

Safeguarding and Prevention of Sexual Harassment, Exploitation and Abuse (PSHEA) policy

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1. Introduction

Safeguarding is the responsibility of organisations to make sure their staff, associates, operations and programmes do not harm children, young people or adults at risk. This means not exposing them to the risk of discrimination, neglect, harm and abuse. Safeguarding is also the responsibility that an organisation has for protecting its employees and volunteers when they are vulnerable, for example, when ill or at risk of harm, abuse or inappropriate behaviour such as bullying, exploitation and harassment.

Child protection is the process of protecting individual children identified as either suffering or at risk of significant harm because of abuse or programme of work. It also includes measures and structures designed to prevent and respond to abuse.

2. Policy statement

FSD Kenya has a zero-tolerance approach to sexual harassment, exploitation and abuse (SHEA). FSD Kenya does not allow any staff, contractor or associated party to engage in any form of sexual abuse, harassment or exploitation against adults, adults at risk, children or young people.

FSD Kenya recognises that safeguarding is everyone's responsibility and it has social, moral and legal responsibilities to protect and safeguard the welfare of its employees, children, young people and adults in vulnerable situations with whom its work brings it into contact. FSD Kenya also recognises its obligations to provide a safe working environment for all its employees and if appropriate its volunteers.

FSD Kenya will take all concerns, suspicions and allegations of abuse or harm seriously and will respond to them promptly. Any breach of this policy will be treated as a disciplinary matter and may lead to immediate termination of employment or contract and may necessitate FSD Kenya reporting the matter to police or other relevant bodies.

3. Purpose

The policy sets out FSD Kenya's approach to safeguarding and the prevention of sexual harassment, exploitation and abuse. It articulates FSD Kenya's commitment to ensure that its programmes and those associated with it do not harm children, young people or adults at risk. It informs, provides guidance, and direction to staff and associated parties of FSD Kenya on expectations, commitments and principles to uphold. It helps FSD Kenya establish a culture of safeguarding throughout its operations.

4. Scope

This policy applies to all employees of FSD Kenya staff and all FSD Kenya's associated parties (both during and outside regular working hours) including members of the Programme Investment Committee (PIC), Trustees, implementing partners, vendors, contractors and any other third party. The term 'FSD Kenya staff' will be used throughout this policy to refer to those within scope.

5. Principles

FSD Kenya commits to the following principles that underpin its safeguarding work.

- a) Everyone has an equal right to protection from abuse and exploitation regardless of age, race, sex, sexual orientation, marriage and civil partnership, pregnancy or having a child, gender reassignment, language, religion, political or other opinions, national, ethnic or social origin, property, disability, birth or status.
- b) FSD Kenya believes that the best interest of the vulnerable person is paramount. FSD Kenya will further take responsibility to meet obligations regarding its duty of care towards children, vulnerable adults and employees and act where it believes that a child, young person, vulnerable adult or employee is at risk or is actually harmed.
- c) FSD Kenya acknowledges that safeguarding is everyone's responsibility and will put in place reasonable measures to ensure, as far as possible, the safety and wellbeing of children and vulnerable adults of the persons whom it works with or those in the projects FSD Kenya supports.
- d) FSD Kenya endorses the United Nations Convention on the Rights of the Child (UNCRC). It agrees that all the rights guaranteed by it must be available to all children without discrimination with particular reference to Article 19, which accords equal rights to protection children from abuse. A child is someone under the age of 18 regardless of the age of majority/consent in the country.
- e) FSD Kenya will ensure that any activities it engages in and the communities within which it operates do not expose vulnerable persons, beneficiaries or staff to the risk of discrimination, neglect, harm and abuse.
- f) FSD Kenya will consider safeguarding in the design and implementation of all its programmes. FSD Kenya will ensure that when working with or through partners or subcontracted agencies, their safeguarding procedures are consistent and in line with the principles and approaches set out in this policy; that they are informed and in compliance with the safeguarding policy.
- g) FSD Kenya will ensure that employees and volunteers are inducted in the safeguarding policy and procedures as a critical part of the recruitment process

6. Prohibited behaviour

All FSD Kenya staff must not:

- a) Take any action that could compromise FSD Kenya's values nor engage in relationships with FSD Kenya staff, prospective or actual beneficiaries or grantees that could be deemed exploitative. FSD Kenya staff must not use their position of power to take advantage of another for sexual purposes.
- b) Condone or participate in behaviours that sexually, physically or emotionally harass, exploit or abuse another person. This includes inaction (including failure to report a concern).
- c) Develop, encourage or fail to act of relationships with children or other vulnerable people which could in any way be deemed sexual, exploitative or abusive.
- d) Have sexual activity or relationships with anyone under the age of 18 or put a child, young person or vulnerable adult at risk of harm.

- e) Exchange money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour.
- f) Recruit children for any labour which is inappropriate to their age or developmental stage, which interferes with their time available for education and recreational activities, or which places them at risk of injury.
- g) Fail to disclose any convictions or investigations of sexual offences or impropriety that they are subject to.

7. Designated safeguarding officers

FSD Kenya also has designated the Chief Operating Officer (COO) as the Safeguarding Officer (SO), to whom any safeguarding issues can be escalated. The COO will be supported by the Operations Manager as the alternate safeguarding officer. The SO is tasked with keeping track of and addressing appropriately any issues brought to his/her attention, escalating issues for resolution where necessary. The terms of reference for the designated Safeguarding Officer is filed in the appendix. The SO can be contacted on transparency@fsdkenya.org.

The Chief Operating Officer (COO) is also responsible and accountable for safeguarding standards, including defining the safeguarding policies and procedures that must be in place.

FSD Kenya has further designated a safeguarding champion in the PIC. His/her role will be to provide governance oversight over safeguarding processes within FSD Kenya.

8. Safeguarding approach

FSD Kenya adopts a prevent, report and respond approach to managing its safeguarding risks. This means that:

- a) FSD Kenya approach to prevention entails, safer programming, safer recruitment, training awareness and induction as well as putting guidelines on managing media and communication for vulnerable adults.
- b) FSD Kenya has put mechanisms in place to enable staff to raise safeguarding concerns confidentially.
- c) FSD Kenya takes all safeguarding concerns seriously and will respond to them promptly and adequately.

9. Safer programming

FSD Kenya will consider safeguarding risks before conducting its programmes. FSD Kenya project leads will ensure that a safeguarding risk assessment is conducted in a participatory and comprehensive way when designing and implementing projects and activities that involve (contact, work with or impact on) children and adults-at-risk. The assessment must identify risks and barriers and document steps being taken to reduce or mitigate them.

10. Safer recruitment

To mitigate safeguarding risks in recruitment, FSD Kenya will ensure safe recruitment and vetting processes are followed for all employees, consultants and partners as recorded in

the FSD Kenya's Recruitment policy and procedures. This includes but is not limited to checking identity against original documents, background checks and, reference checks from previous employers.

Where a member of FSD Kenya staff is engaged in direct work with vulnerable individuals, a criminal background check will be undertaken as part of the recruitment process. This could include obtaining a police clearance certificate. Candidates will also be asked specific safeguarding questions during the interview.

All FSD Kenya employees must sign and abide by this Safeguarding Policy and FSD Kenya's Code of Conduct.

11. Training, awareness and induction

All FSD Kenya staff must receive training on safeguarding in line with their role. This training will include information about the provisions set out in the policy, reporting, response, and how to embed safeguarding in FSD Kenya's programmes. The requirements of this safeguarding policy will also be incorporated into FSD Kenya's contracts.

The Chief Operating Officer will ensure that all joiners receive an induction in safeguarding within one month and no later than three months after appointment.

12. Media and communication

The following safeguarding measures will be put in place when handling photographs, producing media and communication regarding children.

- a) The 'two adult rule' should be adhered to when interviewing children. For adults, the option to have a support person of choice should always be open.
- b) Show children and adults in their true social context and reality. Images, stories and messages about boys, girls, women and men will present them in a dignified, respectful manner, portraying them as equal partners in the development process.
- c) Photographs of young children should at least have their bottom half covered. All other children must be clothed top and bottom. The clothing must also be appropriate with consideration given to the child's local context and the international context in which their image will be used.
- d) Consent should be sought from parents or guardians of children before taking any photographs. The consent should be sought in appropriate forms will be stored appropriately, preferably also in soft copy.
- e) Pictures, materials and personal information regarding children will be held in a secure access-restricted database, and applicable data protection laws will be followed.
- f) When publishing the materials, the identity and traceability of the children will be protected, for example, use only the first name and general location like country or state.
- g) If a third-party request to use the picture, they must sign an agreement to adhere to the same conditions of use for which the consent was given.

13. Reporting safeguarding and PSEA concerns

If a member of FSD Kenya staff receives an allegation, report or concern or has a suspicion that someone engaged by or connected to FSD Kenya's programmes is suffering or is likely to suffer significant harm, no matter what the cause, they should seek the advice and assistance of the designated Safeguarding Officer setting out the basis of the suspicion as clearly as possible. This should be done immediately without awaiting confirmation of concerns. The staff may report by sending an email to transparency@fsdkenya.org

FSD Kenya staff who are unsure of whether to pass on a concern may wish to talk first to their line manager. Third parties who have a contract with FSD Kenya may first report the concern to the project leads who holds their contracts. The decision as to whether to pass on the concern to the designated Safeguarding Officer or the line manager, however, is the responsibility of the FSD Kenya staff who suspects or has received an allegation, concern or report of a safeguarding issue.

Once a manager receives the concern, they will be required to report it to **the designated Safeguarding Officer (SO)** within 48 hours. They may also report it to the CEO should the designated Safeguarding Officer be the subject of the concern.

FSD Kenya Staff and any third party who are not comfortable raising concerns to the designated Safeguarding Officer directly or through any FSD Kenya are encouraged to use the whistleblowing hotline which provides for anonymity and is available 24/7. They may:

Send an email to fsd.whistleblower@bdo-ea.com

14. Responding to concerns

Once a suspicion has been received the SO, will send an acknowledgement within 24 hours to the person who made a report.

The suspicion will be assessed to determine credibility. A reasonably held and credible suspicion will proceed to be investigated. Once credibility has been determined, external reports will be made in line with regulations and contractual obligations with donors. This will be done within 72 hours of determination of a credible concern.

After the completion of an investigation, the SO will communicate outcomes to the reporter only when it will not represent additional risks to FSD Kenya. Investigation reports may recommend actions to be taken, which may include disciplinary hearings.

15. Investigations

Investigations in FSD Kenya will be done in line with principles laid out in the whistleblowing policy.

It is the remit of external authorities rather than anyone connected with the FSD Kenya to investigate safeguarding concerns where it is suspected that a crime has been committed. Members of FSD Kenya staff should not usually make referrals to external authorities themselves other than in consultation with the designated SO and after seeking the consent of the survivor.

FSD Kenya is not an investigative authority for safeguarding issues where a crime is suspected. Such referrals must be made to the relevant law enforcement agency to

ensure that appropriate protection and support is given to the vulnerable individual and that any evidence is collected following the law.

16. Malicious reporting

No disciplinary or other action will be taken against a whistleblower who makes a reasonably held allegation in good faith even if the allegation is not substantiated by an investigation.

However, disciplinary action may be taken where there is evidence that allegations were not made in good faith but have been made maliciously or frivolously to the detriment of another or for personal gain.

17. Survivor protection

FSD Kenya will within the resources available, promote the welfare and safety of the survivor. This may include facilitation of or referrals to competent service providers in medical, psychosocial, legal or other support services required by the survivor(s). Survivors will also receive appropriate information regarding the outcomes of any incident management procedures.

18. External reporting and legal compliance

It is recognised that this policy identifies minimum standards that may exceed the requirements of local legislation, and these standards must be upheld where they do not cause conflict with local law.

External reporting to regulators or other bodies will be made in line with laws and regulations and any agreements signed by FSD Kenya.

The Safeguarding Champion in the PIC must ensure reports to external stakeholders are made in line with the relevant laws, regulations and agreements signed by FSD Kenya.

19. Safeguarding in grantees or partners

FSD Kenya expects its grantees and partners to:

- a) Institute similar measures that will prevent sexual harassment, abuse and exploitation of their staff, beneficiaries and third parties who come into contact with FSD Kenya's programmes as well as ensure that their personnel and contractors related to them understand and abide by the contents of this policy and adhere to the third party code of conduct.
- b) Report safeguarding concerns that relate to FSD Kenya's programmes within 48 hours of realisation and to respond quickly and appropriately to reported concerns.
- c) To act without delay to bring concerns of sexual harassment to the attention of relevant national authorities and to cooperate promptly and fully with any enquiry that national authorities may pursue.
- d) Disclose to FSD Kenya whether personnel in contact with FSD Kenya's programmes are or has been the subject of disciplinary proceedings relating to sexual harassment or bullying or an allegation of the same, or questioned by national authorities or convicted for sexual offences.

As appropriate FSD Kenya:

- a) Will work with the partner to address the issue through an appropriate independent investigation.
- b) Will assist the partner in acting within its obligations and referring the matter to police.
- c) Will ensure that all partners are informed, trained and in compliance with our safeguarding standards.
- d) Will ensure that partners and grantees have signed the third party code of conduct.

A report made by an associated person, grantee or partner to FSD Kenya may not necessarily result in termination of the agreement.

However, if there is reason to believe that a safeguarding concern has been deliberately dealt with inappropriately by a partner, or if the partner deliberately fails to report a concern to FSD Kenya or deliberately breaches the provisions of this policy, then they risk withdrawal of funding, immediate suspension or termination of the partnership.

Compliance with the requirements of policy will form part of the contractual obligations with the partner or grantee.

20. Roles and responsibilities

20.1 Safeguarding is everyone's responsibility

Everyone connected to FSD Kenya has a responsibility:

- a) To read, understand and comply with the contents of this policy and FSD Kenya's code of conduct as well as attend induction and training as availed by FSD Kenya.
- b) To strive to develop relationships with all stakeholders which are based on equality, trust, respect and honesty.
- c) To report any concerns, they may have about the welfare of a child or vulnerable person or report any concerns they may have about the behaviour of a FSD Kenya representative concerning safeguarding.
- d) Exercise their duty to promote a zero-tolerance approach to discrimination, sexual harassment and abuse in all forms and place the safety and welfare of children and vulnerable people above all other considerations.
- e) Not to condone or participate in any prohibited behaviour.

20.2 All Project leads

FSD Kenya managers must

- a) Ensure staff and third parties they work with are inducted into the contents of this policy and are supported to implement work in accordance with this policy.
- b) Create a culture that fosters best practice in safeguarding.
- c) Ensure safeguarding risk is assessed and appropriate procedures that mitigate the risk embedded in day to day activities and all FSD Kenya's programming.
- d) Ensure that they respond promptly, confidentially and appropriately towards staff who report concerns.

20.3 Designated safeguarding officer

The designated Safeguarding Officers have a responsibility to:

- a) Provide support, advice and assistance to any member of FSD Kenya staff who feels they may have been the victim of conduct of a sexual nature that has made that person feel offended, humiliated or intimidated.
- b) Record all incidents relating to safeguarding concerns and will report them to the FSD Kenya Trustees and PIC on an annual basis (in an anonymised form). This report will be confidential, and if any concerns or patterns of abuse emerge, these will be dealt with appropriately.

20.4 Chief Executive Officer

The Chief Executive Officer of FSD Kenya is ultimately responsible for ensuring the effective implementation of this policy and associated procedures and ensuring that everyone associated with FSD Kenya is equipped and supported to meet their responsibilities.

20.5 FSD Kenya PIC

The PIC of FSD Kenya must:

- a) Always demonstrate a commitment to safeguarding.
- b) Ensure that there are adequate resources and systems in place to mitigate safeguarding risks effectively. This includes prevention, reporting and response mechanisms.
- c) Ensure that FSD Kenya achieves transparency and accountability concerning safeguarding while taking account of the sensitivities of the subject matter and the rights and welfare of those affected.
- d) Nominate a safeguarding champion at the PIC level to provide direct oversight over safeguarding matters.

20.6 FSD Kenya Trustees

FSD Kenya trustees are responsible for instituting mechanisms to obtain independent over the adequacy and effectiveness of the systems instituted mitigate safeguarding risks.

21. Independent assurance

FSD Kenya's safeguarding procedures and processes are subject to the regular internal audit reviews and where necessary FSD Kenya may call an external review to assure the integrity, adequacy and effectiveness of the instituted procedures.

22. Data retention and protection

FSD Kenya respects confidentiality and has a responsibility to protect sensitive personal data. Information will only be shared on a 'need to know' basis, that means, access to data must be necessary for the conduct of one's official duties. Only individuals who have legitimate reasons to access information can receive it. Express written consent will be obtained from an individual or in case of a child, parent or guardian as required. See Data Protection Policy – [FSD Kenya to insert link](#).

23. Review of this policy

The Chief Operations Officer is responsible for overseeing and updating this policy and associated procedure, taking into consideration any legal obligations and other external requirements. This policy will be reviewed after every two years.

24. Related policies

This policy should be read in conjunction with:

- a) Code of conduct
- b) Procedures for responding to a safeguarding concern
- c) Whistleblowing policy
- d) Anti-bullying and harassment policy
- e) Data protection policy
- f) Misconduct, disciplinary and grievance policy

Appendix 1: Key definitions and terminologies

A child - anyone under the age of 18 years, irrespective of the age of majority in the country in which the child lives or in their home country. It is widely recognised that children are generally more vulnerable to abuse and exploitation due to factors such as age, gender, social and economic status, developmental stage, and dependence on others.

Adults at risk or Vulnerable adult - a person, 18 years and above, who 1) has needs for care and support 2) is experiencing, or at risk of, abuse or neglect and 3) as a result of those care and support needs, is unable to protect themselves from either the risk of or the experience of, abuse or neglect. In many contexts, the term adult at risk has replaced vulnerable adults; this is because it focuses on the situation causing the risk rather than the characteristics of the adult concerned.

Youth or young people - individuals, between the age of 15 and 25 (some countries 15 to 35) - this group straddles the categories of 'children and 'adults. Young people have particular safeguarding needs and require distinct consideration different from younger children and older adults.

Survivor or Victim - 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.

Vulnerable person - refer in this policy to all above-mentioned people; children, vulnerable adults, youth and young people.

Abuse - a violation of an individual's human and civil rights by any other person or persons. It can take the form of physical, psychological, financial or sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the health, survival, development or dignity of a child, young person or vulnerable adult. Abuse can be a single act or repeated acts and can be unintentional or deliberate. Abuse often involves a criminal act.

Discrimination - this is abuse premised on the vulnerable person's age, race, nationality, sex, sexual orientation, disability, or other personal characteristics.

Financial or material abuse - this entails theft, fraud, exploitation, forgery, connivance relating to wills, inheritance or financial transactions, misuse or misappropriation of property or possession.

Neglect - the persistent failure to meet a vulnerable person's basic physical and/or psychological needs, likely to result in the serious impairment of his/her health or development. Examples include failure to provide adequate food, clothing and shelter, failure to protect them from physical or psychological harm or danger; failure to ensure adequate supervision (including the use of inadequate caregivers); or failure to ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a vulnerable person's basic emotional needs.

Physical abuse - includes hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating or otherwise causing physical harm, misuse of medication, restraint, or inappropriate sanctions.

Psychological abuse - includes emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, isolation or withdrawal from services or supportive networks. Examples include not giving a vulnerable person opportunity to express their views, deliberately silencing them or 'making fun' of what they say or how they communicate. It may feature age or developmentally inappropriate expectations being imposed on a vulnerable person which may include interactions that are beyond a vulnerable person's developmental capability. It may involve serious bullying (including cyber bullying), or the exploitation or corruption of a vulnerable person.

Child abuse - different forms of harm or mistreatment of children are categorised under the broader term "child abuse". Abuse can happen anywhere and at any time, but research shows that the perpetrators of abuse are likely to be known and trusted by the child. The most commonly defined types are:

- a) Physical: violence towards or deliberate injury of a child
- b) Neglect: the persistent failure to meet a child's basic physical and psychological needs
- c) Sexual: using a child for sexual stimulation or gratification
- d) Emotional: behaviour which attacks a child's self-esteem

Sexual abuse - is a broad term which includes several acts such as forcing, enticing or coercing someone to take part in sexual activities, whether or not the person is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example, rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing.

It also includes indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts, indecent exposure and sexual assault or sexual acts to which the adult has not consented or was pressured into consenting.

They may also involve a vulnerable person in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse (including via the internet).

All sexual activity with children (as defined under the UN Convention on the Rights of the Child as any person under the age of 18) is sexual abuse, regardless of the age of maturity or consent locally. A mistaken understanding of the age of a child is not a defence.

Sexual exploitation constitutes any actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, including profiting monetarily, socially or politically from the sexual exploitation of another. It is a broad term, but it includes transactional sex, solicitation of transactional sex and exploitative relationships.

Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

It involves any unwelcome sexual advance; request for sexual favours; verbal or physical conduct or gestures of a sexual nature; or any other behaviour of a sexual nature that might reasonably be expected, or be perceived, to cause offence or humiliation to

another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. Sexual harassment can be perpetrated against beneficiaries, community members, citizens, as well as staff, personnel, etc.

Free and informed consent is the voluntary agreement of an individual who can give consent, and who exercises free and informed choice.

Appendix 2: Terms of reference for safeguarding officers

The designated Safeguarding Officers are responsible for:

Prevention

Ensuring that the Policy is monitored and reviewed in accordance with changes in legislation, guidance and best practice

Undertaking relevant training in safeguarding procedures and ensuring that their knowledge is kept up to date

Monitoring the implementation of this Policy and associated procedures

Providing information, advice and training to appropriate FSD Kenya staff in respect of their safeguarding responsibilities

Reporting

Acting as a point of contact for those who have safeguarding concerns, receiving information and recording those concerns

Identify if other adults at risk from the alleged abuse

Response

Handling reports or concerns, about the protection of vulnerable people, appropriately and following the procedures that underpin this policy

Acting upon concerns as appropriate in the circumstances, e.g. by making external referrals to external authorities such as police or statutory welfare services.

Maintaining confidential records of relevant cases and action taken

Ensuring referrals to the relevant authorities and external donor reporting is done without delay

Support management in taking any immediate actions to identify and address the risk

Support police reporting where a crime has been or is suspected of being committed