1. PURPOSE AND SCOPE

The Royal Australasian College of Surgeons’ (RACS) policy endorses the Australian Government Department of Foreign Affairs and Trade’s (DFAT) Preventing Sexual Exploitation, Abuse and Harassment Policy (April 2019). RACS has a zero-tolerance approach to sexual exploitation, abuse and harassment (SEAH). This policy provides a framework for managing and reducing risks of SEAH in the context of the RACS Global Health Program (the Program).

This policy applies to all individuals, employees, volunteers, consultants, interns, organisations, and/or subcontractors who are engaged by RACS to perform any part of a RACS Global Health activity. This policy applies to all individuals or organisations employed by, representing, or working in association with RACS during working and off-duty hours. This policy applies to both national and international activities.

2. KEYWORDS

Sexual Exploitation, Sexual Abuse, Sexual Harassment, Global Health Program Department of Foreign Affairs and Trade, Risk Management, Zero Tolerance

3. BODY OF POLICY

3.1. Key Definitions

Key definitions are adopted from the DFAT’s SEAH Policy (April 2019):

3.1.1. Sexual Exploitation: Any actual or attempted abuse of a position of vulnerability differential power, or trust for sexual purposes. This includes profiting monetarily, socially, or politically from sexual exploitation of another.

3.1.2 Sexual Abuse: The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

This 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, state or territory, whichever is greater) constitutes sexual abuse.

3.1.3 Sexual Harassment: Sexual harassment occurs when a 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 and citizens, as well as against staff and personnel.
4. CORE PRINCIPLES

As an Australian Government funded organisation implementing aid and development activities overseas, RACS must meet the DFAT’s SEAH Policy (April 2019). This policy outlines RACS’ commitment to preventing SEAH, including relevant principles for its Programs and activities.

4.1. Zero Tolerance Policy

Sexual exploitation, abuse and harassment is never acceptable. RACS has a zero tolerance approach towards SEAH. Behaviour by any individual or organisation associated with RACS’ activities that results in, facilitates, or ignores allegations of SEAH against a child or adult will not be tolerated. Such behaviour may also attract criminal, civil, and disciplinary sanctions.

A zero tolerance policy includes intolerance of inaction towards allegations of SEAH. RACS’ management will respond to and take seriously any allegations of SEAH, with due regard for procedural fairness.

Employees and volunteers must notify RACS of any SEAH related criminal convictions, charges or relevant substantial complaints or allegations of misconduct made against them prior to, or during, engagement in RACS’ activities. RACS will not knowingly hire anyone who poses an unacceptable risk of committing SEAH. RACS retains the discretion not to fund any individual or organisation that does not meet its SEAH policy standards.

4.2. Sharing responsibility

Preventing sexual exploitation, abuse and harassment is a shared responsibility. Every individual or organisation associated with RACS’ activities has a responsibility to uphold this policy, and to contribute to an organisational culture which prioritises safeguarding against SEAH. All associated individuals or organisations must comply with this policy, in addition to any and all applicable laws of the jurisdiction in which the Program is taking place, and will be held accountable through contracts, audits, and spot checks.

RACS management at all levels has a responsibility to develop systems which implement this policy and safeguard against SEAH. Management must take steps to disseminate and socialise this policy to ensure that it is known and understood by all individuals and organisations associated with RACS. Further, management must create a safe and accessible system for complaints or concerns about SEAH to be raised, and immediately respond to any allegations.

4.3. Risk Management

RACS safeguards against risks of SEAH in all activities, both within the organisation and in our interactions with external departments, organisations and communities. While it is not possible to eliminate all risks of SEAH, proactive risk management can identify, mitigate, manage, and reduce risks of SEAH that may be associated with the Program’s activities. These risks are identified during initial risk assessments for all Programs, and are the subject of ongoing management for the duration of the Program activity.
SEAH is fundamentally about inequalities and abuses of power. RACS recognizes that some parts of the Program’s activities are conducted overseas in communities which may be vulnerable to SEAH in ways particular to their specific circumstances. Development and humanitarian contexts may present a heightened risk of SEAH due to local communities being vulnerable, especially during periods of crisis or transition.

RACS also recognises that SEAH risks are heightened in situations where there is an unequal distribution of power, and that people in positions of authority have a level of power over others which compounds the risk of exploitation. This includes, but is not limited to, power inequalities which exist between RACS’ employees or volunteers and beneficiary departments, organisations and communities.

4.4 An integrated approach

RACS recognises that the risk of SEAH is exacerbated by the presence of unequal power dynamics, including but not limited to: gender inequalities, racial inequalities, and/or transactional pressures and intercultural dynamics. RACS is sensitive to the compounding power inequalities that exist within its operations, including the power differential between developed and developing contexts. RACS is committed to an integrated approach that ensures that the specific and differentiated needs and vulnerabilities of particular groups, cultures and individuals are recognised and accommodated.

Tailored protections for those with limited or compromised means to protect themselves, such as children or people with a disability, are integral to our approach. However, RACS also acknowledges that it is crucial to avoid conflating all at-risk groups with one another. RACS is committed to using targeted approaches to address the risks and needs presented by gender, disability status, race/ethnicity, age, sexual orientation, and other characteristics, as well as by their intersections.

Available data indicates that SEAH is experienced disproportionately by women, as well as by members of the trans and gender diverse (TGD) and gender nonconforming (GNC) communities. Data also indicates that the majority of SEAH perpetrators are male. Women and girls, as well as TGD and GNC people, do not share the same power, privileges, rights, and opportunities as men. RACS recognises this imbalance of power and privilege.

RACS also acknowledges that gender is not the only power imbalance at play. Our approach also considers inequalities based on distinctions such as: worker/beneficiary, ability/disability, ethnic and Indigenous status, religion, sexual orientation, age, health, and class. Therefore, our approach to both the prevention of, and response to, incidents of SEAH is based on respect for diversity, promotion of gender equality and social inclusion, accountability, and a strong “do no harm” focus.
4.5 Procedural fairness

When responding to concerns or allegations of SEAH, RACS abides by the principles of natural justice and procedural fairness in accordance with its Natural Justice – Information for Decision Makers Policy. Associated individuals and organisations are also expected to adhere to these principles.

Any individual who experiences SEAH in breach of this policy should make a report as soon as possible to RACS management or directly to the relevant Complaints Handling Mechanism. Once a complaint or concern is received, RACS management or Complaints Handling Mechanism officials will take prompt investigative action. Any concern or complaint regarding SEAH will be handled according to RACS’ procedures and processes for handling complaints.

All RACS employees and volunteers must immediately report (without individual investigation) any reasonably suspected breach of this policy to RACS management or directly to the relevant Complaints Handling Mechanism. Immediately in this context means within two working days of becoming aware of any alleged SEAH incident. If in doubt, the incident should be reported in line with Principle 4.1: Zero Tolerance. Individuals or organisations who do not report reasonably suspected breaches of this policy will be viewed as being non-compliant.

4.6 Sanctions

Any act of sexual exploitation, abuse or harassment by RACS employees, volunteers or other associated individuals or organisations constitutes gross misconduct and is therefore grounds for termination of employment or volunteer contracts or agreements. Additional disciplinary actions for breach of this policy include, but are not limited to, one or more of the following:

- Suspension or removal from work or volunteer activities pending and/or during investigation;
- RACS internal investigation;
- Formal warning and/or other sanctions in accordance with RACS Human Resources policies;
- For RACS employees, referral to the Human Resources Department;
- For RACS fellows, referral to the Professional Conduct Committee;
- For volunteers, action pursuant to RACS policies and the Volunteer Participation Agreement;
- Referral to local law enforcement authorities;
- Referral to the Australian Federal Police;
- Termination of employment.

It should be noted that RACS recognises an individual’s right to procedural fairness and does not presume guilt or innocence pending and/or during investigation. Therefore, other than in circumstances of serious misconduct for which they may be
suspended without pay at RACS’ sole discretion, any suspended paid personnel will continue to receive full pay. Any volunteers who are stood down will receive reasonable reimbursement of costs.

4.7 Confidentiality and victim rights

Any individual who experiences SEAH in breach of this policy must be able to express their concern or complaint without fear of reprisal or unfair treatment as a consequence of reporting. RACS seeks to ensure that, as far as possible, complaints are handled confidentially and without risking reprisal and/or harassment as a result of reporting.

RACS is committed to prioritising the needs of victims/survivors in its response to allegations and incidents of SEAH. Our priority is to respect the rights, needs, and wishes of victims/survivors, while ensuring procedural fairness for all parties. RACS is committed to:

- treating victims/survivors of SEAH with dignity and respect;
- involving victims/survivors in decision making;
- providing victims/survivors with comprehensive information about their rights and options;
- protecting the privacy and confidentiality of victims/survivors; and
- considering the need for counselling and health services to assist the victim/survivor with their recovery.

RACS does not discriminate in its response to allegations of SEAH on the basis of gender, age, race/ethnicity, ability, sexual orientation, or other characteristics.

Confidentiality protects the complainant, as well as the subject of the complaint and other persons involved. Subject to RACS’ reporting obligations pursuant to the laws of the relevant jurisdiction and relevant Australian laws, the nature of the complaint, the identities of the persons involved and any documentation resulting from the investigation will be treated confidentially, to the greatest extent possible. Any confidential information associated with a concern or complaint will only be shared on a need-to-know basis in order to properly conduct the necessary investigation, seek expert advice, or provide care.

5. ASSOCIATED DOCUMENTS

In keeping with RACS’ commitment to upholding human rights, this policy is based on – and should be interpreted in line with – the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC), alongside other relevant international instruments. This policy promotes the right of adults and children to be safeguarded against all forms of violence and discrimination including SEAH.
REFERENCES