

PREVENTION OF SEXUAL EXPLOITATION AND ABUSE OF PROGRAM PARTICIPANTS AND COMMUNITY MEMBERS (PSEA)

Effective Date 02/24/2020 **Version** 3 **Version Date** 06/21/2021
Responsible Team Ethics and Compliance Department
Supersedes Version 2.1
Policy Type Tier 1 **Policy Number** n/a

POLICY

1. Purpose

1.1. Mercy Corps is committed to ensuring that all individuals we come into contact with through our work, whether team members, community members, Program Participants or others, are treated with respect and dignity. We expect team members, Visitors and Partners to put the well-being and best interests of its Program Participants as the highest priority, to treat all Program Participants and host community members with respect and dignity, and to never engage in conduct that could be perceived as abusive, exploitative or harassing. We expect management and all team members to fully foster a culture that supports this standard. We will not tolerate sexual exploitation, abuse, or harassment by our team members, Visitors or anyone else receiving Mercy Corps resources. We are committed to the core principles regarding prevention of sexual exploitation and abuse laid out by the United Nations Secretary General in 2003, as well as the 2019 Inter-Agency Standing Committee (IASC) 6 Core Principles Relating to Sexual Exploitation and Abuse, and Mercy Corps is a signatory to the “Statement of Commitment on Eliminating Sexual Exploitation and Abuse by UN and non-UN Personnel.” This policy sets forth our expectations of personal and professional behavior related to sexual exploitation and/or abuse of Program Participants and community members and the required procedures to ensure we uphold our commitment to preventing such conduct.

2. Scope and Application

2.1. This policy applies to: Mercy Corps Global, Mercy Corps Europe, and Mercy Corps Netherlands, their subsidiaries and affiliate organizations (collectively, “Mercy Corps”); Members of the Mercy Corps’ Board of Directors, officers, management, employees, seconded employees, interns and volunteers, (collectively “team members”); Sub-recipients,

partner organizations, contractors, outside experts (including attorneys), consultants, agents, representatives, and any other organization or individual that acts on Mercy Corps' behalf or at Mercy Corps' direction (collectively "Partners"); and visitors to any Mercy Corps facility, which includes photographers, filmmakers, journalists, researchers, private donors and prospective donors, and anyone else hosted by Mercy Corps or visiting Mercy Corps' implemented or financially supported programs (collectively "Visitors").

- 2.2. This policy applies to the above parties in all locations, at all times, both during and outside of working hours, and applies to current and past conduct.

3. Policy Statements

3.1. Prohibited Conduct

- 3.1.1. Mercy Corps prohibits and does not tolerate any team member, Visitor or Partner engaging in sexual exploitation and/or abuse of Program Participants, and community members or anyone else. This applies at all times whether working or not.
- 3.1.2. Sexual exploitation and abuse constitute acts of gross misconduct and are therefore grounds for termination of employment.
- 3.1.3. "Sexual abuse" includes any actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.
- 3.1.4. "Sexual exploitation" includes any actual or attempted abuse of position of vulnerability, power differential, or trust, for sexual purposes, including but not limited to, profiting monetarily, socially, or politically from the sexual exploitation of another. Sexual exploitation includes, but is not limited to exchanging or attempting to exchange money, employment, goods or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior. This includes exchange of assistance for sexual or romantic relations.
- 3.1.5. Sexual or romantic activity with children (persons under the age of 18) is prohibited, regardless of the legal age of consent in the country, in all locations and at all times (both during and outside of working hours). Mistaken belief in the age of a child is not a defense. (See also Mercy Corps' Child Safeguarding Policy).
- 3.1.6. Any romantic or sexual relationship between Mercy Corps team members and Program Participants that involves improper use of rank or position is prohibited. In limited circumstances, and only when the relationship clearly does not involve the improper use of rank or position and cannot be in any way perceived as exploitative in nature, romantic or sexual relationships between Mercy Corps team members and Program Participants may be permitted but only if: (1) the team member discloses the relationship to their Safeguarding Focal Point, HR Lead, or Country Director (or equivalent position) and notifies the Ethics and Compliance Department via the integrityhotline@mercycorps.org; and (2) the Country Director and Ethics and Compliance Department determine that the relationship is not in any way exploitative or based on unequal power; that it will not jeopardize the community's trust in Mercy Corps; and that any potential conflicts of interests that the relationship creates are handled in accordance with Mercy Corps' Conflicts of Interest Policy. Mercy Corps does not under any circumstances allow Country Director or equivalent positions to engage in romantic or sexual relationships with Program Participants.

3.2. Mandatory Reporting of Prohibited Conduct

- 3.2.1. Mercy Corps requires all team members and Partners to immediately report suspicions of sexual exploitation and/or abuse involving Mercy Corps team members, Partners, Visitors, or employees of other humanitarian or aid agencies. Reports should be submitted in accordance with Mercy Corps Ethics Complaint and Whistleblower Policy. Mercy Corps will review all such reports and will investigate in accordance with the Ethics Complaint and Whistleblower Policy. Team members who are aware of sexual exploitation and/or abuse by team members or Partners or Visitors and who do not ensure that they are reported may be subject to discipline up to and including termination.
- 3.2.2. Mercy Corps encourages all Program Participants and community members to report suspicions of sexual exploitation and/or abuse involving Mercy Corps team members, Partners, or Visitors. In order to facilitate reporting, Mercy Corps commits to establishing appropriate and accessible Community Accountability Reporting Mechanisms (CARM) where Mercy Corps and its partners work. Mercy Corps team members and Partners who receive allegations of sexual exploitation or abuse through CARM must follow their reporting obligations in accordance with the Ethics Complaint and Whistleblower Policy.

3.3. Confidentiality

- 3.3.1. Because of the nature and sensitivity of allegations involving sexual exploitation and abuse, Mercy Corps treats all reports and allegations with the greatest respect for confidentiality of all individuals involved. Mercy Corps will seek to maintain privacy at all times during the investigation process, consistent with our responsibility to maintain individual and team safety. This means that only those people with a need to know can be provided information, and limited to their role in the response and investigation process. Anyone who has a role as part of the investigation or response team is bound by confidentiality and can be disciplined, up to termination, for violating that confidentiality.
- 3.3.2. Mercy Corps may, however, be required by its donors, regulators or via legal action brought by the accused or other legal reasons, to disclose allegations and related detailed information, including the name and identifying information of the survivors and the accused. When providing personally identifiable information to donors, regulators or law enforcement, Mercy Corps will seek to limit distribution of this information to the extent possible and allowed by law and, when possible and in accordance with laws, will seek assurances that the information remains confidential.
- 3.3.3. Anonymous reports to the Integrity Hotline (mercycorps.org/integrityhotline) are allowed. A non-anonymous reporter may request to preserve confidentiality by not allowing the Ethics and Compliance Department or investigators to disclose the content of the allegations (or parts thereof) to the perpetrators. In both cases of anonymous reporting and preservation of confidentiality, Mercy Corps' ability to conduct an investigation that can hold perpetrators accountable for substantiated allegations can be significantly restricted. To the best of its ability, Mercy Corps will work with survivors to address their concerns around confidentiality in order to allow effective investigations to go forward. Effective and fair investigations typically require confronting the accused with the allegations. In cases where Mercy Corps has concerns for the safety and wellbeing of its team, Mercy Corps may take appropriate actions, while still respecting to the extent feasible, privacy and confidentiality.

- 3.4. Support for Survivors**
 - 3.4.1. Mercy Corps will offer survivors of sexual exploitation and abuse independent medical, psychosocial, and legal support. Mercy Corps will assist them with reporting incidents to the proper authorities should they choose to.

- 3.5. Investigating Reports of Prohibited Conduct**
 - 3.5.1. Mercy Corps commits to a serious, swift, and fair investigation for all allegations of sexual exploitation and abuse. Investigations will be conducted in accordance with Mercy Corps Ethics Complaint and Whistleblower Policy and related guidance.
 - 3.5.2. Mercy Corps will, first and foremost, take into account the safety, security and well being of the survivors during any investigation or follow-up action, but will also take into account the safety and well-being of the accused and any witnesses.

- 3.6. No Retaliation for Reporting**
 - 3.6.1. Mercy Corps will not tolerate any form of retaliation against team members, Visitors, Partners, Program Participants or others who report suspected prohibited conduct in good faith or participate in investigations. The full protections for persons making reports can be found in Mercy Corps' Ethics Complaint and Whistleblower Policy. Anyone who feels that they have experienced retaliation for reporting or participating in a sexual misconduct investigation should immediately report to the Ethics and Compliance Department at mercycorps.org/integrityhotline or, if they feel comfortable doing so, to their Executive, Country Directors, HR Managers, or supervisors, who must then ensure they report the allegation of retaliation to the Ethics Team.
 - 3.6.2. Mercy Corps will not require its team members, Visitors, or Partners to sign or comply with internal confidentiality agreements or statements that prohibit or otherwise restrict team members, Visitors, or Partners from lawfully reporting violations to a designated investigative or law enforcement representative of a department or agency authorized to receive such information.

- 3.7. Disciplinary Consequences for Prohibited Conduct**
 - 3.7.1. Mercy Corps will suspend (or otherwise ensure that any risk of further harm is mitigated) any team member, Partner team member, or Visitor who is the subject of credible allegations of sexual exploitation or abuse while Mercy Corps and/or law enforcement investigate the matter.
 - 3.7.2. All substantiated violations will result in termination with ineligibility for rehire or future receipt of consultancies or independent contractor contracts or other resources from Mercy Corps.
 - 3.7.3. Any Partner whose team members, partners or visitors engage in sexual exploitation or abuse will be required to institute corrective measures that include verification that the Partner is adhering to this policy. Mercy Corps may also immediately suspend or terminate an agreement with a Partner due to sexual exploitation and abuse by the Partner, its team members, visitors or partners. Mercy Corps may also determine the Partner ineligible for future agreements depending, in part, on whether the Partner knowingly and willfully failed to comply with this policy (for example: Partner knew of and failed to report, investigate and take corrective action for sexual exploitation and abuse).

- 3.8. Reporting Prohibited Conduct to Donors, Law Enforcement, and Charity Regulators**
 - 3.8.1. Mercy Corps will report sexual exploitation and abuse to donors as and when they require or, when not required, when appropriate.
 - 3.8.2. In the event sexual exploitation or abuse could violate local criminal law, unless the

safety, security, and wishes of the survivors necessitate otherwise, Mercy Corps will report the incident to local law enforcement. If the conduct would violate the criminal law of the home country of the accused, Mercy Corps may notify law enforcement in that country as well.

- 3.8.3. Mercy Corps will cooperate fully with any investigation initiated by donors or law enforcement and will seek to ensure that those who engaged in criminal sexual activity of any kind are held accountable.

4. Required Procedures

- 4.1. Mercy Corps ensures compliance with this policy through global HR teams working with field teams and through appropriate processes and procedures designed to ensure to the extent possible that:
 - 4.1.1. All potential new team members undergo screening designed to ensure that they have not previously engaged in sexual exploitation, abuse, or harassment;
 - 4.1.2. All team members are informed and trained on what conduct this policy requires (via code of conduct training) and their responsibilities under this Policy, including what conduct constitutes sexual exploitation and abuse and how to report, and all team members certify that they have understood this policy and agree to abide by it;
 - 4.1.3. All Mercy Corps offices display awareness posters on this policy, including all available reporting mechanisms, translated into the primary language of the office and in conspicuous locations where all team members will see them;
 - 4.1.4. Each country office has a designated focal point who can act as a local resource for team members, Program Participants and community members who wish to report or discuss sexual exploitation or abuse;
 - 4.1.5. For each program, the risk of sexual exploitation and abuse of Program Participants is assessed and reasonable risk mitigation measures are incorporated into the design and operation of the program (a risk-based approach);
 - 4.1.6. Program Participants and host communities are informed about Mercy Corps' commitments under this Policy and how to report any suspected violations by Mercy Corps team members, Partners or Visitors;
 - 4.1.7. Where appropriate and when in direct contact with Program Participants or host communities, consultants, experts, contractors, agents, donor and government representatives and Visitors (including journalists and researchers) are informed of the requirements under this Policy;
 - 4.1.8. All team members, Partners, Visitors, Program Participants and communities can anonymously (if they choose) report all forms of sexual exploitation and/or abuse and that all such reports are quickly provided to Mercy Corps' global Integrity Hotline (mercycorps.org/integrityhotline) (see Mercy Corps' Ethics Complaint and Whistleblower Policy);
 - 4.1.9. All reported allegations are confidentially, independently and thoroughly investigated in a manner that ensures, to the extent possible, protection of the survivor and a survivor-centered approach (see Mercy Corps' Ethics Complaint and Whistleblower Policy and related guidance);
 - 4.1.10. All reported allegations are disclosed to donors and regulators as and when the donor or regulator requires, and, if reports include allegations of criminal misconduct, they are also disclosed to local authorities (subject to the safety and security of survivors and in accordance with adult survivors' wishes) (see Mercy Corps Ethics Complaint and Whistleblower Policy and related guidance);
 - 4.1.11. Contractual agreements or memoranda of understanding with Partners include

- obligations to adhere to this policy and any additional donor required provisions related to sexual exploitation and abuse, that Partners have the capacity to ensure their compliance with this policy;
- 4.1.12. Contractual agreements or memoranda of understanding with Partners require Partners to commit in writing to act in accordance with this policy and to report to Mercy Corps any incidents of sexual exploitation and abuse that: (1) involve or are related to resources provided by Mercy Corps; or (2) Mercy Corps' team members or programs; and;
 - 4.1.13. Mercy Corps Joint Board Audit and Risk Committee is informed of all reports and investigations of sexual exploitation and abuse at or around its regularly scheduled meetings and provided with whatever additional information necessary to allow it to conduct its oversight duties (see the Ethics Complaint and Whistleblower Policy and related guidance).

5. Roles and Responsibilities

- 5.1. Mercy Corps' General Counsel and Ethics and Compliance Department are responsible for:
 - 5.1.1. Ensuring this policy and related guidance and training materials remain up-to-date via bi-annual reviews;
 - 5.1.2. Ensuring global reporting and investigations are overseen in accordance with this Policy and the Ethics Complaint and Whistleblower Policy and related guidance; and
 - 5.1.3. Reporting to Mercy Corps Joint Board Audit and Risk Committee regarding allegations.
- 5.2. The Chief People & Strategy Officer and Human Resources Team are responsible for:
 - 5.2.1. Ensuring that safe recruiting processes are in place and adhered to;
 - 5.2.2. Ensuring that all team members undergo the code of conduct training and acknowledge their understanding of it and willingness to abide by it;
 - 5.2.3. Working closely with senior management in all countries to ensure that focal points are properly identified and trained and policies and trainings are appropriately adapted to the local context; and
 - 5.2.4. Ensuring that team members declared ineligible for rehire are not rehired by Mercy Corps and that this status is included in responses to employment verification checks by other organizations.
- 5.3. The Senior Director of Operations and Program Performance and Quality Teams (PaQ) are responsible for:
 - 5.3.1. Providing minimum standards and guidance to country teams related to community accountability reporting mechanisms for Program Participants and community members.
- 5.4. All Mercy Corps executives, country directors and senior management in all countries and areas where Mercy Corps operates are responsible for:
 - 5.4.1. Creating and maintaining an environment and culture that fosters respect and inclusion and does not tolerate sexual exploitation, or abuse;
 - 5.4.2. Overseeing the full implementation of this Policy in their area of operations;
 - 5.4.3. Ensuring that all allegations of sexual misconduct are taken seriously and immediately reported to the Ethics and Compliance Department and are treated with confidentiality and given high priority;
 - 5.4.4. Ensuring that survivors are offered psychosocial, medical, legal, and other support as necessary; and

5.4.5. Ensuring that anyone who reports allegations or participates in investigations are not retaliated against.

5.5. Relation to Local Laws

5.5.1. Mercy Corps will comply with laws and regulations prohibiting misconduct, but where this policy exceeds any legal requirements, Mercy Corps will adhere to the standards in this policy to the extent allowed by applicable law. This policy may be amended or adapted to comply with local laws only with the approval of Mercy Corps' Ethics and Compliance Department.

6. Policy Governance

6.1. This Version 3 of the Policy was approved by the Mercy Corps Board on June 21, 2021.

Responsible Team	Ethics and Compliance Department
Policy Owner	Chief Ethics and Compliance Officer
Policy Approver	Mercy Corps Board
Last Review	June 21, 2021
Next Review Date	June 21, 2022