



MercyWorks

SISTERS OF MERCY
IN AUSTRALIA & PAPUA NEW GUINEA

PREVENTION OF SEXUAL EXPLOITATION AND ABUSE POLICY

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| Policy Number: | 14 | Version: 1 |
| Updated by: | Policy Writer | Approved by Board on: 2 September 2020 |
| Reason of Review: | ACFID CSA/ACNC and CPSL Guidelines | Scheduled review date: As per schedule |

INTRODUCTION

Mercy Works Limited (MWL) promotes social justice through local and overseas relief and development activities that are part of the mission and vision of the Sisters of Mercy in Australia and Papua New Guinea.

The programs engage in partnerships with communities to promote justice, self-reliance and to support peoples and communities who are displaced or denied access to basic resources such as education, health and social welfare.

1. PURPOSE

The purpose of this Policy is to communicate MWL's policy for the Prevention of Sexual Exploitation and Abuse.

2. SCOPE

This Policy provides guidance to MWL Board Directors, committee members, employees, contractors, volunteers, (defined as Workers) in relation to their work with/for MWL.

MWL will ensure it has reasonable processes, procedures and tools, in place to enable implementation of this policy. This includes having information available in the local languages of PNG (Tok Pisin) and Timor-Leste (Tetum).

3. DEFINITIONS & ACRONYMS

Terms used in this policy are:

3.1 Worker - refers to MWL Board Directors, committee members, employees, contractors, and volunteers, in relation to their work with/for MWL.

3.2 Partner Organisations - those organisations who assist MWL in its development work, including churches, dioceses and provinces, community-based groups, and local development agencies.

3.3 Primary Stakeholders - any groups or community members who, either directly or by association, derive a benefit from an MWL or MWL affiliated program.

3.4 Sexual Exploitation and Abuse - occurs against a child or an adult and can occur between people of the same or different genders. It includes situations such as:

- Sexual exploitation and abuse;
- Sexual harassment;
- Child sexual abuse and exploitation;
- Women and men sexually exploited through sex work;
- Possessing, controlling, producing, distributing, obtaining or transmitting sexually exploitative images of adults and children; and
- Prevention of sexual abuse and exploitation.

3.5 Sexual Exploitation - any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

3.6 Sexual Abuse - the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

3.7 Sexual Harassment - Unwanted physical, verbal or non-verbal conduct of a sexual nature that can include indecent remarks or sexual demands. In this policy, sexual harassment is understood as behaviour that is unwanted in the eyes of the persons directly or indirectly affected. This includes, but is not limited to:

- Physical approaches or physical contact of a sexual nature, or sexual assault
- Gestures and other nonverbal communication with sexual undertones
- Comments of a sexual nature about individuals and/or their body, conduct, sex life or sexual identity
- Sexually discriminatory language and humiliating remarks, including sexually explicit jokes;
- Requests to perform sexual activities
- Showing or displaying pornographic or sexist images
- Repetitive questions or prying into an individual's relationship status or details of their relationship
- Invitations to inappropriate locations outside the workplace for work-related meetings
- Offers to, or the sending of gifts that are unwelcome, out of context or embarrassing to an individual
- suggestive logistics or questions around work trips, including offers to share hotel rooms and unwelcome social invitations
- Sexually motivated stalking

3.8 Child Sexual Abuse - the use of a child for sexual gratification by an adult or significantly older child or adolescent. Sexually abusive behaviours can include fondling genitals; masturbation; oral sex; vaginal or anal penetration by a penis, finger or any other object; fondling breasts; voyeurism; exhibitionism; and exposing the child to, or involving the child in, pornography (MWL Child Safeguarding Policy).

3.9 Child Exploitation - one or more of the following:

- Committing or coercing another person to commit an act or acts of abuse against a child;
- Possessing, controlling, producing, distributing, obtaining or transmitting child exploitation material
- Committing or coercing another person to commit an act or acts of grooming or online grooming

- Using a minor for profit, labour, sexual gratification, or some other personal or financial advantage

3.10 Online Child Sexual Exploitation (or child pornography) - in accordance with the Optional Protocol to the Convention on the Rights of the Child, 'child pornography' means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

3.11 Child - any person under the age of eighteen (18) years as defined by the Convention on the Rights of the Child irrespective of local country definitions of when a child reaches adulthood.

3.12 Vulnerable Adults - those aged over 18 years and who identify themselves as unable to take care of themselves/ protect themselves from harm or exploitation; or who, due to their gender, mental or physical health, disability, ethnicity, religious identity, sexual orientation, economic or social status, or as a result of disasters and conflicts, are deemed to be at risk.

3.13 Survivor - A person who has sexual exploitation and abuse perpetrated against him/her or an attempt to perpetrate sexual exploitation and abuse against him/her.

4 ROLES AND RESPONSIBILITIES

4.1 *MWL Executive Director*

It is the sole responsibility of the Executive Director to:

- Own and administer this policy;
- Review and update all related processes and procedures.

4.2 *The Board*

It is the responsibility of the Board to:

- Review and approve this policy in accordance with the revision schedule.

5 APPLICATION

5.1 Overview

Fundamental to the operation of Mercy Works Limited (MWL) is respect for the dignity and basic human rights of people within Australia and throughout the world. Every person who represents MWL is expected to reflect these values in their professional conduct, regardless of who they are dealing with, or where they are working.

Sexual exploitation and abuse is a violation of basic human rights. MWL aims to provide a safe and trusted environment that safeguards everyone from sexual exploitation and abuse, including primary stakeholders, workers, and partner organisations.

MWL is committed to safeguarding the people it helps and who it works alongside. We recognise that the nature of MWL's workplaces our workers in positions of authority and trust in relation to the communities we work with, especially vulnerable adults and children. MWL workers have an obligation to uphold high standards of personal and professional conduct at all times and must not abuse this position in order to exploit or abuse another person.

MWL will actively prevent and respond to sexual exploitation and abuse and maintain an organisational culture that prioritises safeguarding against sexual exploitation and abuse so that it is safe for those affected to come forward and report incidents and concerns with the assurance they will be handled sensitively and appropriately.

5.2 Principles

MWL's commitment to the prevention of sexual exploitation and abuse is informed by the following principles:

- a) Child rights and women's rights as core values within MWL: MWL upholds the rights articulated in the International Bill of Human Rights, The UN Convention on the Elimination of all Forms of Discrimination Against Women and The UN Convention on the Rights of the Child and promotes the right of adults and children to be protected from all forms of violence including sexual exploitation and abuse.
- b) Safeguarding vulnerable adults and children: issues of sexual exploitation and abuse are fundamentally about abuses of power. Situations of poverty, vulnerability and discrimination as well as power inequities between genders, between aid workers/volunteers and primary stakeholders, and within organisations, create unequal power dynamics resulting in environments where sexual exploitation and abuse can exist. MWL acknowledges the impact of sexual exploitation and abuse on an individual's health and wellbeing, and in particular that negative physical, mental health and social outcomes that are likely to be compounded when perpetrated by a person in authority.
- c) Expected behaviours of those representing MWL: Given differing local contexts, MWL workers may be faced with a range of unfamiliar social, cultural, financial or personal settings when working overseas. Communities trust that the people representing MWL will conduct themselves in a professional manner at all times and not engage in behaviour contrary to the safety or wellbeing of the children and adults they come into contact with.
- d) Zero tolerance of sexual exploitation and abuse: Behaviour by MWL workers that results in the sexual exploitation or abuse of a child or adult, helps facilitate sexual exploitation and abuse or where allegations of sexual exploitation and abuse are ignored by MWL or partner organisation personnel, will not be tolerated and MWL will immediately respond and take seriously any concerns raised.
- e) Take action to prevent sexual exploitation and abuse: MWL aims to prevent sexual exploitation and abuse through the implementation of this Policy, communication, training and working collaboratively with all personnel, at any location of operation (temporary or permanent), and partner organisations to safeguard everyone against sexual exploitation and abuse.

5.3 Expected Behaviours

The following list of expected behaviours applies to all MWL workers in both their personal and professional lives. The aforementioned must, at all times:

- maintain a duty to act at all times in a manner which upholds the values and reputation of MWL;
- undertake to create and maintain a safe and trusted environment that promotes the implementation of this Policy and safeguards everyone from sexual exploitation and abuse;
- comply with all relevant Australian and local laws of the country to which he or she is placed, or in which he or she is travelling;
- be aware that sexual behaviour is an area of particular sensitivity, where conduct may more easily be seen as offensive or be misinterpreted;
- ensure personal conduct towards a co-worker is not exploitative or such that it reasonably leads to a perception of exploitation;
- read and agree to abide by the expected behaviours outlined in the relevant code of conduct;
- immediately report to MWL any concern, suspicion or allegation of sexual exploitation and abuse or breach of the MWL Prevention of Sexual Exploitation and Abuse Policy. Reporting procedures are outlined in section 5.4 below.

In addition, MWL workers must adhere to the following expected behaviours:

- MWL workers must not engage in sexual relationships with subordinates, primary stakeholders or others in the communities in which MWL works, as these are based on inherently unequal power dynamics, and there is the potential for abuse of power. Such relationships undermine the credibility and integrity of MWL and its programs.
- Workers must immediately inform their direct manager if they become engaged in a personal relationship which may be perceived as inappropriate or exploitative, or where real or perceived unequal power dynamics exist. Workers who are unsure if their relationships fall into this category should discuss the situation with their line manager and/or the Executive Director.

It is strictly prohibited for MWL workers to:

- sexually exploit or abuse or sexually harass a child or adult;
- use their position of trust and authority to request any service or sexual favour from primary stakeholders of MWL programs or others in the communities in which MWL works, in return for protection or assistance, or coerce a person to engage in sexual intercourse or any sexual activity;
- exchange or withhold from primary stakeholders of MWL programs or others in the communities in which MWL works, money, food, employment, goods, assistance or services for sex or sexual favours or other forms of humiliating, degrading or exploitative behaviour;
- have sex with sex workers when working or volunteering overseas, even when it is legal in the country;
- use, MWL or partner organisation facilities, personnel or resources for the purpose of arranging or facilitating access to sex workers by any person, including visitors to MWL offices or programs;
- engage in sexual activity with a child under any circumstance; even in a country where the age of majority or the age of consent is lower than 18 years, MWL workers are forbidden to have sexual activity with anyone under the age of 18 years; a mistaken belief that the child is over 18 is no defence;
- use computers, mobile phones, video cameras, cameras or other technology inappropriately, or to exploit or harass children, or access or disseminate child exploitative material through any medium, including social media;
- Procure sex for others or use a third party to do so.

5.4 Breach of Policy

Sexual exploitation and abuse by MWL workers constitute acts of gross misconduct and are therefore grounds for termination of employment or volunteer assignment.

Disciplinary actions/possible outcomes for breach of the MWL Prevention of Sexual Exploitation and Abuse Policy:

- Referral to local law enforcement authorities (as per national and any mandatory reporting laws), where appropriate
- Referral to Australian Federal Police, where appropriate
- MWL internal investigation
- Suspension pending investigation
- Performance management
- Formal warning and monitoring
- Termination of employment of workers

5.5 Responsibilities to prevent and respond to sexual exploitation and abuse

All MWL workers are responsible for championing good practice and maintaining an organisational culture that prioritises safeguarding against sexual exploitation and abuse, as explained in this

policy. Refer to the Management of Concerns, Complaints and Commendations Policy on how complaints can be made.

Managers at all levels have particular responsibilities to support and develop systems that maintain an environment that facilitates implementation of this Policy and which prevents sexual exploitation and abuse. They must ensure that MWL workers understand and comply with this Policy. Training opportunities will be provided to all concerned, and this will form part of the induction processes and will be made available to all people covered by this policy. This policy will also be communicated to all stakeholders of MWL, such as ensuring this policy will be on the website.

Managers must create a safe environment at MWL for anyone to come forward and raise allegations or concerns of sexual exploitation and abuse and take action to respond to any reports immediately. MWL is committed to including safeguarding in risk assessment of programs: assessing the risk of sexual exploitation and abuse in MWL's programs and putting in place risk management measures.

5.6 Recruitment and Performance Management

MWL will apply robust recruitment and screening procedures for all MWL workers to reduce the risk of engaging a person with a background of unacceptable risks to children or adults, particularly vulnerable children and adults.

These procedures include:

- Verbal referee checks from an applicant's last place of employment/volunteer/program placement, including when working in overseas locations and will include a question regarding any concerns of sexual misconduct.
- HR records to include performance or conduct issues regarding concerns or allegations of sexual exploitation or abuse.
- All employment/assignment contracts must contain provisions for potential disciplinary action, including termination of employment/assignment following a breach of this policy.

5.7 Reporting and Investigation

5.7.1 Reporting Procedures

MWL provides a safe, supportive and secure environment to report sexual exploitation and abuse.

MWL will take all concerns seriously and respond immediately. All reports of sexual exploitation and abuse will be recorded, regardless of whether substantiated or, full investigation required. The identity of the survivor can be de-identified at their request. All incidents (de-identified potentially) will be reported to the MWL Board (Governing Body) (as safeguarding will be a standing agenda item). The principles of natural justice will apply to all investigations.

MWL workers must immediately (within 48 hours if possible) report any concerns, suspicions or allegations of sexual exploitation and abuse or breach of the MWL Prevention of Sexual Exploitation and Abuse Policy. A report should be made to one of the following people as applicable:

MWL Workers may report a concern regarding sexual exploitation and abuse to any of the following people:

- Their Line Manager: if the worker feels comfortable doing so, and if he/she is not directly or indirectly implicated in the alleged report
- The Executive Director
- MWL Board Chair

Anyone wishing to make a report anonymously can do so by writing to MWL Executive Director (sally.bradley@mercyworks.org.au) or MWL Board Chair (kdonnellon3@gmail.com)

Any person reporting a case of sexual exploitation and abuse, in good faith, or any person who has cooperated with an investigation into a report of sexual exploitation and abuse, will be protected by this Policy. Malicious reporting of sexual exploitation and abuse with the intention of harming another person's integrity or reputation amounts to misconduct and is subject to disciplinary action. This is distinct from reports made in good faith based on the judgment and information available at the time of the report, which may not be confirmed by an investigation.

5.7.2 Investigations

Investigations of sexual exploitation and abuse will be carried out in a manner that is timely (within 30 days of receiving the complaint), fair, objective and as far as is practicable, confidential. This includes the use of appropriate interviewing practice with complainants and witnesses. All information and documented evidence will be held securely and in the strictest confidence as far as is appropriate. The name of the complainant will not be revealed to the person(s) potentially implicated in the allegation or to any other person unless the individual personally authorises the disclosure of their identity. This may become a requirement in subsequent investigative processes.

Sensitive information related to reports of sexual exploitation and abuse whether involving MWL workers or others in the communities in which MWL works shall be shared only with Australian or local law enforcement authorities, when a notification to the police or appropriate authorities must be made or on a 'need to know' basis. MWL is committed to providing any survivor with a referral or practical offers of assistance to report sexual exploitation and abuse, which are not covered by this policy. For example, if a person makes a complaint/report and it does not involve an MWL worker, rather perhaps a teacher in a school, then MWL will commit to providing that survivor with practical means and assistance to contact the most appropriate organisation to deal with that complaint.

5.8 Survivor support and assistance

MWL will adopt a survivor-centred approach in preventing and responding to sexual exploitation and abuse. MWL will ensure that all responses are developed in a manner that balances respect for due process with a survivor-centred approach in which the survivor's wishes, safety and wellbeing remain a priority in all matters and procedures. Furthermore, all actions taken should be guided by respect for choices, wishes, rights and dignity of the survivor. MWL is committed to informing the survivors of the progress and outcome of the investigation.

MWL will ensure survivors of sexual exploitation and abuse are offered support and assistance such as referral to safe health/medical, psychosocial and legal/justice response where appropriate and where required to specialised children's or women's services.

Children have the right to participate in decisions that will affect them. If a decision is taken on behalf of a child, the best interests of the child shall be the overriding guide. Referrals should be done in consultation with child-focused agencies specialising in the special needs of child survivors of sexual abuse, and who are familiar with local procedures relating to the protection of children.

Survivors will be provided with information on the progression of an investigation and final outcomes.

5.9 Partner Organisations

MWL will work with Partner Organisations in the prevention of sexual exploitation and abuse, and Partner Organisations will be advised of avenues available to report concerns regarding sexual exploitation and abuse. Memorandums of Understanding (MoUs) and partnership agreements will ensure that partner organisations are required to abide by MWL's Prevention of Sexual Exploitation and Abuse policy.

6 BREACH

A breach of this Policy may result in disciplinary action that may involve severance from the organisation. Also, see section 5.4 above.

7 AUTHORITY

This Policy is approved and reviewed by the Board.

8 RELATED POLICIES/DOCUMENTS

Other organisational policies, legislation, and codes etc. that should be read in conjunction with this policy and with MWL's ethical value principles include:

- Code of Conduct Policy
- Child Safeguarding Policy
- Fundraising Policy
- Inappropriate Workplace Behaviour Policy
- Management of Concerns, Complaints and Commendations Policy
- Risk Policy
- Social Networking Policy
- Whistleblowing Policy
- The Australian Volunteers Guidebook
- Child Protection (Working with Children) Act 2012 (NSW)
- International Bill of Human Rights
- The UN Convention on the Elimination of all Forms of Discrimination Against Women
- The UN Convention on the Rights of the Child
- SDG 5: Achieve gender equality and empower all women and girls
- DFAT Child Protection Policy 2017
- ACFID Code of Conduct 2017
- Commonwealth Criminal Code Act 1995 - It is a crime for Australian citizens, permanent residents or bodies corporate to engage in, facilitate or benefit from sexual activity with children (under 16 years of age) while overseas. These offences carry penalties of up to 25 years imprisonment for individuals and up to \$500,000 in fines for companies (extraterritorial legislation).

9 CONTACTS

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10 REVIEW

Review of this Policy, related forms and resources will be undertaken every two years by the Executive Director and approved by the MWL Board.


11 REVISION/MODIFICATION HISTORY

| Date | Version | Current Title | Summary of Changes | Approval Date | Commencement Date |
|------------------|---------|--------------------------------------------------|--------------------|------------------|-------------------|
| 2 September 2020 | 1 | Prevention of Sexual Exploitation & Abuse Policy | New | 2 September 2020 | 3 September 2020 |

12 APPROVAL DATE/REVISION SCHEDULE

Approved by: Board, Mercy Works Limited
Date: 2 September 2020

To be Revised: 2 September 2022

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| Board Chair Signature |  |
| Date | 12/10/2020 |