Rights

Landline: +254-020-3969000

Mobile: 0733 78 00 00 / 0736 78 00 00

Mobile: 0724 256 448 / 0726 610 159

WhatsApp: 0798 849 871

General Enquiries :haki@knchr.org

Complaints: complaint@knchr.org

Ontario Human Rights Legal Support Centre

Tel: (416) 597-4900

Toll Free: 1-866-625-5179

TTY: (416) 597-4903

TTY Toll Free: 1-866 612-8627

To prepare your call or your email, write down date, time, location, details about the incident, name of people involved including witnesses, etc.

If you want to report an incident anonymously you can:

Contact the Kenya National Commission on Human Rights or the Ontario Human Rights Legal Support Centre.

In your email, include as much information as possible: date, time, location, details about the incident, name of people involved, including witnesses.

Please also consider the questions below in your email preparation:

- ✓ If you are the survivor: Are you still at risk? Do you fear reprisal?
- ✓ If you are a bystander: Do the survivor know that you are reporting the incident? Is the survivor still at risk? Are you at risk?

- ✓ If there were witnesses: Who are they? Can they be contacted? Are they at risk?
- ✓ Does the incident involve a minor?

Not every complainant is willing to reveal his/her identity. We will not consider such a report less truthful than another type of complaint. Anonymous complaints will be treated just as seriously as complaints where the identity of the complainant is known because of the potential for future harm and our responsibility to create a safe and abuse-free environment.

However, we encourage you to provide as much information as possible to facilitate the investigation process. An investigation process will only be possible if enough background information is available. If information is insufficient to start an investigation, the complaint will be documented and kept in a confidential manner to respect the rights of the individuals implicated in the complaint, while also allowing to leave a documented trace in case of further reports.

Anti-retaliation

The equality effect will not tolerate retaliation against anyone who, in good faith, reports a concern or participates in an investigation, even if the allegation ultimately is not substantiated.

Q&A

What happens when you report ?

Any complaints related to sexual violence will be treated with the utmost confidentiality within our power. Information will be shared on a need-to-know basis within the response team, bound by confidentiality.

The complaint will first be assessed to determine if enough information is available to do an investigation. When an investigation is possible, complainant and the respondent will be informed that an investigation is taking place. The investigator will want to interview the individuals involved whenever possible.

We may refer the incident to the police after obtaining consent by the complainant or the survivor, unless the organization is legally obligated to do so.

The complainant may withdraw the complaint or decide to halt further actions at any time, provided it is still within our power to comply and the matter has not yet been referred to police.

At the end of the investigation, the complainant and the respondent will also receive information through the organization.

Enforcement

We implement a zero-tolerance approach to all forms of sexual violence. A zero-tolerance approach signifies that allegations are investigated whenever possible, and that perpetrators are held to account, including through prosecution and-or dismissal where appropriate.

Every formal complaint of sexual violence will lead to investigation when enough information is available. The investigation will be conducted upholding principles of confidentiality, fairness and neutrality. When these principles cannot be guaranteed by somebody within our organization, we will differ investigation to an external party.

Disciplinary sanctions up to and including exclusion from the organization/program or termination of employment/contract will be applied.

Anyone found to have engaged in retaliatory conduct against someone who has refused to participate in sexual violence, disclosed, raised concern or reported an incident will be subject to disciplinary action, and possibly termination.

Any proven false accusations of sexual violence that was made maliciously can be deemed to constitute a violation of this Policy and Code of Conduct.

Key definitions

Consent: Sexual activity is only legal when both parties' consent. Consent is defined in Canada's *Criminal Code* in s. 273.1(1), as the voluntary agreement to engage in the sexual activity in question. The law focuses on what the person was thinking and feeling at the time of the sexual activity. Sexual touching is only lawful if the person affirmatively communicated their consent, whether through words or conduct. Silence or passivity does not equal consent.

The *Criminal Code* also says there is no consent when:

- Someone says or does something that shows they are not consenting to an activity
- Someone says or does something to show they are not agreeing to continue an activity that has already started
- someone is incapable of consenting to the activity, because, for example, they are unconscious
- the consent is a result of a someone abusing a position of trust, power or authority
- someone consents on someone else's behalf.

A person cannot say they mistakenly believed a person was consenting if:

- that belief is based on their own intoxication; or
- they were reckless about whether the person was consenting or;
- they chose to ignore things that would tell them there was a lack of consent; or
- they didn't take proper steps to check if there was consent.

The responsibility for ensuring there is consent is on the person who is initiating or pursuing the sexual activity. When someone has said no to sexual contact, the other person cannot rely on the fact that time has passed or the fact that the individual has not said no again to assume that consent now exists. (Source: Women's Legal Education and Action Fund Website)

Complainant is a term used in the context of an investigation and used in this document to identify the person that formulates a formal sexual violence complaint.

Intersectionality: a holistic approach that considers how the interplay between the different facets of an individual's personal characteristics, such as race, disability, sex and age, affects their identity as a whole. (Source: EISF)

Psychological or sexual harassment: any vexatious conduct in the form of repeated and hostile or unwanted behaviors, verbal comments, actions or gestures, that affects a person's dignity or psychological or physical integrity and that results in a harmful work environment for them. A single serious conduct can constitute harassment if it has the same consequences and if it has a continuing harmful effect.

Vexatious behaviour is humiliating or abusive behaviour that violates a person's dignity or causes them torment. Vexatious behaviour refers to the effect on the recipient, regardless of the intention of the offending person. A single serious incidence of such behaviour that has a lasting harmful effect may also constitute psychological harassment. (Source: CNESST Website)

! This term is based on Quebec's *Loi sur les normes du travail*. Sexual Harassment in Quebec is included under psychological harassment. The definition of psychological harassment also includes discriminatory harassment based on any of the grounds listed in section 10 of the *Charte des droits et libertés de la personne*: race, color, sex, pregnancy, sexual orientation, sexual identify or expression, marital status, age, religion, political beliefs, language, ethnicity or national, social condition, disability or the use of a means to overcome this handicap.

Respondent is a term used in the context of an investigation to designate the alleged perpetrator who exercises his or her right to participate, to know what information the procedure is relying on for its decision and to be given a chance to respond to that information.

Sexual harassment is mostly used to define a form of workplace discrimination through a conduct or a course of vexatious comment that is known or ought reasonably to be known to be unwelcome and creates a hostile or offensive environment. The Canada Labour Code defines sexual harassment as any conduct, comment, gesture, or contact of a sexual nature that is likely to cause offence or humiliation in the workplace ; or that might, on reasonable grounds, be perceived by that employee as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.

Examples of sexual harassment may include:

- Unwelcome remarks, jokes,
- innuendoes or teasing about a person's clothes, gender or sexual orientation
- Unnecessary and unwanted physical contact such as touching, patting, pinching or rubbing, kissing, brushing up against a person
- Sexual advances
- Displaying of pornographic pictures or other offensive materials of a sexually explicit nature
- Unsolicited and offensive communication through emails, social medias or the telephone

Protection from sexual exploitation and abuse (PSEA) is a term used by the United Nations and non-governmental community to refer to measures taken to protect vulnerable people from sexual exploitation and abuse by their own staff and associated personnel. (Source: Global Affairs Canada)

Sexual abuse: 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. (Source: Global Affairs Canada)

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. (Source: Global Affairs Canada)

! Sexual abuse and exploitation (SEA) are terms mostly used to define incidents occurring against **beneficiaries**. It does not necessarily include incidents **against staff and volunteers**.

Depending on existing policies in each organization, one can decide to use SEA, sexual violence or SAHE (sexual abuse, harassment and exploitation). Examples include: if there are no policies are currently protecting volunteers from sexual violence, or organizations that have an Anti-harassment Policy with a scope limited to staff in Canada, excluding interns or overseas staff. In these cases it can be useful to use sexual violence instead of PSEA.

Sexual violence: Sexual violence is the expression of a relationship of domination of one individual over another through a sexual act, committed without consent. It represents an infringement of fundamental rights, dignity, security, physical integrity and psychological integrity, and have serious repercussions for the individuals who suffer from it. It took years of struggle on the part of the women's movement for sexual violence to be recognize as a crime.

It is defined by the **World Health Organization** as: "Any sexual act, attempt to obtain a sexual act, comment or advance of a sexual nature, or acts aimed at trafficking or otherwise directed against the sexuality of a person using coercion, committed by a person regardless of their relationship with the victim, in any context, including, but not limited to, home and work". (2010)

! Sexual violence encompasses a range of acts including sexual harassment, sexual exploitation, sexual assault and sexual abuse occurring against beneficiaries, staff, volunteers, etc.

Sexual assault: Sexual assault is a legal term and constitutes a criminal offence. The Supreme Court of Canada states that the act of sexual assault does not depend solely on contact with any specific part of the human anatomy but rather the act of a sexual nature that violates the sexual integrity of an individual. It includes being exposed to pornography or behaviors of a sexual nature (without consent) or being filmed during intercourse (without consent).

Sexual misconduct is an umbrella term covering a variety of problematic behaviours of a sexual nature, including criminal and non-criminal conduct.

Subcontractor is an individual (other than an Employee), a firm, a for-profit or not-for-profit organization, charitable organization or institution, acting alone or in a consortium, a joint venture, a partnership (limited or otherwise), having entered into a Subcontract with the Organization to undertake activities or perform work to achieve the outputs or outcomes of the Project. The term Subcontractor includes Canadian, international and local consultants. (General Terms and Conditions, GAC)

Survivor (or victim) is a person who has experienced sexual violence. Medical professionals usually use the word "victim". Survivor" is preferred in the mental health and social service sectors because it implies resilience rather than the word "victim", often perceived as passive. People who have experienced trauma, however, can identify themselves in the way they prefer: victim or survivor. The survivor of an assault can be man or woman and the perpetrator can be of the same sex as the survivor. (Source EISF)