



Australian Government

Department of Foreign Affairs and Trade



Preventing Sexual Exploitation, Abuse and Harassment Policy

4 April 2019

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SECRETARY'S FOREWORD

I am pleased to present the Department's Preventing Sexual Exploitation, Abuse and Harassment Policy.

We all have a responsibility to act in an ethical and transparent way to build a respectful working culture that rejects inappropriate behaviour, and where staff and communities feel supported and valued. While there has been significant media coverage of sexual misconduct in the aid sector recently, no sector, region or workplace is immune. For this reason, the Policy applies to all DFAT business, in Australia and overseas.

This Policy requires a heightened commitment and new ways of doing business. We have an opportunity to provide leadership by choosing to partner with—and fund— only those organisations which are prepared to meet the standards we set.

Sexual exploitation, abuse and harassment are insidious and require a long-term, global solution. DFAT will take every opportunity to advocate on this issue – to governments, organisations, and business. We will use our voice in everyday conversations as well as in international meetings. We will be transparent about our own endeavours, and will share our findings.

I thank everyone who contributed to this Policy. This Policy will be independently reviewed in mid-2020. We look forward to continuing to engage with and learn from others as we strengthen and refine our approach to this important issue.



Frances Adamson
Secretary
Department of Foreign Affairs and Trade
April 2019

1. INTRODUCTION

The Department of Foreign Affairs and Trade (DFAT) does not tolerate sexual exploitation, abuse or harassment (SEAH) of any kind. This applies to our own organisation and extends to those we work with. Alongside others, we continue to strengthen our approach to safeguarding – by enhancing accountability, improving support for people affected, and driving cultural change through strong leadership.

The Policy outlines both expectations and requirements for DFAT staff and our partners to manage the risk of SEAH and SEAH incidents, should they occur in the delivery of DFAT business. Preventing SEAH (PSEAH) is a shared responsibility. All organisations must play an active role in addressing SEAH that occurs in the course of their business — only if all parties take action will we have meaningful change. The Policy places the onus on all DFAT partners to manage the risk of SEAH.

The Policy is able to be adapted to the many contexts in which DFAT business is delivered. DFAT staff and partners will need to apply judgment based on the risk context in which they are operating.

Key definitions

This Policy uses the following descriptions of sexual exploitation, sexual abuse and sexual harassment, which combine international and Australian definitions:

Sexual exploitation: Any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes. It includes profiting monetarily, socially, or politically from sexual exploitation of another.

Sexual abuse: The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. It covers sexual offences including but not limited to: attempted rape (which includes attempts to force someone to perform oral sex); and sexual assault (which includes non-consensual kissing and touching). All sexual activity with someone under the age of consent (in the law of the host country or under Australian Capital Territory law [16 years], whichever is greater) is considered to be sexual abuse.

Sexual harassment: A person sexually harasses another person if the person makes an unwelcome sexual advance or an unwelcome request for sexual favours, or engages in other unwelcome conduct of a sexual nature, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Sexual harassment can take various forms. It can be obvious or indirect, physical or verbal, repeated or one-off and perpetrated by any person of any gender towards any person of any gender. Sexual harassment can be perpetrated against beneficiaries, community members, citizens, as well as staff and personnel.

For more definitions, see *Glossary*.

DFAT will give practical effect to the Policy through agreements, reporting requirements and regular communication to our staff and partners. In recognition of the requirements and expectations under the Policy, **it will be implemented incrementally** — see *Section 7 — Implementation and date of effect*. DFAT will review the Policy after 12 months, then every three years. DFAT appreciates our partners

collaborative approach in developing the Policy and looks forward to ongoing collaboration during implementation.

This Policy addresses the sexual exploitation, abuse and harassment of adults. It does not replace DFAT's Child Protection Policy. The Child Protection Policy can be found at www.dfat.gov.au/childprotection and details what DFAT officers and partners are required to do in circumstances where a child is being abused, is suspected of being abused, or is at risk of abuse.

2. SCOPE

There are four groups in policy scope:

1. DFAT staff, specifically:

- DFAT employees engaged pursuant to the *Public Service Act 1999*
- Locally engaged staff (LES) employed outside Australia
- Independent contractors working in DFAT.

DFAT staff are expected to comply with the principles and reporting requirements specified in this Policy. DFAT staff are reminded of other obligations which may apply to them, including the *Australian Public Service (APS) Values and APS Code of Conduct*, the *DFAT Code of Conduct for Overseas Service*, the applicable *LES Code of Conduct*, the *DFAT Conduct and Ethics Manual*, and *DFAT's Anti-bullying, Harassment and Discrimination Policy*.

2. DFAT partners who have agreements in place with DFAT (funded and unfunded). This includes, but is not limited to:

- Contractors and their personnel
- Consultants, advisors and contracted individuals
- Non-government and civil society organisations
- Sponsorship partners
- Board members
- Australian Volunteers Program participants and host organisations
- Recipients and awardees under the Australia Awards, New Colombo Plan, Alumni, and other DFAT funded scholarship programs
- Seconded staff to and from DFAT
- DFAT grant recipients, including under the Australian NGO Cooperation Program (ANCP), Direct Aid Program (DAP), Sports Diplomacy programs, public diplomacy programs (including funding to Foundations, Councils and Institutes), and Friendship Grants.

These groups are expected to **apply the Policy commensurate with the level of SEAH risk** associated with the activity and their organisation. More information is provided in *Section 4 — Risk assessment*.

3. Partner governments and multilateral organisations:

- Australian Government and Australian State and Territory Government agencies which have agreements in place with DFAT (funded or unfunded)
- Multilateral partners
- Other partner governments.

These groups are expected to act in accordance with the principles and reporting requirements outlined in this Policy. They must also abide by their own relevant policies, international declarations, conventions, agreements and domestic legal frameworks that relate to preventing sexual exploitation, abuse and harassment. Through our partnership agreements and board memberships, DFAT will ensure PSEAH is part of due diligence processes for these organisations, and seek assurances of their application.

4. **Downstream DFAT partners**, that is, contractors, subcontractors, partners and any other entity engaged by DFAT partners to perform any DFAT-related work. Application of the Policy to downstream partners is the responsibility of the partner with whom DFAT has an agreement. DFAT will require evidence of this application as part of their risk management processes.

3. PRINCIPLES

The Policy is underpinned by the six principles outlined below. The principles reflect Australia's international commitments to address SEAH¹ and Australian initiatives to reduce violence against women and their children.²

Principle 1: Zero tolerance of inaction

Sexual exploitation, abuse and harassment are never acceptable. DFAT recognises that achieving a significant reduction in SEAH is a long-term endeavour. Zero tolerance is not the same as zero incidents. Reports of incidents may increase as organisations improve safeguards. Increasing reports may indicate growing awareness of SEAH and changing attitudes, with victims/survivors feeling more comfortable to report and organisations more likely to take action. The reporting of incidents and responses is an indicator that the risk of SEAH is being managed appropriately.

For this Policy, DFAT defines zero tolerance as acting on every allegation in a fair and reasonable way with due regard for procedural fairness.

Principle 2: Strong leadership accelerates culture change

Culture change is underway in many organisations. Strong leadership is essential for accelerating the pace of change. Leaders set organisational culture. DFAT expects leaders to set clear expectations and model respectful behaviour in their interactions at work. This will support communities, victims/survivors and whistleblowers to feel safe, report concerns and be assured their allegations are taken seriously.

Strong leaders address SEAH by taking measures to improve diversity and inclusion. Diverse and inclusive organisations have lower levels of harassment and discrimination³. This can include strong, actionable human resource procedures that embed gender equality and PSEAH; inclusion of PSEAH discussions on board meeting agendas; having senior champions responsible for PSEAH and encouraging staff gender balance particularly in senior roles. Leaders should encourage scrutiny of their own behaviour and that of senior management.

Principle 3: Victim/survivor needs are prioritised

Action to address SEAH should be underpinned by a "do no harm" approach prioritising the rights, needs, and wishes of the victim/survivor, while ensuring procedural fairness to all parties. This approach:

- treats the victim/survivor with dignity and respect
- involves the victim/survivor in decision making
- provides the victim/survivor with comprehensive information

¹ Chiefly, the Collective Statement of the Members of the Secretary-General's Circle of Leadership on the Prevention of and Response to Sexual Exploitation and Abuse in United Nations Operations; the Tidewater Joint Statement on Combating Sexual Exploitation and Abuse in the Development and Humanitarian Sectors; the Whistler Declaration on Protection from Sexual Exploitation and Abuse in International Assistance; and the commitments made by donors at the 2018 United Kingdom Safeguarding Summit.

² In particular, the *National Plan to Reduce Violence against Women and their Children, 2010-2022*.

³ Diversity Council of Australia, *Inclusion@Work Index, 2017-18*, <https://www.dca.org.au/research/project/inclusion-index>

- protects privacy and confidentiality
- does not discriminate based on gender, age, race/ethnicity, ability, sexual orientation, or other characteristics
- considers the need for counselling and health services to assist the victim/survivor with their recovery⁴.

Principle 4: Preventing Sexual Exploitation, Abuse and Harassment is a shared responsibility

Preventing Sexual Exploitation, Abuse and Harassment is everyone’s responsibility. Real change to reduce SEAH will not occur unless every sector plays a role — government, business, non-government organisations, institutions, communities and individuals. DFAT requires the commitment, support and investment of its partners for this Policy to be effective. All organisations have a responsibility to build their capacity to deal sensitively and effectively with SEAH that occurs in the course of their work.

Principle 5: Gender inequality and other power imbalances are addressed

Available data indicates that the majority of SEAH victims/survivors are female and the majority of perpetrators are male⁵. However, there are also other power imbalances at play. Inequalities based on the distinctions of worker/beneficiary; ability/disability; ethnic and Indigenous status; religion; gender identity and sexual orientation; age; health and poverty, can also result in SEAH. The intersection of gender with other forms of inequality can further increase the likelihood of SEAH occurring. Engagement with intended beneficiaries should be based on respect for diversity, promotion of gender equality and social inclusion, accountability, and a strong “do no harm” focus.

Although they are not in scope for this Policy, children are at high risk of SEAH — particularly children with disability, children living in residential or institutional care, children who have experienced previous trauma or abuse, trafficked children, and gender diverse children and young people. DFAT’s Child Protection Policy can be found at www.dfat.gov.au/childprotection.

Principle 6: Stronger reporting will enhance accountability and transparency

Sexual exploitation, abuse and harassment is a failure of responsibility. The organisations and individuals who deliver DFAT business are not only accountable to DFAT, but also to the communities, customers and clients for whom the business is intended. Stronger reporting allows DFAT to better monitor SEAH, understand risks, improve assurance and work with organisations to improve systems and safeguards accordingly. Reporting will also help to focus organisations on the issue by providing a regular prompt that PSEAH is a core obligation of their work.

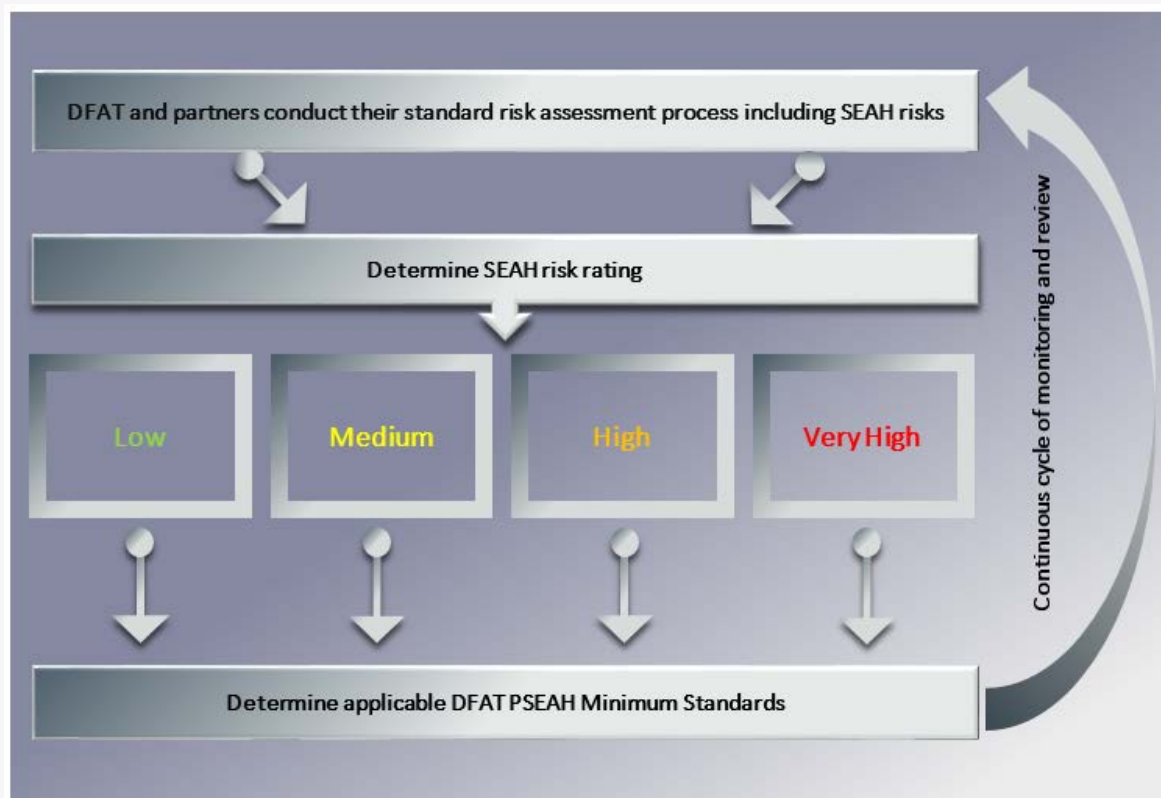
⁴ UN Women, 2011, *Virtual Knowledge Centre to End Violence against Women and Girls: Survivor Centred Approach*, <http://www.endvawnow.org/en/articles/652-survivor-centred-approach.html>

⁵ Victorian Institute of Forensic Medicine, 2018, *Shaping the Path: Independent Review into the Practice and Response of ACFID Members in the Prevention of Sexual Misconduct*, pp.47-60.

4. RISK ASSESSMENT

The Policy takes a risk-based, proportional approach to PSEAH. DFAT staff and partners must assess the level of risk for SEAH occurring, and apply the PSEAH Minimum Standards (Attachment A) accordingly (see flow diagram below). Guidance on assessing the risk of SEAH is provided to assist DFAT partners determine the level of risk. PSEAH Minimum Standards are then applied commensurate with the level of risk identified (Diagram 1 refers). There will be some instances where, in line with taking a proportional approach, the Minimum Standards will not apply. This is outlined in greater detail in the Guidance.

Diagram 1: *Establishing the level of SEAH risk*



Risk and decision-making processes and documents need to reflect this assessment. This does not need to be a standalone procedure, and can be incorporated into existing activity planning and risk management processes.

It is the responsibility of DFAT partners to ensure controls are in place to manage and monitor the risk of SEAH and ensure processes are adhered to. It is the responsibility of DFAT to ensure that partners have SEAH controls in place and that those partners systems and assurance processes are robust.

Exploitative sex and relationships

Men and women can be sexually exploited through **transactional sex** (the exchange of money, employment, goods or services for sex or sexual acts), even in places where sex work is legal. After a crisis, people may engage in transactional sex to generate income and meet basic survival needs. They may not identify with the term “sex worker”. For a person purchasing sex in this setting, it is often impossible to distinguish between exploitative and non-exploitative transactional sex.

Fraternisation refers to any relationship occurring in the course of conducting business, that involves — or appears to involve — partiality, preferential treatment or improper use of rank or position including but not limited to voluntary sexual behaviour. It includes sexual behaviour not amounting to intercourse, a close and emotional relationship involving public displays of affection or private intimacy and the public expression of intimate relations.

Where there are significant power imbalances at play (based on gender, age, ability, authority, social and economic inequality, etc) the potential for exploitative transactional sex and fraternisation is heightened.

It is important that DFAT staff and partners consider whether the contexts in which they are working give rise to exploitative sex and fraternisation. The risk assessment guidance associated with this Policy will help to determine the likelihood of transactional sex or fraternisation constituting sexual exploitation. Where DFAT business is classified as “very high risk”, Minimum Standards 6 and 7 of this Policy, relating to the prohibition of transactional sex and fraternisation respectively, will apply. For more information, see Attachment A.

5. REPORTING

Reporting helps us to monitor SEAH incident management. When alleged incidents are reported, we will work with the organisation or individual to track incident management. Over time, reporting will allow us to analyse trends and improve prevention and response strategies. In line with our transparency agenda, DFAT will report annually on Policy implementation — not individual cases.

In accordance with Principle 3 — *Victim/survivor needs are prioritised* — victims’ and survivors’ safety and wellbeing must be paramount to reporting and their information treated confidentially. Whistleblowers must similarly feel safe and protected during the reporting process.

DFAT expects two kinds of incident reporting:

- **Mandatory and immediate** (within two working days of becoming aware of an alleged incident) reporting by all staff and DFAT partners of any alleged incident of sexual exploitation, abuse or harassment related to the delivery of DFAT business. This includes any alleged incident that poses a significant reputational risk to DFAT. For example, an allegation against a senior staff member of a partner organisation.
- **Mandatory reporting** (within five working days) by all staff and DFAT partners of any alleged Policy non-compliance; for example, failure to adhere to the PSEAH Policy Minimum Standards or principles.

Who reports

All DFAT staff and partners as defined under the Policy's scope (see *Section 3 - Scope*) must report any alleged incidents of sexual exploitation, abuse or harassment or Policy non-compliance.

What is reported

Reporting is for any suspected or alleged cases of SEAH perpetrated by anyone within scope of the Policy in connection with official duties or business.

If in doubt, staff and DFAT partners should report an alleged incident. In line with Principle 1 — *Zero tolerance of inaction* — individuals and organisations found not reporting alleged incidents will be viewed as being non-compliant.

Reports of abuse or exploitation of individuals under the age of 18 years must follow DFAT's Child Protection Policy – see www.dfat.gov.au/childprotection.

How to report

All reports of alleged SEAH incidents should be made using the DFAT Sexual Exploitation, Abuse and Harassment Incident Notification Form (www.dfat.gov.au/pseah) and emailed to seah.reports@dfat.gov.au.

DFAT staff are reminded of their additional reporting obligations under DFAT's Anti-bullying, Harassment and Discrimination Policy.

Where safe to do so, and when in accordance to the wishes of the victims, survivors and whistleblowers, **all alleged SEAH incidents that involve a criminal aspect should be reported through the correct local law enforcement channels**. To protect the privacy of alleged perpetrators, victims/survivors, and whistleblowers, information provided to DFAT will be handled in accordance with the *Privacy Act 1988 (Cth)*.

Annual reporting requirements will be detailed in agreements where required.

6. COMPLIANCE AND ASSURANCE

DFAT will monitor compliance through a range of approaches including performance assessments, reviews, non-government organisation accreditation processes and due diligence checks. Partner organisations are expected to put in place appropriate risk-based measures to ensure they and their suppliers comply with this Policy.

Non-compliance with requirements may lead to DFAT suspending or terminating an agreement with a partner. More information on Policy non-compliance will be forthcoming at www.dfat.gov.au/pseah.

7. IMPLEMENTATION AND DATE OF EFFECT

The Policy will be implemented incrementally from 1 July 2019. More information on implementation can be found at www.dfat.gov.au/pseah

For enquiries, guidance, or information on the PSEAH Policy:

Email: seah.reports@dfat.gov.au

Telephone: +61 2 6178 5100

Web: www.dfat.gov.au/pseah

MINIMUM STANDARDS

The Policy takes a risk-based, proportional approach to PSEAH. DFAT staff and partners must assess the level of risk for SEAH occurring, and apply minimum standards accordingly. Guidance on assessing the risk of SEAH is provided to assist DFAT partners determine the level of risk. The PSEAH Minimum Standards are then applied commensurate with the level of risk identified.

DFAT PSEAH Minimum Standards						
Minimum standard	Obligation		Applies to			
	Organisations	Individuals	Low Risk	Med Risk	High Risk	Very High Risk
1. Have a PSEAH policy or other documented policies and procedures in place and clearly communicate expectations of this Policy.	Must have a PSEAH policy or other documented policies and procedures in place, which clearly meet the expectations of this Policy.	Sign a document outlining appropriate and enforceable standards of conduct, compliant with the requirements of this Policy	✓	✓	✓	✓
2. Have reporting and investigation procedures in place.	The PSEAH policy, or equivalent, documents how SEAH incidents will be managed, reported and investigated. Reporting and investigation processes must include engagement of and reporting to senior management and executive boards.	Through a document which outlines appropriate and enforceable standards of conduct, confirm awareness of DFAT’s PSEAH reporting requirements for concerns or incidents and policy non-compliance.	✓	✓	✓	✓
3. Have risk management processes that include the risk of SEAH.	Have effective risk management processes that include consideration of the risk of SEAH. The process must document the controls already in place or to be implemented to reduce or remove risks.	Must meet the reporting requirements under their agreement, aligned to DFAT’s PSEAH Policy.	X	✓	✓	✓

DFAT PSEAH Minimum Standards						
Minimum standard	Obligation		Applies to			
	Organisations	Individuals	Low Risk	Med Risk	High Risk	Very High Risk
4. Effective PSEAH training in place.	PSEAH training for personnel, including downstream partners and individuals that deliver DFAT business.	Complete PSEAH training and provide evidence of this.	X	X	✓	✓
5. Recruitment and screening processes and employment practices address and manage the risk of SEAH.	Can demonstrate robust PSEAH recruitment and screening processes for all personnel/consultants including having in place appropriate and enforceable standards of conduct.	Based on a risk assessment, assurances could include providing a recent police check, working with vulnerable people check or location specific equivalent that provides assurance reasonable SEAH precautions have been taken. Local requirements must also be followed.	X	X	✓	✓
6. Prohibit transactional sex for all personnel, while engaged in the direct delivery of DFAT business	Prohibits transactional sex in the field for all staff and downstream partners while engaged in the delivery of DFAT business	Employment agreements include clauses prohibiting transactional sex while engaged in the delivery of DFAT business.	X	X	X	✓
7. Prohibit fraternisation for all non-national personnel, while engaged in the direct delivery of the DFAT business	Prohibits fraternisation for all non-national personnel in the field while engaged in the delivery of DFAT business	Employment agreements include clauses prohibiting fraternisation for all non-national individuals while engaged in the delivery of DFAT business	X	X	X	✓

GLOSSARY

AGREEMENT	A contract, grant agreement or other arrangement entered into by DFAT and a DFAT partner, whether legally binding or not.
CHILD/CHILDREN	In accordance with the United Nations Convention of the Rights of the Child, 'child' means every human being under the age of 18 unless under the law applicable to the child, majority is attained earlier. For the purposes of this Policy, DFAT considers a child to be a person under the age of 18 years.
CONTRACTOR(S)	A person or entity engaged pursuant to a contract for services. Includes: <ul style="list-style-type: none"> • specified personnel nominated in a head agreement with an intermediary company (the contractor) to which a payment is made (although the specified personnel may themselves be employees and not independent contractors); or • If the person performing the service is the service provider; he/she is an independent contractor.
DFAT PARTNER	Includes all suppliers, individuals and organisations with whom DFAT directly enters into an Agreement to deliver its objectives, including but not limited to: <ul style="list-style-type: none"> • suppliers of goods and services • contractors and service providers including consultants, advisers and other directly contracted individuals • non-Government Organisations (NGO), Civil Society Organisations (CSO) • grant recipients • multilateral organisations • partner governments and bilateral donor partners • other Australian Government entities.
DFAT BUSINESS	Actions taken or work performed by a DFAT Partner pursuant to an Agreement.
DFAT STAFF	A person engaged as an employee under section 22 of the <i>Public Service Act 1999</i> as either an ongoing or non-ongoing employee, or a person engaged under a contract of employment by the Commonwealth outside of Australia. For the purposes of this Policy, Contractors are included in the definition of DFAT Staff.
DOWNSTREAM PARTNER	Suppliers, individuals and organisations who are engaged by a DFAT Partner to perform DFAT business.
FRATERNISATION	Any relationship that involves, or appears to involve, partiality, preferential treatment or improper use of rank or position including but not limited to voluntary sexual behaviour. It could include sexual behaviour not amounting to intercourse, a close and emotional relationship involving public displays of affection or private intimacy and the public expression of intimate relations.

GRANT	<p>an arrangement for the provision of financial assistance by DFAT:</p> <ul style="list-style-type: none"> • under which DFAT money is to be paid to a DFAT partner; and • which is intended to assist the DFAT partner to achieve its objectives, as well as to help achieve one or more DFAT policy outcomes.
MULTILATERAL PARTNER	<p>International intergovernmental institutions with governmental membership. They include multilateral development banks, United Nations agencies and regional groupings.</p>
PERPETRATOR	<p>A person (or group of persons) who commits an act of SEAH or other type of crime or offence.</p>
SEXUAL ABUSE	<p>The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. It covers sexual offences including but not limited to: attempted rape (which includes attempts to force someone to perform oral sex); and sexual assault (which includes non-consensual kissing and touching). All sexual activity with someone under the age of consent⁶ is considered to be sexual abuse.</p>
SEXUAL EXPLOITATION	<p>Any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes. It includes profiting monetarily, socially, or politically from sexual exploitation of another.</p>
SEXUAL HARASSMENT	<p>A person sexually harasses another person if the person makes an unwelcome sexual advance or an unwelcome request for sexual favours, or engages in other unwelcome conduct of a sexual nature, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.</p> <p>Sexual harassment can take various forms. It can be obvious or indirect, physical or verbal, repeated or one-off and perpetrated by any person of any gender towards any person of any gender. Sexual harassment can be perpetrated against beneficiaries, community members, citizens, as well as staff and personnel.</p> <p>Some examples of behaviour that may be sexual harassment include:</p> <ul style="list-style-type: none"> • staring or leering; • unnecessary familiarity, such as unwelcome affection or touching; • suggestive comments or jokes; • insults or taunts of a sexual nature; • intrusive questions or statements about your private life; • displaying posters magazines or screen savers of a sexual nature; • sending sexually explicit emails or text messages; • inappropriate advances on social networking sites; • accessing sexually explicit internet sites; • requests for sex or repeated unwanted requests to go out on dates; and

⁶ Refers to age of consent requirements specified for sexual activity in the law of the host country or the age of consent under the law of the Australian Capital Territory (16 years), whichever sets the greatest age.

- behaviour that may also be considered to be an offence under criminal law such as physical assault, indecent exposure, sexual assault , stalking or obscene communications.

TRANSACTIONAL SEX

The exchange of money, employment, goods or services for sex, including sexual favours.

VICTIM/SURVIVOR

A person who is, or has been, sexually exploited, harassed or abused.