NGBV ANTI-SEXUAL HARASSMENT POLICY AT THE WORKPLACE -2021



FORWARD:

The development of this sexual harassment Policy together the general safeguarding policy is the biggest millstone in organizational development process of NGBV in 2020 and beginning f 2021. For the first time since inception of the network against gender-based violence. We are committed to enforce these policies to safe gaur the sanity and wellbeing of staff and communities/people that we work with.

This Policy is divided into 4 sections. Section 1 outlines what is sexual harassment, definition of terminology used, scope and communication of the policy and information regarding the enquiry committee; Section 2 deals with procedures for investigation; Section 3 covers the informal way of dealing with sexual harassment in the workplace and Section 4 outlines supportive guidelines for both Sections 1 and 2.

AKNOWLEDGEMENT:

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ORGANIZATIONAL BACKGROUND:

The Network against Gender Based Violence (NGBV) is a membership based organization comprising of Civil Society Organizations, Individual Members and Government affiliated institutions that work with Women, Men and Young people towards the eradication of Gender Based Violence (GBV) in The Gambia. Established in April 2009, it provides space or platform for discussion on matters affecting women and girls in The Gambia, amplifying the voices of victims/survivors of GBV, promoting strategic partnerships for better coordination of program implementation and resource mobilization to reduce duplicity and maximize impact of the national response to sexual and gender-based violence in The Gambia.

The Mission of NGBV is to protect women and children from gender-based violence either in public or private spheres by building the capacity of service providers and institutions, raising public awareness and advocating for friendlier laws and policies.

The overall goal of NGBV is eradication of gender-based violence and empowerment of women and girls to actively participate in their own socio-economic and political development for their advancement. The NGBV aims to achieve this through capacity building of CSOs and service providers, increasing awareness of communities, advocating for policy change, conducting research for evidence-based advocacy and programming and enhancing service delivery in response to sexual and gender-based violence.

The NGBV has a two-tier Governance System comprised of the General Assembly and the Executive Committee (Board of Directors) with a Secretariat headed by a National Coordinator and supported by Managers and other staff as the implementing arm of the organization. The **General Assembly** is responsible for policy directions as the highest decision-making body and it meets once annually. The **Executive Committee** is responsible for guiding the implementation of policy decisions and providing strategic oversight over the Secretariat and meets quarterly. The National Coordinator and the Managers form the **Senior Management Team** of the Network which is responsible for executing day-to-day running of the Secretariat with support from other employees.

INTRODUCTION:

The NGBV has expressed through its strategic goal and code of conduct a strong stand against sexual and gender—based violence. Also sexual and gender—based violence of all forms are prohibited by law in The Gambia whether occurring in public or private spheres. Thus, in line with that, this policy seeks to create a work environment free from all forms of sexual and gender-based violence including intimidation, threats, touches that are uncalled for and abuse either verbal or physical that leads to some form of sexual violence or any action that may be interpreted as sexual harassment.

SECTION 1: UNDERSTANDING SEXUAL HARASSMENT IN THE WORKPLACE:

Sexual harassment at work is unwelcome physical, verbal or non-verbal conduct of a sexual nature. It includes demeaning comments about a person's appearance, indecent remarks, questions about a person's sex life, sexual demands by members of the same sex or opposite sex, attempts to punish refusal to comply with such requests, name calling with demeaning terminology which is sexual in nature, sharing jokes with sexual overtones, unwelcome physical contact and other conduct of a sexual nature that creates an intimidating, hostile or humiliating work environment interfering with work performance. There are two significant manifestations of sexual harassment in the workplace, which are important to describe:

1.1 Abuse of Authority:

A demand by a person in authority, for sexual favors in exchange for work related benefits (e.g. a wage increase, a promotion, training opportunity, a transfer or the job itself).

1.2 Creating a Hostile Environment:

Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual's work performance or creates an intimidating, hostile, abusive or offensive work environment. The intimidating behavior or act of a person in authority who controls conditions of the complainant's employment or from a co-worker, who as a result of intimidation can make the work environment hostile for the complainant. It is not possible to list all those additional circumstances that may constitute sexual harassment the following however are some example of this behavior.

I. Unwelcome sexual advances whether they involve physical touching or not.
II. Sexual descriptions, jokes, written or oral references to sexual conduct, gossip about an individual´s sexual activity, deficiencies or competence.
III. Displaying sexually suggestive objects, pictures, cartoons, calendars.
IV. Passing on pornographic material in print or electronic form or passing written offensive messages of a sexual nature (including through emails and text messages.
V. Unwelcome staring, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.
VI. Retaliation from a person in authority due to refusal of sexual favours which may include limiting opportunities for the complainant and generating gossip against the staff member or other acts that limit access.
VII. Expressions that suggest superiority of one gender over the other including jokes demeaning one gender, unwelcome references to one's appearance or body where they cause psychological harassment- such expressions if persistent may constitute sexual harassment.
VIII. Recurring acts which may have a cumulative effect or a single severe incident would be considered enough to establish sexual harassment.

It is important to note that harassment should be viewed from the perspective of the complainant, therefore, it is important to regard the impact of the action rather than intention of the accused and that it is unwelcome to the recipient.

1.3 The Harasser:

Sexual harassment is related to display of power and in most cases the harasser is one who is in a position of higher authority. Most victims are women and in lower positions. However, it is vital to know that it is possible in some rare exceptions that a junior worker harasses his or her senior worker or a female worker harasses her male colleague.

1.4 Definitions of terminology used:

- **Accused:** means a staff member or employer of an organization against whom an action is being taken under this policy.
- **Policy:** refers to this policy on Anti-Sexual Harassment at the Workplace.
- **Complainant:** aggrieved person who has filed a complaint under this Policy.
- **Staff member or staff:** means a person who is hired by NGBV on permanent or temporary basis (including short term and contract workers).
- **Workplace:** means the place of work or the premises where NGBV offices operates or a larger geographical area where the activities of the organization are carried out.
- **Committee:** refers to the standing committee or ad hoc committee to investigate grievances regarding sexual harassment.
- **Management:** refers to the Senior Management Team of the NGBV and the Executive Committee in case the National Coordinator is the accused.

1.5 Scope of the Policy:

This policy is binding on all staff and offices of the NGBV including external incidents that involve staff while on official duties. The senior management team is responsible for following these guidelines in letter and spirit. They will ensure:

• That each complaint is addressed responsibly and impartially facilitating just and fair enquiry process without retaliation (for complainants or the witnesses).

• Constitute and maintain a standing / or ad hoc Enquiry Committee to deal with Sexual Harassment grievances selecting members who are sensitive and competent to deal with the issue.

• That the recommendations received from the Enquiry Committee are implemented within 2 weeks of receipt.

• That they maintain confidentiality and an attitude of empathy at all times towards both the accused and the accuser.

1.6 Functions of the National Coordinator:

The National Coordinator will play the following specific roles on an ongoing and need basis.

- Ensure that the policy is displayed at prominent places in the organization and to make it accessible to all members of staff.
- Explain any part of the policy that is not clear or understood by any staff to the concern staff.
- Carry out capacity building interventions for members of Enquiry Committees and staff focusing on building skills on identification and handling of grievances (for the former)
- Document proceedings from the time of receipt of complaint until its conclusion.
- Be aware of the country's national policies and laws regarding sexual harassment and obtain legal opinion and procure the services of a lawyer specializing in the issue whenever necessary. This includes information on the international instruments The Gambia is signatory to under Violence Against Women, Human Rights and Gender Justice.
- Engage the services of an occupational psychologist/professional counselor to be on call for a variety of needs, including being on call at predetermined hours/days to be accessible to grievances from staff on the issue and may counsel complainant and accused (when necessary).
- Counsel and maintain a sensitive attitude towards both accused and accuser at all times.
- Be a part of the Enquiry Committee to investigate such complaints.

Any person who aids or abets and covers the commission of any such act committed shall also be held liable under these guidelines.

1.7 Communication of the Guidelines:

The policy will be made easily accessible to all staff and shall be read and understood by all members of staff. In that respect, the guidelines shall be communicated to all new staff as directed below:

- The National Coordinator should ensure that the guidance is presented to new staff during the time of inductions.
- Both the National Coordinator and the Line Managers should jointly ensure that staff read and understand the guidelines.

1.8 Enquiry Committee:

The Executive Chairperson in consultation with the National Coordinator will establish a standing Enquiry Committee to deal with complaints related to sexual harassment. However, if that is not possible then an ad hoc committee may be constituted as and when necessary. It should be the responsibility of the National Coordinator to ensure that the ad hoc committee members are technically qualified and are sensitive to deal with the issue. The standing or ad hoc committee shall:

• Consist of three (3) or five (5) persons (odd numbered) with the majority membership held by women. At least two competent members from the Executive and NGBV member organizations shall be nominated to be part of the committee.

• Each member of the committee by rotation may chair each enquiry procedure or the chair may be selected for a specified period of time. The chair shall be instrumental in listening to the enquiry and undertaking a final decision. The chair person should belong to a different directorate than that of the complainant and the accused to maintain neutrality and be senior to both the accused and the complainant.

• All members who sit on the committee will have high credibility, sensitivity and technical competency to handle such grievances.

• The National Coordinator should be involved in such enquiries at all times except if he/she is the accused.

SECTION 2: PROCEDURES

THE FOLLOWING PROCESS IS SUGGESTED FOR ADDRESSING COMPLAINTS:

2.1 Launching the Complaint**:**

The complainant will present their written grievance about conduct of the accused to the Chair of the Enquiry Committee or the National Coordinator or the line manager in the absence of both. The National Coordinator should make the staff member aware of their options regarding sexual harassment such as the formal or informal process mentioned in this policy. Help should be given to the complainant in writing the complaint on the person's request (if person is not able to write). All records should be maintained in writing, all incidents noting dates, places, descriptions of act, notification to accused and names of those connected with the incident.

2.2 Creating conducive environment for inquiry:

• The management should make temporary adjustments to avoid interactions between complainant and accused for related official purposes during the investigation period. This may include temporarily changing the office (if both share an office), the accused may be sent on leave, or suspended during the period of the investigation based on the seriousness of the case.

• Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluations, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side.

2.3 Evidence:

It is acknowledged that sexual harassment usually occurs away from the public eye and it therefore may be difficult to produce evidence. It is strongly recommended that staff should

report an offensive behaviour immediately to someone they trust, even if they do not wish to launch a formal complaint at the time though failure to report promptly should not affect the merits of the case.

- Detailed account of the complainant and the accused form a part of the evidence.
- Witness statements (if any).
- Statements of persons with whom the complainant might have discussed the incident, statements of persons from whom advice may have informally been sought, should be considered as evidence.
- Any other documentary, audio or video records can be submitted. Expert technical advice can be sought for such submissions.

2.4 Process of Inquiry:

Upon receiving a formal complaint, the Committee shall ask the complainant to prepare a detailed statement of incidents if written complaint is sketchy. A statement of allegations will be drawn up by the Committee and sent to the accused.

- The accused will be asked to prepare a response to the statement of allegations and submit to the Committee within the given time.
- The statements and other evidence acquired in the inquiry process will be considered confidential materials.
- An officer in the organization could be designated to provide advice and assistance to each party if requested by either of them. Similarly, the complainant and the accused will have the right to be represented or accompanied by a member of family, a friend or a colleague.
- The Chairperson will organize verbal hearings with the complainant and the accused.
- Statement of Complainant will be recorded first in the presence of the accused. The accused may cross question the complaint if there is a need to do so in the presence of some members of committee.
- The Chairperson will take testimonies of other relevant persons and review the evidence whenever necessary. Care should be taken to avoid any retaliation against the witnesses by giving the necessary protection.
- The Chairperson will take the decision after carefully reviewing the circumstances, evidence and relevant statements in all fairness.
- If the accused, being provided fair opportunity to participate in the inquiry and defend him/herself fails to participate in the inquiry, the Committee will conduct the inquiry expert.

- The Chairperson will ensure confidentiality during the inquiry process.

Period of Inquiry: The investigation procedure should be completed as soon as possible and should not take more than 2 months.

2.5 Decision of the Committee:

After a decision is reached regarding the complaint, the Chairperson will recommend disciplinary action if the accused is found guilty. This action can vary from leave without pay to demotion and dismissal from services. A range of creative punitive measures may be identified by the committee based on the seriousness of the case. In serious cases and repeat cases the accused should be dismissed. The decision will be submitted to the Senior Management Team through the National Coordinator if it concerns another staff and the Executive Committee through the Executive Chairperson if it concerns the National Coordinator and the recommended actions will be binding on them.

Section 3: INFORMAL WAY OF DEALING WITH SEXUAL HARASSMENT IN THE WORKPLACE:

- An informal approach to resolve a complaint of sexual harassment can be through mediation between the parties involved and by providing advice and counselling on a strictly confidential basis only on the specific request of the complainant. The procedures though less stringent than formal procedures will be conducted in the full spirit of this policy document.

- A staff member can report an incident of sexual harassment informally to his/her Line Manager.

- If the incident or the case reported does constitute sexual harassment of a higher degree the member will suggest taking it up the practiced disciplinary action or with the agreement of the complainant, the case can be taken as a formal complaint.

SECTION 4: GUIDELINES FOR REVIEWING FACTS OF CASES:

1) Sexual harassment can include and is not limited to: Verbal harassment or abuse, subtle pressure for sexual acts, sexual advances in the pretext of narrating sexual incidents, exhibiting pornographic material, touching, patting or pinching, leering at a person's body, demanding sexual favors accompanied by subtle or overt threats concerning employment or advancement; and physical assault including rape.

2) To constitute sexual harassment, the conduct must be 'unwelcome': Exploration of the case must consider whether the person indicated advances were unwelcome initially, even if there was subsequent acquiescence (or vice versa). Individuals are best able to decide what behavior is acceptable to them and what is offensive or unwelcome as perceptions differ

between individuals. Behavior that may not be offensive to one individual may be so to another.

3) 'Abuse of authority' cases are complex because of power imbalance between complainant and accused, and may require severe disciplinary actions. Such cases could be linked with hiring and firing of employee, promotion, work duties, relocation, leave, training and other aspects affecting employment.

4) Cases which create a 'hostile work environment' could range from patterns of offensive behavior or single severe incidents of harassment.

5) The above-mentioned forms of harassment are not always distinct from each other and can occur simultaneously. Additionally, harassment can happen to men and women at all levels of job hierarchy and between all relationships of equal and unequal power.

6) The harassment can occur outside working hours and workplace. It is the access that a perpetrator has to the person being harassed by virtue of a job situation or relation that is relevant here.

7) Supervisory employees and co-workers should be asked about their knowledge of alleged harassment. When witnesses are not identified, testimony may be obtained from persons who observed change in demeanor of the charging party after alleged incident. Other persons who the charging party discussed incident with should be interviewed.

8) In appropriate cases, sexual harassment determination may be based solely on credibility of complainant's allegation if the account is sufficiently detailed and internally consistent.

9) Lack of corroborative evidence where such evidence should exist would undermine allegation. By the same token, a general denial by the accused will carry little weight when contradicted by other evidence.

10) When dealing with sexual harassment through a series of incidents, the Investigator should not consider the series of incidents as specific but should consider the impact of separate incidents as an accumulative case and the work.