Prevention of Sexual Exploitation, Abuse & Harassment Policy

1. INTRODUCTION

A core reason for Hagar Australia's existence is to work towards the elimination of sexual exploitation and abuse, reflected in its vision: "To see communities free and healed from the trauma of trafficking, slavery and abuse." All people have the right to live in freedom and safety, and not in slavery or servitude, being subject to cruel, inhuman or degrading treatment.[1] Hagar Australia is committed to safeguarding the most vulnerable- survivors and those at risk of trafficking, slavery and abuse, especially women, girls and boys- using a rights-based, survivor-centred approach. It recognises that conditions such as poverty, weak rule of law, displacement and the dissolution of community structures due to conflict, increase the vulnerability of communities to sexual exploitation and abuse, including slavery and human trafficking.

Creating work environments that prevent sexual exploitation, abuse and harassment is both an individual and organisational responsibility. Hagar Australia notes that the management culture of an organisation, the equal representation of women and men at all levels of the organisation, and well-managed work environments all contribute to the prevention of sexual exploitation, abuse and harassment (PSEAH). Hagar Australia acknowledges the importance of prevention and the need for swift and decisive action when incidents occur.

This policy addresses the sexual exploitation, abuse and harassment of adults. Where a child is being, is suspected of being, or is at risk of being abused, reference should be made to Hagar Australia's Child Safeguarding Policy and its reporting procedure.

2. PURPOSE

This policy has been developed to:

- provide guidance to Hagar Australia personnel on how to understand and implement their responsibilities to protect others from sexual exploitation, abuse and harassment (SEAH) across all its operations, including programs
- promote a culture of safeguarding within the organisation
- outline measures that reduce the risk of SEAH
- provide guidance on how to respond to concerns and allegations of SEAH
- preserve the reputation and integrity of Hagar Australia, as well as that of all parties affiliated with it.

[1] Articles 3-5 of the Universal Declaration of Human Rights.

Approved by: Hagar Australia Board	**Date Policy Took Effect:** 18th February, 2021
Review Date: 18th February, 2024	**Responsible Person:** HAUS Board Secretary

3. SCOPE

This policy applies to:

- Hagar Australia personnel (as defined)
- Contractors and representatives engaged by Hagar Australia
- Visitors to Hagar Australia-funded projects
- Hagar Australia-funded partners (as defined)
- Hagar Australia-funded project primary stakeholders (as defined)

Hagar Australia management will take steps to ensure that all Hagar Australia personnel, contractors, representatives, visitors to Hagar Australia-funded projects, partners and primary stakeholders are made aware of the content this policy.

4. PRINCIPLES

This policy is underpinned by the six principles outlined in the Department of Foreign Affairs and Trade's (DFAT) Preventing SEAH Policy and the United Nations Inter-Agency Standing Committee (IASC)'s 'Six Core Principles Relating to Sexual Exploitation and Abuse':

1) *Zero tolerance of inaction:* Sexual exploitation, abuse and harassment are never acceptable. In this policy, Hagar Australia defines zero tolerance as acting on every allegation in a fair and reasonable way with due regard for procedural fairness.

2) Strong leadership accelerates cultural change: Hagar Australia's Board and management are committed to setting clear expectations, modelling respectful behaviour and seeking to improve diversity and inclusion. This includes human resource procedures that embed gender equality and PSEAH; inclusion of safeguarding discussions in Board meeting agendas; and encouraging staff gender balance and diversity, particularly in senior roles.

3) *Victim/survivor needs are prioritised:* Hagar Australia takes a 'do no harm' approach to addressing sexual exploitation, abuse and harassment, prioritising the rights, needs and wishes of the survivor, while ensuring all parties are treated fairly. This approach treats the survivor with dignity and respect, involves them in decision-making and provides them with information. It also protects privacy and confidentiality, does not discriminate based on gender, age, race/ethnicity, ability, sexual orientation or other characteristics, and considers the need for counselling, health and other services to assist the victim/survivor in their recovery.

4) *Preventing SEAH is a shared responsibility:* Hagar Australia recognises that all organisations, including those in partnership with Hagar Australia, have a collective responsibility to build capacity to deal sensitively and effectively with SEAH wherever it is occurring. Hagar Australia requires the commitment, support and investment of its partners for this policy to be effective.

5) *Gender inequality and other power imbalances are addressed:* Available data indicates that the majority of survivors are female and the majority of perpetrators are male. 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 socio-economic status can also result in sexual exploitation, abuse and harassment. The intersection of gender with other forms of inequality can further increase the likelihood of SEAH occurring. Engagement with intended primary stakeholders should be based on respect for diversity, promotion of gender equality and social inclusion, accountability, and a strong 'do no harm' focus.

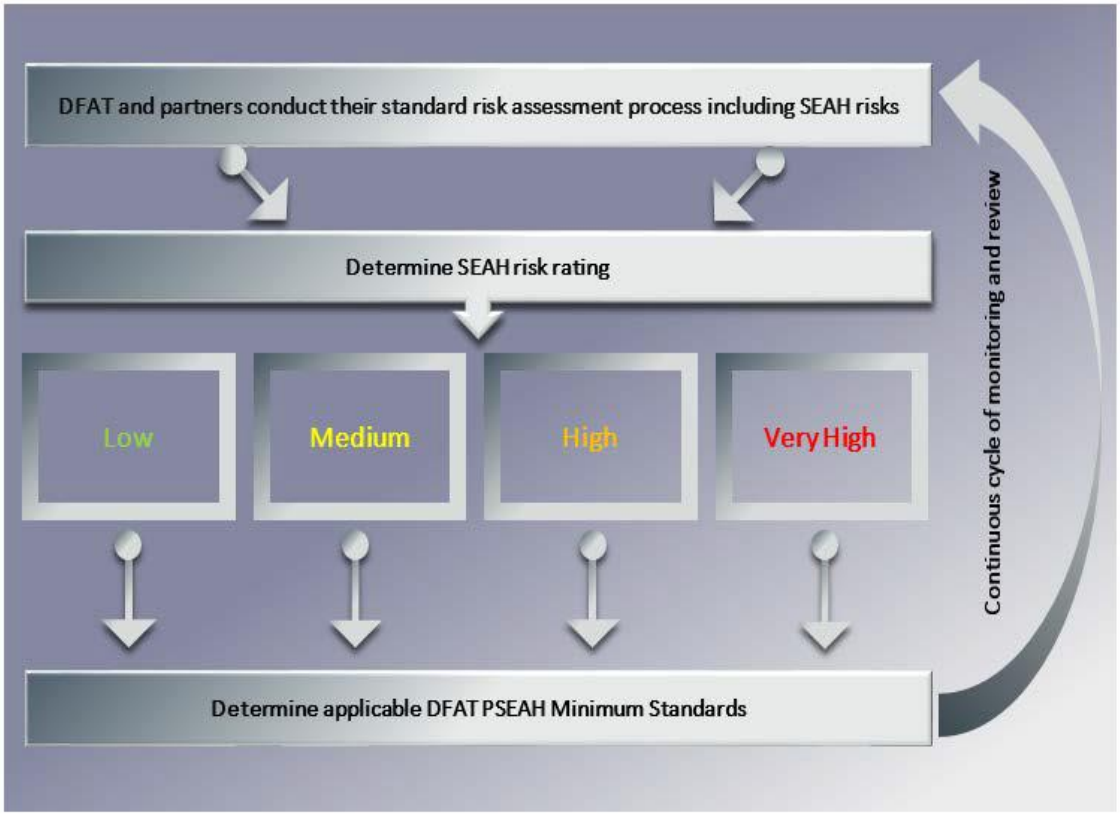
6) *Stronger reporting will enhance accountability and transparency:* Hagar Australia sees preventing SEAH as a core obligation of its work. Hagar Australia supports strengthened reporting mechanisms in order to better monitor SEAH, understand risks, improve assurance and work with organisations to improve systems and safeguards accordingly.

5. RISK AND RISK MANAGEMENT CONTROLS

Risk Assessment

Hagar Australia understands that assessing risk and designing appropriate mitigation strategies is a vital part of PSEAH. To mitigate the possibility of inflicting unintended harm, Hagar Australia will proactively assess its own organisational risks and assist projects in understanding their impact; as well as supporting its partners and the communities in which it works. Hagar Australia will assess the level of partner and project risk at the start of collaboration, classifying them into very high, high, medium or low risk categories, based on the nature of projects, impact on and level of contact with primary stakeholders (see Diagram 1 below). Hagar Australia will then support partners in conducting organisational, project and activity risk assessments before the start of projects, which will include identification, treatment and escalation of SEAH risks; as well as regular reporting and review of risk registers (higher risk projects will be reviewed more regularly).

Diagram 1: Establishing the level of SEAH risk



Internal Risk Management Controls

Hagar Australia's internal risk management controls are to:

- Clearly state Hagar Australia's commitment to PSEAH in recruitment materials, human resource policies, and all partnership agreements.
- Observe the requirements of Section 6.
- Undertake police and verbal referee checks for all Hagar Australia personnel, contractors and representatives during recruitment, and visitors prior to Hagar Australia-funded partner and project visits, and review if circumstances change (for example, disciplinary or court proceedings relating to SEAH). This is to identify individuals who may pose an unacceptable SEAH risk.
- Ensure all Hagar Australia personnel and contractor agreements include a statement of their commitment to PSEAH and further that the agreements include provisions: to prevent a person from working with Hagar Australia, if they pose an unacceptable SEAH risk; to impose sanctions such as suspension or transfer to other duties of any person who is under investigation, and dismissal if evidence is found after an investigation.
- Provide Hagar Australia's PSEAH Policy, including Code of Conduct, reporting requirements and procedures, to all Hagar Australia personnel, contractors, representatives and visitors to Hagar Australia-funded projects; take steps to ensure they understand the Policy and sign the Code of Conduct, and discuss it with Hagar Australia personnel during annual Performance Reviews (where required).
- Ensure that all Hagar Australia personnel and contractors complete induction and annual refresher training (evidenced by certificates and other documentation) on PSEAH, including their obligations and Hagar Australia reporting/ complaints handling procedures.
- Include 'Safeguarding' as a standing bi-monthly meeting Board agenda item to monitor PSEAH Policy compliance.
- Undertake a periodic assessment (every 3 years) of Hagar Australia's PSEAH practices.
- Immediately report any suspected or alleged instances of SEAH related to DFAT-funded projects (within two working days), or PSEAH policy non-compliance (within five working days) to DFAT, including charges, convictions or outcomes of an exploitation and/or abuse-related offence (including under traditional law) which occur before or after Hagar Australia's association with the donor.

Programmatic Risk Management Controls

All Hagar Australia funded partners are expected to act in accordance with the principles outlined in this policy. Non-compliance with the minimum PSEAH standards where required may lead to suspension or termination of funding arrangements.

Hagar Australia's programmatic risk management controls are to:

- Forge partnerships that promote PSEAH, supported by partnership agreements that reflect the principles and requirements in this policy, and are discussed with partners.
- Take steps to ensure Hagar has a deep understanding of the SEAH issues within each operational context.
- Ensure that due diligence assessments are conducted for all partners who receive Hagar Australia funds, including police checks/ statutory declarations and verbal referee checks for

all personnel, as well as compliant personnel agreements and signed Codes of Conduct, the latter to be summarised and distributed in local languages to clients, their families and communities with reporting information.[2]

- Ensure that Hagar Australia-funded partners develop and implement their own Hagar Australia-compliant PSEAH policy with clear investigation and reporting procedures, or formally adopt Hagar Australia's PSEAH Policy. This includes a requirement to report any suspected or alleged instances of exploitation, abuse, harassment or PSEAH policy non-compliance through the organisation's internal processes and to Hagar Australia, and a requirement to identify a PSEAH Focal Person for reporting and awareness purposes. The reporting procedure should be displayed in local languages in each office and discussed with clients and communities, within 6 months of signing a partnership agreement with Hagar Australia.
- Ensure PSEAH is included in project planning, monitoring and evaluation. Partner (annual) and project (bi-annual) PSEAH risk and compliance will be reported to Hagar Australia throughout the project cycle.
- Support partners in their compliance with PSEAH requirements, including regularly assessing capacity, addressing training needs (including annual refresher training), explaining partnership and personnel obligations, as well as regular monitoring and review by Hagar Australia.
- Undertake a periodic assessment (every 3 years) of the PSEAH practices of Hagar Australia partners.

6. EMPLOYEE RECRUITMENT PROCESSES AND TRAINING

Hagar Australia's recruitment processes include obtaining declarations by all potential employees of any charges, convictions and other outcomes of an offence relating to sexual exploitation, abuse and/or harassment.

Personnel recruited shall be screened through the following procedures:

- Criminal record checks before engagement[3]
- Verbal referee checks

All employees are required to sign an employment contract which contains provisions for dismissal, suspension or transfer to other duties for any employee who breaches Hagar Australia's Code of Conduct.

Hagar Australia provides personnel during induction with training on PSEAH issues and on their responsibilities under this policy, including mandatory reporting of concerns or allegations of SEAH. Training is also delivered when the policy is reviewed as part of Hagar Australia's regular staff training program.

[2] All Codes of Conduct/ personnel agreements prohibit transactional sex and fraternisation.
[3] This includes criminal record checks for country(ies) of citizenship and each country an individual has lived in for 12 months or longer over the past 5 years.

7. CODE OF CONDUCT

All **Hagar Australia personnel**, contractors, representatives and visitors to Hagar Australia-funded projects must read, sign and comply with Hagar Australia's Code of Conduct (Annex 1) which sets out standards of behaviour. All signatories to the Code of Conduct are required to treat all people with respect and without discrimination.

8. PROCESSES FOR REPORTING CONCERNS OR ALLEGATIONS

8.1 How to Report

Hagar Australia has mandatory reporting procedures for handling alleged or suspected cases of SEAH, as well as breaches of this PSEAH Policy and the Code of Conduct. Concerns or allegations of sexual exploitation, abuse and harassment, as well as policy breach or non-compliance must be reported immediately as follows:

- At https://hagar.org.au/reporting [this can be anonymous and Google Chrome can assist with webpage translation; SEAH reports will be received by Hagar Australia's Quality Officer (Safeguarding & Reporting Focal Person)] and
- Contact Hagar Australia's Quality Officer (Safeguarding & Reporting Focal Person) and/ or Executive Director on +61 3 9416 1960.

If in doubt, any person who is subject to this policy should report an alleged incident, in line with the principle of zero tolerance of inaction. Community members can also report via Hagar Australia's website (link above). Any person reporting a suspected or alleged incident in good faith will not be penalised. A failure to report or deliberately making a false allegation, regarding SEAH incidents, will be considered a breach of this policy and will be managed accordingly (see Section 8.3). Reports of abuse or exploitation of individuals under the age of 18 years should follow Hagar Australia's Child Safeguarding Policy.

8.2 How the Report will be managed

A survivor-centred approach will be taken and all reports handled confidentially on a 'need to know' basis, which will include the Executive Director and/or Board Chair, with transparency and procedural fairness to all parties. For Hagar Australia's Investigation Procedure, see Annex 2. Wherever possible, victim/survivor information will be de-identified.

Where safe to do so and, in accordance with the wishes of the victim/survivor and/or report-maker, all alleged SEAH incidents involving a criminal aspect will be reported through the correct local law enforcement channels.

The management process is detailed in the *Incident & Complaint Reporting & Investigation Procedure*.

8.3 Sanctions

If it is determined that a person has engaged in SEAH or a person or an organisation has failed to comply with this PSEAH Policy or Code of Conduct, then Hagar Australia may apply an appropriate sanction as follows:

- dismissal, suspension or transfer to other duties for any employee who breaches the PSEAH Policy and/or Code of Conduct;
- cancellation of a contract or relationship, or the termination of a visit to a Hagar-funded project
- if the incident is criminal, reporting to the relevant law enforcement agencies, in Australia or the country where the incident occurred.

9. DEFINITIONS

Term	Definition
PSEAH	Prevention of sexual exploitation, abuse and harassment
Hagar Australia personnel	Hagar Australia's Board of Directors, employees (full time, part-time and casual) and volunteers.
Hagar Australia-funded partners	This includes Hagar International, its Program Offices and other entities engaged to perform any part of a Hagar Australia-funded activity. These entities have agreed roles and responsibilities monitored by Hagar.
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.
Primary stakeholders	The women and men, boys and girls who Hagar Australia seeks to support and are participants in, and are directly affected by, Hagar Australia-funded development initiatives. They may also be known as beneficiaries or local people.
Safeguarding	Actions, policies and procedures that create and maintain protective environments to protect people from exploitation, harm and abuse of all kinds.
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 Victorian law [16 years], whichever is greater) is considered to be sexual abuse.
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 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.
Transactional sex	The exchange of money, employment, goods, services or other benefit for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, including exchange of assistance due to beneficiaries.

10. RELEVANT LEGISLATION & CONVENTIONS

Hagar Australia personnel, contractors, representatives, visitors to Hagar Australia-funded projects, partners and primary stakeholders must adhere to local and international criminal laws, which prohibit sexual exploitation, abuse and harassment. These include Australian Commonwealth, state and territory laws, and international conventions and local laws in the countries where Hagar Australia works.

Australian legislation

a) Criminal Code Act 1995
b) Migration Act 1958
c) Sex Discrimination Act 1984

State and territory sexual assault legislation

a) Victoria: *Crimes Act 1958*: ss38 & 38A, read with s35
b) New South Wales: *Crimes Act 1900* s61
c) Queensland: *Criminal Code Act 1899*: ss347–349, read with s1; Sexual assault, s352
d) Western Australia: *Criminal Code Act 1913* s319, read with ss325–326
e) South Australia: *Criminal Law Consolidation Act 1935* s48, read with ss5(1), (3) & 48A
f) Tasmania: *Criminal Code Act 1924* s185, read with ss1 & 127A
g) Australian Capital Territory: *Crimes Act 1900* s54, read with s50
h) Northern Territory: *Criminal Code Act 1983*: s192 ss3 & 192B

International PSEAH instruments that Australia is a signatory to

a) *The United Nations Convention on the Elimination of all Forms of Discrimination Against Women*, Article 6
b) *The United Nations Convention on the Rights of Persons with Disabilities*, Article 16(1)
c) *The United Nations Convention on the Rights of the Child*, Articles 19(1) & 34
d) *Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*
e) *The United Nations Declaration on the Elimination of Violence Against Women*
f) The United Nations Convention against Transnational Organized Crime (UNTOC)
g) The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing UNTOC

Each Hagar office is legally obliged to comply with relevant country laws relating to PSEAH.

11. RELATED POLICIES

- Child Safeguarding Policy
- Feedback & Complaint Handling Policy
- Risk Management Policy
- Human Resources Policy
- Bullying, Harassment & Discrimination Policy
- Travel, Safety & Security Policy
- Whistleblowing Policy
- Incident & Complaint Reporting & Investigation Procedure

12. POLICY REVIEW

This policy will be reviewed at least every three years, or as required, incorporating lessons learned.

Contact:

For questions about this policy, contact Hagar Australia's Quality Officer (Safeguarding & Reporting Focal Person) or Executive Director on +61 3 9416 1960.