

15<sup>th</sup> May, 2009

## Policy to address Sexual Harassment and Mobbing at Work

### 1. Preamble

Harassment and mobbing are unfortunately a reality in the world of work which creates unhealthy working environment and has serious consequences for the victims. Their dignity and social standing are violated. A harassed person can suffer from emotional stress resulting in feelings of humiliation, anxiety, irritability, nervousness, insomnia, stress, fatigue, anger, and powerlessness which may lead to frustration, loss of self esteem and decrease in productivity and decision-making, unable to continue work and ultimately resulting minor to acute depression.

Sexual harassment and mobbing are serious forms of harassment. Both are expressions of power and manifest a considerable encroachment on the personal rights of the persons affected. To talk of sexual harassment is still a taboo in Nepali society. People most often find it uncomfortable to discuss this. Most of the time, serious physical offences are considered as sexual harassment, such as forcing someone to have sexual relation or touching the body with sexual intention. Sexual harassment may start with a glare or even a handshake. An absence of sharp demarcation of behaviors that constitute sexual harassment further creates a state of confusion. Helvetas Nepal has developed this policy to address sexual harassment at work with clear definition of sexual harassment to establish a conducive environment in which both women and men can work together without fear or intimidation.

### 2. Statement

Helvetas Nepal promotes workforce diversity by providing equal opportunities to both men and women and believes in the philosophy of non-discrimination in employment in terms of gender, caste, ethnicity, language, nationality, age, position, colour, disability, political ideology, religion, sexual orientation, marital status and other personal characteristics or lifestyles. Helvetas Nepal recognizes that in order to truly overcome cultural biases that limit the balance and equal participation of women and men in the workforce, it must take a proactive position in order to prevent situations where staff members feel intimidated, unfairly treated by their colleagues or supervisors, or (in extreme cases) feel sexually threatened.

**Aim of this** policy is not to regulate employee's personal morality but to maintain a working environment that is free of any form of harassment and exploitation so that employee and member of the community with whom Helvetas Nepal works or provides assistance to are assured that they will not be subject to any form of harassment or exploitation.

### 3. Definitions:

**Harassment** refers to a wide spectrum of offensive behaviour meaning any inappropriate conduct directed at an individual or group on the basis of gender, caste, ethnicity, language, nationality, age, position, colour, disability, political ideology, religion, sexual orientation,



marital status and other personal characteristics or lifestyles aiming to humiliate or weaken the morale of individuals or groups. Harassment has many forms. Harassment may be deliberate or unconscious, open or covert, direct or indirect, an isolated incident or repeated action.

**Mobbing** means to pick on, pester and exclude a person or a group systematically at work. Mobbing can be expressed in verbal or non-verbal attacks which affect the physical or mental health as well as the self-esteem of the person(s) concerned.

**Sexual harassment** means unwanted conduct of a sexual nature, or other conduct based on sex, affecting the dignity of women and men. This can include unwelcome physical, verbal or non-verbal conduct. Sexual harassment can also be seen as an attack on a person's privacy and dignity.

**Sexual harassment in work place** is uninvited, unwelcome, unwanted behavior (not judged by intention of harasser rather determined by recipient ) of a sexual nature that is offensive, embarrassing, intimidating or humiliating and may affect a worker's job performance, health, career and livelihood. Sexual harassment can be expressed in the following ways:

**a. Verbal Harassment**

- Offensive or suggestive remarks
- Unwelcome comments about a person's physical appearance, sexual orientation, private life or body part.
- Expressions that suggest superiority of one gender over the other including jokes demeaning one gender, sexist talk and jokes including e-mails and text messages, sound, questioning
- Making advances together with promises or threats

**b. Non-verbal Harassment**

- Obstructive or scrutinizing looks such as leering, or ogling with suggestive overtones
- Licking of lips
- Body language/gestures denoting sexual activity and persistent flirting.

**c. Physical Harassment**

- Inappropriate touching such as kissing, patting, stroking, brushing up against the body, hugging, fondling, pinching.
- Unwelcome sexual advances (specific examples: physically going over male/female staff member in the pretends of collecting something; scratching private body part; pushing while walking; elbowing or rubbing against the body in a vehicle).

**d. Psychological Harassment**

- Repeating unwanted social invitations
- Relentless proposals for dates or physical intimacy
- Behavior that is discriminatory towards or excludes a person on the ground of his or her gender.



#### *e. Visual Harassment*

- Showing of pornographic material

#### 4. Applicability

Sexual Harassment and Mobbing are considered a serious offense and it is a violation of Helvetas Nepal's policy. Therefore **all staff will be individually held accountable for their knowledge and adherence to Helvetas Nepal's policy**. Sexual Harassment and Mobbing are dealt with in the manner defined under major misconduct (**Helvetas Nepal Personnel Policy Manual, Section 8.4**) with the exception that the standard of evidence will be different in cases of sexual harassment. Even without documented "proof" disciplinary action can (and should) be taken against the individual concerned.

#### 5. Responsibilities

##### 5.1 The responsibility of Helvetas Nepal

Helvetas forbids any form of harassment at work and necessary measures have been taken to protect employees. Should a case occur, action will be decided upon together with the people involved. Employees concerned, whether seeking advice or lodging a complaint, shall not be discriminated against.

Intimate relationships between employees are a reality. However, there is a risk that dependency can be misused. If this kind of relationships interfere the organizational norms and values, Helvetas maintains the right to take necessary measures.

##### 5.2 The responsibility of the Country Programme Director or assigned person

- Ensure that the policy is available in English and Nepali;
- Ensure, that the policy is an integral part of the contracts of all staff members;
- Ensure that the policy is displayed at prominent places to make it accessible to all members of Helvetas Nepal and shared with partners;
- Be updated on national and international polices about harassment and mobbing;
- Form an Inquisition Committee to deal with Sexual Harassment and Mobbing. First Inquisition Committee to be formed during Team Leaders (TL) meeting on 15<sup>th</sup> May 2009 and then the subsequent committees to be formed in every two years. Three members for the committee (one member from PO and two from projects, at least 1 person of each sex) to be nominated for two years and if necessary, one more member to be nominated as and when a complaint is made, according to the sex of the complaint.
- Ensure that the recommendations received from the Inquisition Committee are implemented within three weeks of receipt;
- Maintain confidentiality of both the accused and the complainants.



### 5.3 The responsibility of Team Leaders/CPD

- Team Leaders/CPD are to ensure that there is a good working atmosphere with no harassment and intimidation within their sphere of responsibility and that all forms of harassment are investigated.
- If complaints are made, **maintain confidentiality**, neutrality and an attitude of empathy at all times towards both the accused and the complainants and inform the Inquisition Committee immediately after the case is filed.

### 5.4 The responsibility of Inquisition Committee

- The Inquisition Committee members **maintain confidentiality**, neutrality and an attitude of empathy at all times towards both the accused and the complainants.
- Document proceedings from the time of receipt of complaint until conclusions are drawn;
- Take services of an occupational psychologist, if necessary;
- Counsel and maintain a sensitive attitude towards both the accused and the complainant at all times
- Inquisition Committee can ask for any kind of information and support from both the parties during investigation

### 5.5 The responsibility of colleagues

- Helvetas Nepal demands that all employees respect the personal barriers that colleagues value where human relations are concerned. Employees who notice harassment towards a third person should advise the tormentor(s) that such behavior is unacceptable and support the abused person.

### 5.6 The responsibility of victim

- Victims have the right to make complaints against accused and demand an investigation.
- Victims are responsible to support the whole investigation process as and when required.
- If the results of the Inquisition Committee are unsatisfactory the victim can appeal to the Senior Management of Helvetas Nepal for further investigation and action (eventually involvement of an external person).
- Victims should inform the respective TLs/CPD (incase of PO) first before filing a complaint to the Inquisition Committee. If Victims feel that TLs/CPD themselves are involved in the misconduct then the victims can directly file their cases to the Inquisition Committee
- If TL himself/herself is victimized then the case can be filed to the Inquisition Committee directly.

### 5.7 The responsibility of Helvetas staff recruited by Zurich

- Helvetas Staffs recruited by Zurich are to ensure that there is a good working atmosphere with no harassment and intimidation within their sphere of responsibility as per Helvetas Zurich Sexual Harassment and Mobbing Policy.
- Staffs recruited by Zurich will not have to sign this policy as they have signed the Sexual Harassment and Mobbing Policy of Helvetas Zurich. Any complaints against them will



be conveyed to Helvetas Zurich by the CPD through Programme Coordinator responsible for Nepal Programme.

## 6. Complaint Procedures

### a. Informal Procedure

Where an employee feels that s/he is being harassed or discriminated against, s/he may inform the respective Team Leader either verbally or in writing about the case. The TL concerned will investigate the case and try to resolve the problem in an informal manner, between the perpetrator and the victim. However, if the victim is not satisfied with the decision of the Team Leader or if harassment persists despite TLs' intervention, the victim shall seek redress through formal procedure i.e. complaints to be made to the Inquisition Committee (but TL shall be in the information loop).

In the event that the oppressor is a TL or if TL himself/herself is victimized, the victim shall directly inform the Inquisition Committee in writing. The Inquisition Committee can also be addressed directly, if the victim doesn't dare (for whatever reasons) to contact the TL.

### b. Formal Procedure

Once the complaints are registered/reported, the Inquisition Committee immediately informs the perpetrator, the immediate superiors of the perpetrator and the complainant as well as the Senior Management of Helvetas Nepal (Country Programme Director or assigned person) about the complaint. The Inquisition Committee and every informed person are bound to maintain confidentiality.

The complaints shall be submitted in writing (signed and dated by the complainants) to the Inquisition Committee or to a person they trust and the person, they trust could report to the Inquisition Committee members with the consent of the victim. The complaint may also be submitted by persons who have witnessed or been affected by the objectionable behavior with the consent of the victim. The complainant shall explain the situation/incident clearly in the application such as examples of harassment experienced or observed.

The complaint recipient should forward it to the member of the Inquisition Committee at the office within a week of receipt. Each complaint will be reviewed in a discrete manner, as appropriate.

**It is also acknowledged that harassment, especially sexual harassment, usually occurs away from public eye and it therefore may be difficult to produce evidence. It is strongly encouraged that the victims or the affected people or witness(es) report offensive behaviors immediately to someone they trust even if they do not wish to launch a formal complaint at the time.**



### c. Time Period

The formal complaint shall be lodged within 35 days of the last incident to the Inquisition Committee, the TL concerned or to anyone the complainant trusts in the project or PO. The complaint recipient will forward it to the member of the Inquisition Committee within a week of receipt. The Inquisition Committee shall complete investigation as soon as possible and shall not take more than four weeks. The decisions shall be implemented within seven days.

### 7. Execution procedure

The committee questions the victim, the perpetrator, any witnesses as well as the contact person involved (with the complainant's consent). They obtain proofs and take minutes of the interviews which are confirmed with signatures of those concerned. The investigations are to be carried out within four weeks, at most, after formal lodging of the complaint to the Inquisition Committee. Subsequently, the Committee presents the results of their investigation, together with their proposals, for further action to the Senior Management (CPD or assigned person) of Helvetas Nepal. Helvetas Nepal Senior Management will take its decision within two weeks of obtaining the Inquisition Committee's investigation report and proposals/recommendations.

In special cases, the Inquisition Committee may suggest supporting measures for the victim while the investigation is being carried out. Any costs incurred by the supporting measures must be approved by the Country Programme Director, upon request by the Inquisition Committee.

Both parties have the right to be accompanied by a person of their choice. This person may be present at the questioning of witnesses and may also ask supplementary questions. Any costs incurred by the accompanying person are to be covered by the responsible project/PO.

Neither party may be dismissed while the investigation is being carried out. Nor may negative consequences occur professionally because of the proceedings. The right is reserved to implement sanctions arising from the proceedings as well as carry out justified dismissal.

### 8. Action

Sexual harassment and mobbing are considered as major misconducts (Helvetas Nepal Personnel Policy Manual, Section 8.4). On establishment of the fact that a staff member has committed a major misconduct, any of or a combination of more than one of the following measures will be taken against harassers depending on the severity of behavior:

- Apologies to the victim
- Warning
- Warning with threat of dismissal
- Contractual notice of dismissal
- Dismissal from the organization without notice

The right to civil or criminal prosecution is reserved.



**Decision of the committee:** After a decision is reached regarding the complaint, the Committee will recommend disciplinary action if the person is found guilty. Actions shall only be taken by the CPD or assigned person as per the recommendation(s) of the Inquisition Committee.

**False Complaints/Accusations:** False claims of harassment and mobbing, with malicious intentions, will be considered to be harassment in itself and will be treated under major violations of this policy. The same actions will be taken against, and punishments meted to them as well.

**Appeal:** If the complainant is not satisfied about the way her or his complaint has been handled, s/he may appeal to the Country Programme Director. Thereafter the CPD may take up the matter as she or he sees fit. The involvement of an external person may be possible at that stage.

**This policy paper which is an elaboration on clause 7.1.4 of the Helvetas Nepal Personnel Policies Manual will be supplied to all employees and become effective from 15<sup>th</sup> of May 2009.**

**This will be an integral part of the Helvetas Nepal employment contract and shall be a point to be discussed during staff appraisal.**

  
18.5.2009