**ActionAid International**

**Standard Operating Procedures (SOPs) on SHEA and Safeguarding Incident Management (internal process)**

**Developed by Global SHEA and Safeguarding Team, 2020**

**1. Background**

ActionAid views any form of sexual harassment, exploitation and abuse as gross violations of human rights. We will not tolerate any form of abuse, exploitation, or harm carried out towards our staff or representatives, rights holders or anyone we come into contact with through our work.[[1]](#footnote-2) ActionAid is committed to preventing and responding robustly to any form of sexual harassment, exploitation, and abuse that is carried out by any member of the ActionAid Federation or ActionAid representative.

**2. Feminist and Survivor Centred Approach**

ActionAid is committed to taking a feminist approach to incident management[[2]](#footnote-3). This means that we will carry out robust and safe processes that understand the specific sensitivities of investigating sexual violence, that recognises the power dynamics inherent within incident management processes and works to ensure that unequal power dynamics are not reinforced through our processes.

ActionAid takes a survivor centred approach to SHEA and Safeguarding incident management. ActionAid is committed to working with survivors to ensure they are central to any response, are not further harmed or disempowered by any processes, and receive support throughout. ActionAid will ensure that the safety, dignity and rights of the survivor are respected at all times. While we have some timeframes that must be met (e.g AA entities reporting concerns raised to the Global SHEA and Safeguarding Team within 24 hours) there are no timeframes for survivors: survivors can choose if, when, and how to report. There is no statute of limitation (no time limit on when someone can report). Any internal response will be guided, where it is safe and practicable to do so, by the wishes of the survivor.

**3. Purpose of the SOPs**

These SOPs outline the processes to be followed in any *internal incident management response* to allegations of sexual harassment, exploitation and abuse. In line with AAI’s SHEA and Safeguarding Policies, these SOPs must be used when addressing any concern relating to sexual harassment, exploitation and abuse and wider harms to adults at-risk carried out by AA staff/representatives.

Where these SOPs conflict with local law, legal advice should be sought on how to resolve this. ActionAid members should work with the Global SHEA and Safeguarding Team to ensure that incident management approaches are compliant with local law but function, as much as possible, within the spirit of these SOPs and the wider policies.

ActionAid does not have the expertise to investigate cases relating to children; these will be raised with the Police and other local authorities. ActionAid will cooperate fully with any external process and the Global SHEA and Safeguarding Team will guide this process.

**4. SHEA and Safeguarding Incident Management Flowchart**

**1. COMPLAINT RECEIVED**

* Within 24 hours, the survivor/complainant’s allegation is acknowledged by the person who received it
* Within the next 48 hours, the **SHEA and Safeguarding Stakeholder Panel** meet to discuss the allegation

**2. SHEA AND SAFEGUARDING STAKEHOLDER PANEL MEETING (within 48 hours)**

* Ensure safety and wellbeing of the survivor/complainant
* Assess and manage any immediate security or risk concerns, and ensure confidentiality
* Gather legal advice as needed
* Inform internal/external stakeholders as needed, including the **Global SHEA and Safeguarding Team**
* Take a decision on whether an investigation can be carried out. **If an investigation can be carried out the Panel will**:
	+ Produce a Terms of Reference
	+ Appoint an **Investigation Team**
	+ Appoint a **Decision-Making Panel**

***If further consideration is needed, Stakeholder Panel can:***

* *Complete a fact gathering exercise to establish whether it is possible to carry out an investigation*
* *If an investigation cannot be carried out (e.g. if survivor does not want an investigation or there is insufficient information to proceed) then the Panel will close the case and document this decision*
* *Assess what other actions can be taken to address concerns e.g. awareness raising, developing policies*

**3. INVESTIGATION (approx. 4 weeks)**

* The **Investigation Team** carry out the investigation, including:
	+ Conducting interviews (survivor/complainant, witnesses, and finally the subject of complaint – accused person)
	+ Gathering any available evidence (e.g. emails)
	+ Producing an investigation report

***APPEALS***

***Survivors/Complainants*** *and the* ***Subject of Complaint*** *can appeal*

***SUPPORT***

* *Support is offered to the* ***survivor/complainant****,*

*the* ***subject of complaint*** *and others as appropriate*

**4. DECISION/OUTCOME (within 72 hours of receiving report)**

* **Decision-Making Panel** meet to discuss the Investigation Report
* **Decision-Making Panel** inform the **survivor/complainant**, **subject of complaint**, and the **Stakeholder Panel** of their decision
* The **Decision-Making Panel** carry out any agreed recommendations with support from **HR**

**5. FINAL ACTIONS**

* The **Stakeholder Panel** convene a “lessons learnt” meeting to review this particular incident management process and make recommendations to improve practice in the future
* Gather feedback from **survivor/complainant** to feed into “lessons learnt” process
* **SHEA and Safeguarding Focal Point** updates key internal and external stakeholders, monitors **Stakeholder Panel** recommendations through to completion, and then confirms the case is closed

**2nd Case Conference**

* Risks re-assessed & mitigation plan updated
* Decision made on whether to investigate
* If “yes” then:
* Investigation Terms of Reference updated
* Decision communicated to complainant
* If “no” then case is closed and case file updated on reason for not pursuing an investigation

**5. Stage by Stage Incident Management Guidelines**

Step 1: Complaint received (timeframe: actions taken within 48 hours)

1. Within 24 hours the complaint is acknowledged and the SHEA and Safeguarding Focal Point (or other staff member as appropriate) will engage with complainant/survivor to ensure they are safe and their concerns are understood. The Global SHEA and Safeguarding Team is informed so they can support as appropriate.
2. The SHEA and Safeguarding Stakeholder panel will triage all cases to assess what action can be taken. If an investigation cannot be carried out (e.g. if survivor does not want an investigation or there is insufficient information to proceed) then the Panel will close the case and assess what other actions can be taken to address concerns e.g. awareness raising.
3. Within 48 hours the Stakeholder Panel meet.
4. Risk assessment carried out to address any immediate security or welfare concerns, and legal guidance sought.
5. Investigation Team and separate Decision Making Panel appointed. This must be done in line with national laws. Panel to briefed on AAI’s SHEA and Safeguarding approach.

Step 2: Investigation (timeframe: approx. 4 weeks but this may differ depending on nature and complexity of case)

1. Following the investigation guidelines set out by the Global SHEA and Safeguarding team, an investigation can include carrying out any interviews, gathering any available evidence, and producing an investigation report.
2. The complainant/survivor should be interviewed first (or provide a written response to questions where a verbal interview is not possible), followed by any witnesses and the complainant if not the survivor, and then the last person to be interviewed is the subject of complaint. It is important to note that sexual exploitation and abuse in all its forms usually occurs away from the public eye and it therefore may be difficult to produce evidence. An individual can raise a complaint even if they can point to no objective evidence other than their own experience. In internal investigations the level of evidence required is on the balance of probabilities not beyond all reasonable doubt. That is, when an Investigating Team is satisfied on the evidence that an incident is more likely to have occurred than not.
3. The Investigation Report is submitted to the Decision Making Panel.

Step 3: Decision (timeframe: actions taken within 72 hours)

1. Decision making panel review report and take a decision on the report and its findings.
2. The Decision-Making Panel or others as appropriate to carry out any recommendations agreed on (e.g. disciplinary hearing, termination, awareness raising, policy development) with support from HR as required.

Step 4: Outcomes shared and lessons learnt (timeframe: up to 1 week following decision made)

1. Decision Making Panel document the decision and inform the complainant and subject of complaint.
2. The Global SHEA and Safeguarding Team is informed of the outcome.
3. The subject of complaint and the complainant have the right to appeal against the decision, in line with ActionAid’s HR policies and procedures. The complainant and subject of complaint can appeal in country. If they have concerns about the country’s response (e.g if a conflict of interest has impacted on the investigation) they can raise this to the Global SHEA and Safeguarding Team who can carry out an independent review.
4. A case conference convened so that the Stakeholder Panel, Investigation Team, and Decision Making Panel can discuss learning from the case. Feedback must be sought from the survivor/complainant and incorporated into the lessons learnt meeting. Lessons to be shared as appropriate, removing identifiable information, with governance boards and other relevant bodies to ensure key learning is shared and improvements made to practice

**6. Key Roles**

SHEA and Safeguarding Focal Point

* Co-chair/lead the Stakeholder Panel: chair meetings, communicate with all key stakeholders, ensure risk management processes are undertaken, document all actions/decisions.
* Provide support and guidance to the Investigation Team. The Focal Point should be the main point of contact between the Investigation Team and the Stakeholder Panel. Support can include: updating on key changes, leading on risk management processes, ensuring the Investigation Team are safe.
* Be the first point of contact with the Stakeholder Panel, and provide support and guidance to the Decision Making panel to ensure the process is in line with employment legislation and AA’s values. Support can include: helping to facilitate meetings, documenting actions taken.
* Appoint a key person whose role is to provide information and psycho-social support to the subject of concern.

HR

* Provide support and advice to the Stakeholder Panel, the Investigation Team, and the Decision Making panel to ensure the process is in line with the relevant employment legislation
* Hold knowledge of the country’s national policies regarding sexual harassment, exploitation, and abuse, and obtain legal opinion when necessary
* Provide support as needed during the investigation. This can include: temporarily changing line management or seating/office location for those involved; advising on suspension of the subject of complaint during an investigation; supporting specific individuals in the process (e.g point of contact for the subject of complaint).

CDs/EDs

* Have overall responsibility for the security of everyone involved, and the risk management of the incident.
* Co-chair the Stakeholder Panel and ensure that the Panel carries out appropriate action and staff involved prioritise this work.
* Ensure that key senior stakeholders are informed (e.g Board Members, relevant GS staff)
* Ensure that key roles such as the Focal Point and HR have access to support (e.g psycho-social support); that their work on an incident is prioritised and that their Line Managers are aware of the need for them to prioritise this work.

Boards/Board Members

* Informed of cases by the Focal Point or CD/ED.
* If required to support on a case, join the Stakeholder Panel, Decision Making Panel, or Appeal Panel as appropriate
* Work with the CD/ED and Focal Point to ensure that other Board members are informed as appropriate; and work with them to ensure any external authorities are informed as appropriate

SHEA and Safeguarding Investigator Network

* An investigation team will include one member of the SHEA and Safeguarding Investigator Network, a group of staff trained to investigate SHEA and Safeguarding concerns, to ensure consistency in investigations and to help capacity building countries. The Global SHEA and Safeguarding Team will appoint the Investigator
* Develop an Investigation Plan; carry out interviews and gather any available evidence
* Develop an Investigation Report

Global SHEA and Safeguarding Team

* Provide support and guidance to the SHEA and Safeguarding Focal Point, CD and wider Stakeholder Panel
* Provide support and guidance to the Investigation Team. For example, guiding on investigation processes and advising on complex case management
* Provide support and guidance to the Decision Making panel. For example, meeting with the Decision Making Panel to outline their role and responsibilities
* Support the reporting of cases to donors and other statutory requirements
* Escalate to key GS staff (e.g Heads of Country Support, ILT) if there are concerns about how a case is being addressed e.g non-compliance to these SOPs

**7. Incident Management Panels**

SHEA and Safeguarding Stakeholder Panel

The Stakeholder Panel is tasked with receiving all concerns and complaints; working with the survivor/complainant on how they want to proceed; and establishing and monitoring the incident management process. The Stakeholder Panel will:

* Create the Terms of Reference (TOR) for the investigation;
* Appoint an Investigation Team who will carry out an investigation and produce a report,
* Appoint a Decision Making panel who will have responsibility for receiving the report, taking a decision on the case, and taking forward any actions. The Stakeholder Panel must ensure that there is no conflict of interest, and that these individuals have the training and awareness to carry out the task (e.g. training on Safeguarding, gender justice etc)
* Appoint an Appeal Panel, in case required at a later stage
* The Focal Point is responsible for ensuring that each case is documented in its entirety, that all activities are undertaken in line with ActionAid’s SHEA and Safeguarding approach, and updating the Global SHEA and Safeguarding Team

*For more information see the SHEA and Safeguarding Panel TOR.*

Investigation Team

The Investigation Team will be made up of 2xSafeguarding trained Investigators. An external Investigator can be used where necessary, and that decision would be made by the Stakeholder Panel. Members of the Stakeholder Panel and the Decision Making Panel cannot be part of the Investigation Team. The Investigation Team is responsible for:

* Carrying out interviews in line with the Investigation Guidelines
* Gathering and assessing any available evidence
* Producing an investigation report which they share with the survivor/complainant, subject of complaint, the Stakeholder Panel, and the Decision Making Panel.

Decision Making Panel

The Decision Making Panel will be made up of three people, with a dedicated HR support. At least two members of the panel must be women. Members of the Panel must belong to a different department to that of the complainant and accused, in order to maintain neutrality. One panel member will be appointed as Chairperson. Board members can be invited to be part of the panel. The panel is responsible for:

* Reviewing the report completed by the investigation panel and determining if the alleged behaviour breaches ActionAid policy
* Referring the accused to a disciplinary panel if deemed necessary, using the national ActionAid Disciplinary Policy and Procedure
* Informing the Stakeholder Panel of the outcome and participating in lessons learnt discussions following the closure of the case.

*For more information see the Decision Making Panel TOR.*

Appeal Panel

If anyone in the process appeals the decision, an Appeal Panel will be established to review the process undertaken. The Appeal Panel will be made up of senior staff who have not been involved in the incident management process before this time.

**8. Security Considerations in incident management**

## *Security in SHEA and Safeguarding incident management*

Recognising the inherent risk in addressing allegations of sexual violence, any internal response must be carried out in line with ActionAid’s security approach, including the *Global Staff Safety and Security Policy*, and Risk Assessments must be conducted throughout.

*Retaliation Against Complainants, Victims, and Witnesses*

ActionAid will take action against any staff or other representatives who retaliate or attempt to retaliate against complainants/survivors, witnesses or any others involved or believed to be involved in an incident management process. Staff who carry this out will be subject to disciplinary action, up to and including termination of employment.

**9. Support Options**

Support will be offered to survivors/complainants regardless of whether a formal response is carried out (e.g. an investigation). Recognising the impact of incident management processes, support will be offered to others involved in a process – e.g witnesses or the subject of complaint. Support can include specialist psycho-social counselling, medical support, legal support and other specialist support as needed. In line with our rights-based and survivor centred approach, survivors and others can choose if and when they would like to take up support. Choosing not to take support will not prejudice an individual in any way.

*For any questions about these SOPs contact the Global SHEA and Safeguarding Team on* safeguarding@actionaid.org

1. For further information on ActionAid’s SHEA and Safeguarding approach please look at the AAI SHEA and Safeguarding Overarching Policy, the Sexual Harassment, Exploitation and Abuse (SHEA) at Work Policy, the Protection from Sexual Exploitation and Abuse (PSEA) Policy, and the Child Safeguarding Policy [↑](#footnote-ref-2)
2. Please see AAI’s SHEA and Safeguarding Investigation Guidelines for further information [↑](#footnote-ref-3)