

THE GBVF RESPONSE FUND1

NPC Reg. No. 2021/359277/08

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**SEXUAL, RACIAL, SOCIAL MEDIA HARASSMENT
AND SAFEGUARDING POLICY**

August 2021

SIGN OFF AND REVIEW

		Date
Reviewed by	Audit and Risk Committee	30 August 2021
Approved by	Board of Directors	02 September 2021

1. **PREAMBLE**

- 1.1. The GBVF Response Fund1 (“**Fund**”) is committed to creating and maintaining a climate where all employees, secondees, volunteers, job applicants and other persons who have dealings with the Fund are treated with dignity and respect.
- 1.2. It is the policy of the Fund to provide a conducive working environment for its employees, secondees, volunteers and associated personnel that is free from all forms of discrimination or harassment.
- 1.3. A climate in the workplace should also be created and maintained in which victims of all kinds of harassment will not feel that their grievances are ignored or trivialised. To meet these ends the Fund has formulated the following policy.

2. **INTRODUCTION**

- 2.1. The Fund was established as part of the national response to the scourge of gender-based violence in South Africa. The Fund exists to co-ordinate financial resources to support relevant programmes and campaigns to eradicate Gender Based Violence and Femicide (“**GBVF**”) as articulated in the South African National Government National Strategic Plan (“**NSP**”), by serving as a vehicle through which individuals and organisations can pledge their support, by making donations to the Fund and/or specific initiatives which are supported by the Fund.

3. **LEGAL FRAMEWORK**

- 3.1. This Sexual, Racial Harassment and Safeguarding Policy (“**Policy**”) is guided by the following legislation:
 - 3.1.1. The Constitution of the Republic of South Africa, 1996 (“**Constitution**”);
 - 3.1.2. The Employment Equity Act 55 of 1998 (“**EEA**”);
 - 3.1.3. The Labour Relations Act 66 of 1995 (“**LRA**”);
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3.1.4. The Basic Conditions of Employment Act 75 of 1997 (“**BCEA**”); and

3.1.5. The Protection from Harassment Act 17 of 2011 (“**PHA**”).

4. **PURPOSE AND SCOPE**

4.1. The purpose of this Policy is to realise the Fund’s values by providing a commitment and framework for the protection of all persons who work, engage and come into contact with the Fund and its employees, secondees and volunteers, inside and outside the work environment, from harm and abuse, harassment and bullying.

4.2. The aim of this Policy is to ensure safeguarding, and to eliminate any form of harassment both in the workplace and in the Fund’s dealings with third parties, and to ensure that adequate measures and procedures are readily available to deal with any form of harassment and to prevent its re-occurrence.

4.3. This Policy seeks to encourage the development and implementation of practices that create a working environment that is free of sexual or racial harassment and in which the integrity, dignity, privacy and the right to equality of all staff members, job applicants and persons dealing with the Fund, is respected.

4.4. This Policy applies to all Fund employees, secondees, Board members, directors, volunteers, contractors, suppliers, donors, project and other associated personnel whilst engaged with work or activities related to the Fund, and other providers and persons who are contractually obligated by the Fund to comply with this Policy.

4.5. The Fund is committed to its workplace, and any engagement within and outside it, being safe, productive and inclusive. Integral to this is the Fund’s commitment to the values enshrined in South Africa’s Constitution, and in particular, the right to dignity.

4.6. The Fund takes a zero-tolerance approach against sexual, racial and social media harassment in the workplace and it will not be permitted or condoned.

4.7. All incidents of harassment will be treated seriously, and all allegations of harassment will be promptly investigated and treated with respect and in confidence. Any person found to have harassed another will face disciplinary action, up to and including dismissal from employment. No one will be victimised for lodging any grievance for harassment.

5. **SAFEGUARDING**

5.1. Safeguarding is the protection of peoples' health, wellbeing, and human rights to enable them to live free from harm, abuse and neglect when coming into contact with the Fund.

5.2. Safeguarding applies consistently and without exception across the programmes, interventions, activities, partners and staff of the Fund.

5.3. Safeguarding requires proactively identifying, preventing and guarding against all risks of harm, exploitation and abuse and having mature, accountable and transparent systems for response, reporting and learning when risks materialise.

5.4. Those systems must protect survivors of such abuse, and ensure due, fair process to determine the validity of such claims and ensure the rights of alleged perpetrators are also protected.

6. **SEXUAL HARASSMENT**

6.1. Sexual harassment in the workplace

6.1.1. Sexual harassment is a form of unfair discrimination on the basis of sex and/or gender and/or sexual orientation which infringes the rights of the complainant and constitutes a barrier to equity in the workplace.

6.1.2. Sexual harassment in the workplace will not be permitted or condoned.

6.1.3. Complainants in sexual harassment matters have the right to follow the procedures in this Policy and appropriate action will be taken by the Fund.

6.1.4. It will be a disciplinary offence to victimize or retaliate against an employee who in good faith lodges a grievance of sexual harassment.

6.2. Definition

6.2.1. **Sexual harassment** is defined as unwelcome conduct of a sexual nature that violates the rights of an individual and constitutes a barrier to equity in the workplace, taking into account all of the following factors:

6.2.1.1. whether the harassment is on the prohibited grounds of sex and/or gender and/or sexual orientation (regardless of the sexual orientation of either the complainant or the alleged perpetrator);

6.2.1.2. the impact of the sexual conduct on the individual;

6.2.1.3. whether the sexual conduct was unwelcome; and

6.2.1.4. the nature and extent of the sexual conduct.

6.2.2. **Sexual attention** becomes sexual harassment if:

6.2.2.1. The conduct complained of is persistent, although a single incident of harassment can constitute sexual harassment;

6.2.2.2. The complainant has made it clear that the behaviour is offensive; and

6.2.2.3. The perpetrator should have known that the behaviour is regarded as unacceptable.

6.2.3. There are different ways in which an individual may indicate that sexual conduct is unwelcome, including non-verbal conduct such as walking away or not responding to the perpetrator.

6.2.4. Previous consensual participation in sexual conduct does not necessarily mean that the conduct continues to be welcome.

6.2.5. All board members, directors, employees, secondees, volunteers and contractors of the Fund, but particularly those in positions of authority, are required to display common sense and sound judgment insofar as any sexual conduct in the workplace is concerned and will reasonably be expected to know when such conduct would not be welcome. This is particularly so insofar as the display of such conduct towards subordinate, more junior or otherwise vulnerable employees, secondees and volunteers are concerned.

6.3. Forms / examples of sexual harassment

6.3.1. Conduct which may constitute sexual harassment include, but is not limited to, physical conduct, verbal conduct, non-verbal conduct, quid pro quo harassment and sexual favouritism. The aforesaid is explained in more detail below:

6.3.1.1. **physical conduct** of a sexual nature includes all unwanted and/or unwelcome physical contact ranging from touching to sexual assault, attempted rape and rape, and includes, but is not limited to, a strip search by or in the presence of the opposite sex, hugging, invading

another's personal space, attempted or actual kissing or fondling, petting or pinching;

6.3.1.2. **verbal forms** of sexual harassment include, but are not limited to, unwelcome innuendoes or taunting, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or to them, unwelcome and inappropriate enquiries about a person's sex life, and unwelcome whistling at a person or group of persons, wolf-calling or kissing sounds, derogatory or patronising name-calling and telephone calls with sexual overtones;

6.3.1.3. **non-verbal forms** of sexual harassment include, but are not limited to, unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects;

6.3.1.4. **victimisation** occurs where an employee, secondee, volunteer or similarly related person is victimised or intimidated for failing to submit to sexual advances;

6.3.1.5. **quid pro quo harassment** occurs where a person such as a supervisor, member of management or co-staff member undertakes or attempts to influence or influences the process of employment, appointment, promotion, training, discipline, dismissal, salary increments or other benefits of a staff member, secondee, volunteer or job

applicant by coercing or attempting to coerce the individual to surrender to sexual advances; and/or

6.3.1.6. **sexual favouritism** exists where a person who is in a position of authority rewards only those who respond to his/her sexual advances, while other deserving staff members who do not submit to sexual advances are denied any benefit, promotions, merit rating or salary increases.

7. RACIAL HARASSMENT

7.1. Racial harassment in the workplace

7.1.1. Racial harassment is a form of unfair discrimination on the basis of race and/or colour and/or ethnicity and/or language and/or nationality and/or social and cultural origin which infringes the rights of the complainant and constitutes a barrier to equity in the workplace.

7.1.2. Racial harassment in the workplace will not be permitted or condoned.

7.1.3. Complainants in racial harassment matters have the right to follow the procedures in this Policy and appropriate action will be taken by the Fund.

7.1.4. It will be a disciplinary offence to victimize or retaliate against an employee, volunteer, secondee or similarly related person who in good faith lodges a grievance of racial harassment.

7.2. Definition

7.2.1. Racial harassment means an incident or a series of incidents intended, or likely to, intimidate, offend or harm an individual or group because of their ethnic origin, colour, race, religion or nationality. A

racist incident is any incident involving the use of remarks, gestures and other verbal or non-verbal, physical or non-physical conduct that is perceived to be racist by the victim or any other person and that results in the creation of a hostile working environment.

7.2.2. The test for determining whether remarks, comments or gestures are racist is whether, objectively, the words or gestures are reasonably capable of conveying to the reasonable person that the phrase had a racist meaning. In this regard, it should be considered whether the conduct causes, encourages or incites disharmony or feelings of hostility, hatred or ill-will between different racial groups or persons belonging to different racial groups.

7.2.3. Such behaviour may include:

7.2.3.1. derogatory name calling;

7.2.3.2. verbal threats, insults and racist jokes;

7.2.3.3. display of racially offensive material;

7.2.3.4. exclusion from normal workplace conversation or activities;

7.2.3.5. physical attacks; and

7.2.3.6. encouraging others to commit any such acts.

7.2.4. Racial harassment occurs, *inter alia*, when:

7.2.4.1. submission to or rejection of such conduct by an individual is used as a basis for employment or appointment decisions affecting such individual (such as the process of employment, appointment, promotion, training, discipline, dismissal, salary increments or other benefits of a staff member); and/or

7.2.4.2. such conduct has the purpose or effect of interfering with work performance or creating an intimidating, hostile or offensive working environment.

7.3. Forms / examples of racial harassment include, but are not limited to:

7.3.1. physical assault;

7.3.2. verbal forms including but not limited to inappropriate remarks, racist jokes, gestures, innuendos or taunting about a person's racial or ethnic background; and/or

7.3.3. Non-verbal forms including, but not limited to, the displaying of racist pictures, graffiti or other material, refusing to talk to or work with a staff member because of his/her ethnic or racial background.

8. **SOCIAL MEDIA HARASSMENT**

8.1. Definition

8.1.1. Social media harassment causes misunderstanding between employers, employees, secondees, volunteers, third parties, and contractors. It may have the effect of impugning the dignity of a stakeholder of the Fund.

8.1.2. Social media harassment includes using social media or instant messaging platforms to send offensive or insensitive information to fellow employees, secondees, suppliers, volunteers, donors and other stakeholders, whether on or off duty, which results in harassment.

8.2. Forms / examples of social media harassment include, but are not limited to:

8.2.1. sending offensive or abusive messages, comments, or images using social networking sites;

- 8.2.2. a situation where a co-worker harasses another employee by following everything he or she does on a social website or blog posts;
- 8.2.3. A group of workers create a blog post or website for harassing other employees, secondees, volunteers or similarly related person; and
- 8.2.4. sending video or photos using electronic media to an employee, secondee, volunteer or similarly related person, where the recipient feels offended.

9. **THE FUND'S COMMITMENT AND APPROACH**

- 9.1. The Fund is committed to treating all persons with dignity and to contribute to a safe, productive and inclusive environment for everyone, regardless of their race, age, gender identity, disability, sexual orientation, ethnic origin or beliefs. This includes actively safeguarding all persons against any form of abuse, harm, neglect, exploitation and bullying.
 - 9.2. The Fund recognises that certain groups in our society are particularly vulnerable to harm, harassment and bullying, particularly persons who is or may need care by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation. These persons are referred to as at-risk adults, or vulnerable adults.
 - 9.3. The Fund commits to addressing the responsibilities of safeguarding, and allegations and incidents of sexual harassment and racial harassment throughout its work, through prevention, reporting and response.
 - 9.4. In line with the provisions of the EEA, the Fund will:
 - 9.4.1. take every reasonable precaution to minimise risk of harassment, bullying or other harmful conduct to employees, secondees,
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- volunteers, any persons that access our services, beneficiaries of funding, service providers and other persons that come into contact with the Fund;
 - 9.4.2. design and undertake its programmes, interventions and activities in a way that protects people from any risk of harm that may arise from their coming into contact with the Fund. This includes the way in which information about individuals is gathered, used and communicated;
 - 9.4.3. implement safeguarding procedures when recruiting, managing and deploying staff and associated personnel;
 - 9.4.4. follow up on reports of safeguarding concerns, or sexual or racial harassment, promptly and according to due process; and
 - 9.4.5. ensure staff have access to, are familiar with, and know their responsibilities regarding the implementation of this Policy.
 - 9.5. The Fund staff and associated personnel must not:
 - 9.5.1. sexually or racially abuse or exploit any person;
 - 9.5.2. subject any person to physical, emotional or psychological abuse, or neglect any person;
 - 9.5.3. exchange money, employment, goods or services for sexual activity. This includes any exchange of assistance that is due to beneficiaries of assistance;
 - 9.5.4. engage in any sexual relationships with beneficiaries of assistance since they are based on inherently unequal power dynamics.
 - 9.6. Additionally, the Fund staff and associated personnel are responsible for implementing and complying with this Policy. This includes contributing to creating and maintaining an environment that prevents safeguarding violations and promotes the implementation of the Policy and reporting any concerns or
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suspicious regarding safeguarding violations by staff member or associated personnel to the appropriate staff member.

10. **REPORTING**

10.1. The Fund will ensure that safe, appropriate, accessible means of reporting safeguarding concerns are made available.

10.2. Any concerns or complaints made by staff, associated personnel, external service providers or members of the public against any Fund employee or associated personnel will be investigated. This may be done either through an informal procedure or a formal procedure as detailed below:

10.2.1. the complainant will have an opportunity to explain to the person engaging in the unwanted conduct, that the behaviour in question is not welcome, is offensive, makes them uncomfortable, and/or that it interferes with their work. This may be done personally or through another person or representative.

10.2.2. A formal investigation is initiated, which may include sourcing an independent specialist to investigate whether there is a basis to the allegations, and to make recommendations as to an appropriate remedy.

10.3. The Fund shall, in consultation with the complainant/s, determine the appropriate process to follow to investigate and address the allegations made.

10.4. Complaints, allegations or reports can be submitted to the relevant line manager or, if a complainant does not feel comfortable submitting a complaint to their line manager, the complaint may be submitted to the Chief Executive Officer (“**CEO**”). Complaints can also be made through the whistleblowing line (as per the details in “**Annexure A**” below).

10.5. The complaint procedure to be followed in addressing any allegation of harassment is provided for in “**Annexure B**” below.

11. **THE FUND’S RESPONSE**

11.1. The Fund commits that it will:

11.1.1. take all allegations seriously and in good faith and in the interests of all parties address the matter immediately;

11.1.2. follow up safeguarding reports and concerns according to policy and procedure, and legal and statutory obligations; and

11.1.3. apply appropriate disciplinary measures to staff found to be in breach of this Policy.

11.2. The Fund will offer support to survivors of harm caused by staff or associated personnel, regardless of whether a formal internal response is carried out (such as an internal investigation). Decisions regarding support will be led by the survivor, or if the survivor does not wish to lead the decisions, all decisions must be made in the best interest of the survivor.

11.3. The Fund has a zero tolerance for harassment. The range of disciplinary sanctions to which staff members found guilty of sexual or racial harassment or other misconduct contemplated in this Policy may be subjected to, include but are not limited to counselling, in addition, or as an alternative to a disciplinary penalty. Harassment is regarded as serious misconduct warranting a serious penalty. Warnings may be issued for minor instances of sexual harassment. In some circumstances, dismissal may be warranted for a first offence. Where the person who has committed any form of harassment is not an employee of the Fund, the Fund shall consider and take whatever measures are necessary to terminate its relationship with that person.

11.4. Should a complaint of alleged harassment not be satisfactorily resolved by the internal procedures set out above, the victim may within 6 (six) months of the dispute having arisen, refer the matter to the Commission for Conciliation, Mediation and Arbitration (“**CCMA**”) for conciliation in accordance with the provisions of the EEA. Should the dispute remain unresolved, either party may refer the dispute to the CCMA or the Labour Court for arbitration or adjudication in accordance with the provisions of the EEA.

12. **CONSULTATION**

12.1. Once an allegation of harassment, which is in contradiction of this Policy or the law, has been brought to the Fund’s attention, the Fund must engage and consult with all relevant parties to determine the factual circumstances surrounding the transgression and the impact of the transgression on the workplace.

12.2. The Fund must then consult with all relevant parties with a view to taking reasonable measures to eradicating such conduct from transpiring in the workplace. These measures may include, but will not be limited to, disciplinary action, diversity education, amendments to workplace policies and enhancing any identified shortcomings in relation to any procedure the Fund may have in place.

13. **SANCTIONS**

13.1. If an investigation of any form of harassment shows that harassing behaviour has taken place, the harasser will be subject to disciplinary action, up to and including dismissal, or whatever action may be applicable to non-employees.

13.2. If an investigation of any form of harassment shows that the alleged perpetrator has been falsely accused, the complainant will be subject to disciplinary action,

up to and including dismissal, or whatever action may be applicable to non-employees.

13.3. An alleged perpetrator of sexual harassment may refer a dispute arising from any disciplinary action taken by the employer to the CCMA in accordance with the provisions of the LRA, or whatever action may be applicable to non-employees.

14. **CRIMINAL AND CIVIL LITIGATION**

14.1. A victim of harassment has the right to press separate criminal and/or civil charges against an alleged perpetrator and the legal rights of the victim are in no way limited by reason of the provisions of this policy and procedure.

15. **CONFIDENTIALITY**

15.1. It is essential that confidentiality is reasonably maintained at all stages of the process when dealing with safeguarding, or sexual or racial harassment concerns. Information relating to the concern and subsequent case management should be shared on a need-to-know basis only and should always be kept secure.

15.2. All disclosed information shall be kept confidential and shall only be released to a named third party with written consent of the staff member concerned.

16. **CONSEQUENCES FOR NON-COMPLIANCE**

It is essential to comply with all parts of this policy. Any failure to comply with this policy could potentially result in the Fund not being compliant with applicable regulatory framework. This could amongst others, negatively affect the Fund reputation and result in a loss of confidence in the Fund. Such a loss of confidence could in turn, result in

financial losses (due to loss of sponsors and donations). Failure to comply with the policy could result in disciplinary action being taken in terms of applicable disciplinary code.

17. **REVIEW**

17.1. This Policy may be updated to reflect evolving norms and practices, changes to the Fund policies or procedures or as and when the Fund deems necessary and appropriate to affirm its commitment against harassment. The Policy will be fully reviewed every two years.

ANNEXURE A
IMPORTANT CONTACT DETAILS

The **contact details** of the whistleblowing line are:

Telephone number: 0800 203 598

Email address: GBVF@tip-offs.com

Further important contact details in case of any workplace infringement of the EEA:

Office of the Director General of Employment and Labour

Tel: 012 309 4126

Fax: 012 309 4625

**ANNEXURE B
COMPLAINT PROCEDURE**

STEP 1

1. Complaint raised verbally with Line Manager

2. Line Manager conducts investigation within 3 (three) working days and provides response to complainant. Line Manager addresses complaint with the perpetrator.

(if complaint remains unresolved)

STEP 2

3. File formal written complaint form with the Line Manager. This must contain the relevant facts surrounding the complaint and remedy.

4. Line Manager conducts investigation within 7 (seven) working days.

5. Where the investigation of any form of harassment shows that harassing behaviour has taken place, disciplinary measures shall be determined, up to and including dismissal, or whatever action may be applicable to non-employees.

(if complaint remains unresolved)

STEP 3

6. Where the relevant Line Manager is not taking action, appeal to the CEO or through the whistleblowing line.

7. CEO conducts an investigation within 10 (ten) working days and provides a response to the complainant.

8. If the complaint remains unresolved, the complainant may submit the complaint through the whistleblowing line for the attention of the Chairperson of the Board.

9. The Chairperson of the Board shall conduct an investigation and provide a response to the complainant within 10 working days.