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## **SAFEGUARDING POLICY**

### **A. Introduction**

Equal Education (EE) is a movement of learners, parents, teachers, and community members striving for quality and equality in South African education through analysis and activism. EE aims to be an environment where young people can safely come together; learning and strategising on how to tackle an unequal education system in the context of growing inequality in South Africa and the world more broadly.

This policy details the environment necessary for all EE members, volunteers and employees to feel safe and welcomed in EE organising spaces. A safe and welcoming EE will serve as the best platform to engage young people and lead successful campaigns.

The following policy applies to all EE Staff and Volunteers who work with, or come into contact with Equalisers and/or school learners during the course of volunteering/working for EE.<sup>1</sup> Volunteers include EE facilitators. It is important that all EE staff and volunteers are aware that they are in a relationship of trust with the organisation, its members and with learners who participate in EE events. This trust should not be abused.

The policy also applies to members of partner organisations, guests and service providers (including but not limited to taxi-drivers and caterers) who interact directly and/or regularly with Equalisers.<sup>2,3</sup>

All previously described individuals should receive a copy of this policy and a briefing on its contents before coming into contact with Equalisers for the first time.

The rules described in this policy apply to all EE members where relevant.

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<sup>1</sup> These parties will be requested to either sign a form or send an email confirming knowledge and understanding of the safeguarding policy.

<sup>2</sup> Ibid

<sup>3</sup> "Equaliser" when used in this policy should be understood as a learner in a school and/or a learner member of EE.

A policy of this nature cannot cover every scenario nor can it be sufficient to expect safeguarding to happen purely because such a policy exists. Guarding against wrongdoing and responding to misconduct must become part of the **culture** of EE. Such a culture means being conscious of always ensuring that EE is a safe and welcoming environment for all, where behaviour that harms others is not accepted. It means taking individual and collective responsibility for our daily interactions with our members, colleagues, and comrades to ensure that we are mindful of our differences, of the relative power relations across the organisation, and of our shared responsibility to constantly create spaces in EE that are vibrant, dynamic, and creative. Part of creating such a culture is providing safeguarding training to all those in our movement, consistently communicating our values, organising in an inclusive manner, considering how our activities are run, and considering how we generally treat each other. It is also intervening when we see that our comrades may be considering unacceptable conduct and holding them to account if unacceptable conduct occurs.

Nevertheless, Staff/Volunteers, members and external individuals engaging in EE activities are expected to act within the spirit and intent of this policy. Where behaviour does not meet that standard, it will be handled as per “Section B” below.

Most Equalisers are under the age of 18. Youth group must be a safe space for them as minors and children. Youth group needs to be a place where educational growth and exploration is possible; safety is thus essential.

Additionally, staff and volunteers interact with Equalisers during marches, pickets, camps, EE events, school visits.<sup>4</sup> This policy also applies to all those interactions.

Staff and volunteers must adhere to this Policy; this is to ensure Equaliser’s protection as children (if they are below the age of 18) and/or members of the movement. Some of the points listed below are covered in staff/volunteer training. Additionally, practical examples on how to guard against, or manage such situations are given.

Failure to follow the rules below can lead to dismissal/termination of the volunteering/employment relationship. To the best of our ability, EE will also make<sup>5</sup> attempts to appropriately vet all staff and facilitators before they begin working with members.

It is also important that Equalisers’ who are members of EE also adhere to the rules detailed in the Safeguarding Policy. Failure to do so could lead to disciplinary action.

This policy must be explained to members, empowering them to identify and report wrongdoing when it happens. It is recommended that this policy is given to all members and workshopped at the start of the youth group year.

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<sup>4</sup> List is not exhaustive

<sup>5</sup> Methods for this may include, but are not limited to, requests for: character references, job references, the bringing of a police clearance certificate etc.



**CONTENT WARNING:** Please note that the content of this policy deals with sexual violence, harassment, violence, and abuse.

## **B. Safeguarding Policy**

The following is strictly forbidden and will lead to immediate disciplinary action. With the exception of point 17, 22, and 23 below,<sup>6</sup> the first offence for all conduct listed is dismissal/termination of the staff/volunteer relationship and/or membership. Where conduct constitutes a crime, EE will report it to the police. This is particularly relevant but not limited to 1, 2, 5, 9, 10, 12, and 13 below.

1. Sexual / physically intimate / romantic relationships between Equalisers and staff/volunteers/external parties.<sup>7</sup>
2. Sexual harassment / non-consensual physical behaviour.<sup>8</sup>

*As a staff member/volunteer it is crucial that you allow space for an Equaliser to express (informed) consent around their bodies. This should be thought of when saying hello to an Equaliser; a hug hello could be inappropriate and or unwanted even if considered as completely harmless by yourself. Please also be mindful of the types of activities run with Equalisers. Some icebreakers or activities may require physical contact between Equalisers and themselves, and Equalisers and staff/volunteers; allowing Equalisers the opportunity to positively express consent or opt-out is important in furthering a culture of consent at EE.*

*As an Equaliser we must remember the concept of consent in all our interactions. When another person in our movement says “no” to something during an interaction we **must** respect that.*

3. Non-physical but otherwise inappropriate relationships between Equalisers and staff/volunteers/external parties. This includes, for example, pursuing a relationship, flirtation, innuendo<sup>9</sup>, overly familiar phone calls/texting/messages, sharing sexually explicit audio/visual content (including pornography), and inappropriate social media engagements. This applies even when an Equaliser initiates such actions and a staff member/volunteer then participates.

*For staff/volunteers/external parties - In a situation where an Equaliser initiates such actions, please report the advances of the Equaliser to your immediate supervisor, or to a senior person in the organisation equipped to respond to the concerning behaviour, as a facilitated conversation with the Equaliser may be required. Please note that you should also be proactive in not putting yourself in situations with an Equaliser where this can become a possibility; eg alone with an Equaliser in an isolated area at an EE event, late night texting, or initiating personal conversations in a manner and in a context which could turn inappropriate.*

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<sup>6</sup> The first offence for 17 (Overloading a Taxi), 22 (Not reporting a known safeguarding incident), and 23 (Maliciously disclosing information about a safeguarding incident) is a final written warning.

<sup>7</sup> External parties means all parties who come into contact with Equalisers through EE.

<sup>8</sup> The definition of Sexual Harassment as per EE's Policies and Procedures is applicable here and is summarised and attached as an appendix to this document.

<sup>9</sup> Innuendo: indirect sexual hints or suggestions.



*Please note that inappropriate social media engagements include flirting, over-familiarity, pictures or posts that show or reference Equalisers in an intimate or excessive manner (ie changing one's profile picture to a picture of an Equaliser or an intimate photo of you and the Equaliser)*

4. Romantic/Sexual behaviour with another volunteer/staff member in the presence of an Equaliser during an EE event or while representing EE.
5. Sexual/Physical abuse of, violent/intimidatory conduct towards an EE member.

*It is reiterated that in cases where a member's actions constitute a crime, EE will report such actions to the police.*

6. Talking about (personal) stories of a sexual/violent nature in an unfacilitated manner.

*From time to time during the course of a planned activity at a youth group or other EE event, discussions around sex and violence may take place. These should always be carefully planned with comprehensive thought given to the consequences for such engagements. Point 6 refers to casual conversations outside of Equal Education facilitated activities and conversations.*

7. Verbal abuse of an EE member.
8. Facilitating inappropriate communication/interactions between someone (e.g. facilitator/staff/taxi driver/ any other person external to EE) and an Equaliser; this could include but is not limited to passing on a phone number, social media account details, inappropriate message and/or arranging an in-person meet up.

*EE is a youth movement which aims to develop young people. Both physical and verbal abuse are counter to the ideals of EE as a movement that seeks to grow people through education and personal example.*

9. Selling drugs or alcohol to an Equaliser.<sup>10</sup>
10. Facilitating access to drugs/alcohol for an Equaliser.
11. Participating in EE activities whilst being under the influence of drugs and/or alcohol.
12. Drinking/Smoking tobacco products/taking drugs in the presence of Equalisers.
13. Being in possession of knives and/or guns and/or other weapons around Equalisers.

Additionally, the following offences pertain directly to the transportation of Equalisers to and from EE activities and actions.

14. Through misrepresentation (dishonesty) and falsely using EE as an excuse, making Equalisers go somewhere not related to EE activities.
15. Using EE transport to take Equalisers anywhere other than the stated venue of the activity/action or returning them to their area/home.
16. Allowing non-EE participants to use EE transport without express permission from event organiser.

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<sup>10</sup> Insofar as the use of certain substances are illegal; it is an offense for any member of EE to sell/facilitate access/use illegal substances at EE events or while representing EE.



17. Overloading a taxi or vehicle.
18. Knowing that a taxi driver is under the influence of alcohol or drugs and allowing them to transport Equalisers/facilitators/staff.
19. Knowing that a taxi driver is making advances towards Equalisers, harassing Equalisers or dating equalisers and not reporting it as per section D below.
20. Knowing that a taxi driver is putting the safety of Equalisers/facilitators/staff in jeopardy and not reporting it.
21. Leaving equalisers stranded in dangerous conditions, e.g. dropping off at pick up points (instead of door-to-door) when it's dark or deliberately or negligently dropping off an individual in the wrong area.

*Taxi drivers must be briefed on what constitutes unacceptable conduct. Where possible a facilitator should be in a Taxi with Equalisers and be the last to be dropped off. Equalisers should not sit in the front seat of a Taxi.*

22. Being aware of 1-21 being committed but not informing an appropriately authorised person at EE as per "Section D" below.

*Deeply harmful practices often take place in situations where people are aware of these practices taking place and they say nothing. Ensuring that cultures of silence do not develop are incredibly important to EE and thus reporting offenses is very important. Please see Section D below for more information on reporting.*

23. Maliciously disclosing information to a third party about a safeguarding incident.
24. Through intimidation, trying to prevent an EE member or witness coming forward with a safeguarding report or coercing them to withdraw a report.

*The following standards are also set for residential camps and seminars where Equalisers sleep away from home and are in the care of EE.*

1. Consent from a parent or guardian for attending the event must be secured.
2. Male and Female Equalisers must sleep separately. Heads of events must consider the needs of man-identifying, womxn-identifying, and non-binary Equalisers; ensuring they are comfortable with their sleeping arrangements.
3. Each Equaliser must have their own bed.<sup>11</sup>
4. Equalisers must have an enforced bed-time. After bed-time Facilitators must take turns in monitoring the wellbeing of Equalisers; ensuring Equalisers are safe and sleeping separately.<sup>12</sup>
5. Staff/Facilitators may not be alone with an Equaliser in their sleeping quarters. A second staff member/Facilitator should be present if such conversations/interactions are required.
6. The head of the event must state the rules of the event at the start, including points 2-5 above.
7. A copy of the Safeguarding Policy must be placed in accessible locations in the eating hall, in sleeping facilities or in other communal areas, as appropriate, at the event.

<sup>11</sup> All EE events must provide a separate bed for all participants. For staff/volunteers, a bed can include an appropriately equipped and comfortable mattress.

<sup>12</sup> On overnight bus-trips, Staff/Facilitators must similarly monitor behavior over the course of the trip.



### **C. Equaliser Wellbeing**

From time to time you may also become aware of an Equaliser who is experiencing psychological or physical trauma due to sexual and/or physical abuse taking place at home/school. As a staff member/volunteer it is your duty to:

1. Report it to your immediate supervisor in terms of Section D below. The supervisor must immediately bring the matter to the attention of HR.

Thereafter EE will:

1. Consult with an appropriately trained child-care expert.
2. Report the abuse to the police if it constitutes a crime; factoring in the child-care expert's advice and the Equalisers wellbeing.
3. Where possible, attempt to arrange a referral to counselling for the Equaliser and the individual who has received the report if necessary. See Section E below.

From time to time, Equalisers may display signs of mental or emotional distress or begin to abuse drugs/alcohol/sex. As a staff member/volunteer it is your duty to:

1. Report it to your immediate supervisor in terms of Section D below.

Thereafter EE will:

1. Consult with an appropriately trained child-care expert.
2. Consider informing the Equalisers parent/guardian; factoring in the child-care expert's advice and the Equalisers wellbeing and opinion.
3. Where possible, arrange a referral to counselling for the Equaliser. See Section E below.

Staff and Volunteers are further advised to show awareness, understanding, compassion, and thoughtfulness towards Equalisers who are Lesbian, Gay, Queer persons, Bi-sexual, Asexual, Trans-gendered, and Gender Non-Conforming.<sup>13</sup> EE must be a welcoming, safe, and non-violent space for these individuals in particular. Activities and interactions should be crafted in a way that strengthens individuals personally and, in the movement, and do not marginalise. If in doubt please consult your manager.

Finally, it is requested that all activities planned for Equalisers be planned with thought given to what are developmentally appropriate activities for a young person to take part in. For example, asking Equalisers to share personal experiences in a thoughtless manner could lead to trauma and embarrassment. If in doubt please consult your supervisor.

### **D. Reporting Misconduct**

Equalisers must be encouraged to report misconduct experienced or witnessed to a staff member/facilitator that they trust. This must be clarified and reaffirmed to Equalisers constantly. Moreover, EE staff/volunteer must report misconduct/abuse which they witness or

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<sup>13</sup> This is not an exhaustive list.



are informed of. EE will provide psychosocial support to those who come forward as per Section F below. All incidents reported will also be documented and kept on record with the Human Resources department as per Section I below.

We have a responsibility to always be looking out for the best interests of Equalisers by reporting abuse/misconduct.<sup>14</sup>

Heads of Province must make their details freely available so that members can reach out to them directly should they wish to report misconduct. Moreover, this policy must be made widely available in both hard and soft copy.

Staff/volunteers must report staff/volunteer misconduct reported to, or witnessed by them, to the Head of Province/Department with whom the person alleged of wrongdoing works. This includes reporting abuse by a member of a partner organisation or a service provider such as a taxi driver or a caterer. The Head of Province/Department must then deal with the conduct appropriately in line with the wellbeing of the Equaliser and this policy.

In the case where the person alleged of wrongdoing is the Head of Province/Department, the misconduct should be reported to HR or through the internal and external mechanisms below.

**Staff/volunteers must treat all complaints made to them with care and absolute confidence reporting them only to the people listed in this policy.**

Should members or staff/facilitators feel unable to report misconduct to a staff member/volunteer/Head of Province/Department there are two additional avenues available to them to report wrongdoing directly to EE's leadership; an internal mechanism and an external mechanism.

#### *Internal Mechanism*

Two email addresses have been set up:

- [dgs@equaleducation.org.za](mailto:dgs@equaleducation.org.za)
- [chairperson@equaleducation.org.za](mailto:chairperson@equaleducation.org.za)

These email addresses go directly to the Deputy General Secretary of EE and the Chairperson of EE, depending which one is used. They are accessible only by them. The cell numbers of both individuals will be made available also and circulated to members along with these addresses.

It must be explained to Equalisers, staff, facilitators and members broadly that reporting an offense to the Deputy General Secretary or Chairperson is an option. Furthermore, any report

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<sup>14</sup> This also enables the possibility of compliance with the Children's Act, which goes as far as to state that "any person who on reasonable grounds believes that a child is in need of protection may report that belief to the provincial department of social development, a designated child protection organisation or a police official"- S110(2) Children's Act 38 of 2005



made to either the Deputy General Secretary or the Chairperson will be dealt with consultatively, confidentially and appropriately in line with this policy.

#### *External Mechanism*

A 3<sup>rd</sup> party, anonymous, reporting service is available. Called **Whistleblowing.co.za**, any person connected to EE can log an anonymous complaint. Whistleblowing.co.za will then liaise with both complainant and designated persons within EE to ensure that reports are followed up on; all while ensuring complete anonymity for the complainant. The contact details to log a complaint are as follows:

Toll Free Number:	0800 117 111 <sup>15</sup>
Email:	<a href="mailto:equaleducation@whistleblowing.co.za">equaleducation@whistleblowing.co.za</a>
Toll Free Fax:	0800 212 689
Postal:	FREEPOST KZN665, MUSGRAVE, 4062
SMS:	33490
Online:	<a href="http://www.whistleblowing.co.za">www.whistleblowing.co.za</a>

Reports filed here will be shared with designated individuals in EE. The designated EE people who will receive reports from the service are: **Yana Van Leeve** (Chairperson), **Tracey Malawana** (DGS) and **Honjiswa Raba** (HR).

All reports submitted will be sent by the service to all three people while maintaining the anonymity of the reporter. However, at the time of submitting information, you can indicate to the service whether you would prefer that any of the above people are not notified. In the case that all of the above are implicated in or associated with a report then the service will pass information to an alternative: **Tess Peacock** (Treasurer).

**Contact information for reporting misconduct must be placed online and in all offices; for eg, on the noticeboard, kitchen, in the bathroom etc.**

#### **E. Guidelines for Engaging Equalisers, Survivors, Witnesses, and Person Alleged of Wrongdoing**

This Section aims to help staff/management who may need to deal with safeguarding incidents.

Often initial information/the complaint will come from a facilitator or organiser, and so it is important to ask them for as much information about the incident as possible before reaching out to the Equaliser/survivor. This helps one ask an Equaliser/survivor the right questions; allowing for the provision of the correct support and handling the matter correctly. Request that the person who informed you of the incident explain to the Equaliser/survivor that in order to deal with the issue, they need to escalate the matter to a senior person and request that the reporter of the incident facilitate an initial meeting. If the Equaliser/survivor prefers it; ensure that the person to whom the Equaliser/survivor reported the incident, is present.

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<sup>15</sup> Not toll-free from cell phones



Once you have received a report, inform the Senior Management Team immediately that you are dealing with a safeguarding incident and if possible ensure another manager is abreast of the issues and able to assist in the investigation.

Before meeting with an Equaliser/survivor speak to a social worker or seek professional advice.

At the meeting, ask for permission to record the conversation for the purposes of ensuring the accurate recording of the incident. Explain further that this will not be submitted into evidence or used in any other way, without the express consent of the Equaliser/survivor.

Explain who you are, how you came to know of the issue, and what your objective in meeting them is. You can explain further that you may need to interrupt them to clarify details, but generally if you can keep your questions to the end, it's best not to interrupt. You want to allow the Equaliser/survivor to explain the incident in full.

Thus, make sure to get as many of the following details<sup>16</sup>: 1) name in full, 2) age, 3) school, 4) grade, 5) how long they've been with EE, 6) when the incident happened, 7) did it happen more than once, 8) where it happened, 9) were there any witnesses, and who else knows about the incident / have they informed a parent/guardian.

If the incident represents a staff/volunteer disciplinary issue, ask what outcome the Equaliser/survivor would like to see from their report, whether they feel comfortable with informing relevant parties of their identity, and what the potential disciplinary processes that will follow will entail. Should the alleged perpetrator be a staff member there will likely be a need for formal disciplinary proceedings. This will likely mean that their identity will become known to the perpetrator. One can explain that there are options of testifying in different rooms to the perpetrator and that strict confidentiality of proceedings will be enforced.<sup>17</sup>

If the incident reported is an Equaliser wellbeing issue, indicate that there are a few options that can be explored, as outlined in the safeguarding policy. This includes access to counseling, and support in reporting an incident.

Do not make any promises. Do not say things like, "everything will be ok" or anything that sets up an expectation that you may not be able to meet. If an Equaliser/survivor is emotionally distraught during the conversation, offer to stop and allow them to recover. Remember to always seek their consent before hugging or touching them physically in such a situation.

If the Equaliser/survivor is a minor, ask about whether a parent/guardian is aware and whether they would like you to speak to this person also. If a parent/guardian is not aware, explain that

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<sup>16</sup> EE will also prepare a template that allows for documentation of the incident as per Section I below

<sup>17</sup> While EE's Harassment, Sexual Harassment and Sexual Violence Policy gives the complainant the option of pursuing an informal or formal approach it is important to note that offenses by staff against children will always be dealt with through the formal approach; ie disciplinary hearings. Should a prima facie case exist, EE will act quickly and strictly as an offending staff member cannot be left in a position where they have contact with Equalisers. Should the Equaliser/survivor be unwilling to testify in person or in camera, EE will use other means of introducing evidence and if none are available will consider permanently moving the staff member to a position away from Equalisers. In the case of volunteers, their volunteer agreements will be terminated.



we will inform their parents but only, as per Section G, after consulting with them on the best way to do so and accounting for any risks the Equaliser/survivor identifies.

Provide feedback as promised throughout the process and always make sure that the survivor and the person who they confided in are aware of their option to access counseling. One should do regular check-ins with the Equaliser/survivor in the months following the incident.

#### **F. Counselling Services**

Members who experience trauma due to misconduct experienced during EE activities or have traumatic experiences triggered by EE-led conduct must have access to counselling, where necessary and possible, at the cost of EE. Additionally, EE will provide access to counselling, where necessary and possible at the cost of EE, to staff members/volunteers dealing with safeguarding incidents should such support be required.

A list of free and paid counselling services must exist for each province where work is done with young people. Heads of Province/Department must compile these lists after consulting an appropriately accredited social worker, counsellor or psychologist.

As per a determination of appropriateness and need by the Head of Province and/or authorised Management, counselling should be arranged by said party for the member who has experienced misconduct.

The following free, nationally accessible 24 hours a day counselling contact details must be given to all staff/volunteers who work with young people to empower them to deal with situations which require immediate support:

**Lifeline:** 011 422 4242 OR 0861 322 322

**Childline:** 0800 123 321

For victims of sexual violence, the following resources are also available:

**Rape Crisis:** 021 447 9762

**Stop Gender Violence:** 0800 150 150

**Sexual Violence Survivor Support** (linked to Thuthuzela Care Centres: \*134\*334#<sup>18</sup>)

Where paid counselling is required the authorised EE individual arranging counselling may, with approval from the Chief Financial Officer, instruct the counsellor to remove the name of the individual receiving counselling from invoices requiring payment ensuring the name of the individual receiving counselling is kept strictly confidential.

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<sup>18</sup> Thuthuzela Care Centres (TCCs) are one-stop facilities that have been introduced as a critical part of South Africa's anti-rape strategy, aiming to reduce secondary victimisation and to build a case ready for successful prosecution. Fifty one centres have been established nationally since 2006. The centres provide counseling, social work and medical services to victims of sexual/gender based violence.



## **G. Informing Parents / Guardians**

If a member below the age of 18 has experienced misconduct or wrongdoing by EE staff or volunteers, Heads of Province / authorised management must inform the parent /guardian of the incident and inform them of the steps taken against the perpetrators and the provision of counselling services if required.

If an Equaliser is experiencing abuse at home, EE will consult with a child-law expert, a social worker, counsellor or psychologist - whichever appropriate - to determine its obligations and who to notify.

Prior to informing parents/guardians, consultation should take place with the member to ensure this is done in a sensitive and appropriate way that doesn't place the member in any way at any more risk. If necessary, Heads of Province / authorised management should consult a social worker, counsellor or psychologist on this.

## **H. Understanding This Policy / Training**

Every staff member, volunteer, and member must understand this policy and what is prohibited conduct at EE. There should be regular education around the topics of Gender, Sexuality, Power, Consent, and Sexual Harassment. This is to empower young people to identify and report wrongdoing when it happens.

Additionally, staff/volunteers must receive training and/or a briefing on the contents of this policy before interacting with Equalisers. This should preferably be done during staff/volunteer induction. This should be reinforced periodically in regular engagements such as staff meetings/facilitator meetings, and particularly ahead of special events, camps, protests and external activities.

## **I. Documentation of Safeguarding Incidents**

At the conclusion of each safeguarding incident, the supervisor responsible for dealing with the incident must prepare a written report which documents:<sup>19</sup>

- A. How/when the complaint was raised and to whom the complaint was made,
- B. the identity of the survivors/complainants,<sup>20</sup>
- C. the identity of the perpetrator,
- D. the nature of the offense, and
- E. the steps taken to resolve the incident; including the support provided to the Equaliser, the finding against the staff/volunteer, and the sanction given.

This must be submitted to EE's Senior Management Team. EE's Senior Management Team will maintain a file/folder of all Safeguarding incidents reported and/or dealt with. This will be securely kept and is highly confidential.

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<sup>19</sup> This is for historical record keeping purposes and is highly confidential. It is an offense for an unauthorised individual to access and/or share this information. Depending on the nature of the offense, doing so could lead to dismissal/termination.

<sup>20</sup> The document should also clearly state who else is aware of the identities of the parties involved



An annual report of the incidents dealt with will be filed by EE's Senior Management Team with the National Council. Any report filed with the National Council must give due regard to survivor/complainant confidentiality; redacting names and/or identifying information where appropriate.

From time to time, EE may choose to publicly share the number of safeguarding offenses it has dealt with and the category under which the conduct fell. In doing so, identifying information of any party will not be shared.

EE is authorised to proactively share the details of a safeguarding incident - while duly protecting the identity of the complainant/survivor - where a perpetrator has been found guilty of an offense directly with a prospective employer; especially if the job applied for involves working with people 18 or younger.

In the event that EE receives public, media, or external questions on a specific safeguarding incident, it may only share information after it has engaged with the survivor/complainant in the matter and determined how they would like EE to respond. Consideration must also be given to the perpetrator or person alleged of wrongdoing and what is appropriate in that regard. Information may only be shared by the General Secretary.



## **APPENDICES 1 -3**

*The following appendices provide greater clarity on three specific forms of misconduct/abuse. These are sexual harassment, abuse, and neglect. This is to help EE staff and volunteers with understanding these forms of misconduct in greater detail. Staff/volunteers perpetrating conduct described below or who are aware of such conduct taking place and fail to report it will face the consequences described in the policy above.*

### **APPENDIX 1: SEXUAL HARASSMENT AND SEXUAL ASSAULT<sup>21</sup>**

18. “Harassment” is conduct perpetrated by an individual against another of any nature that is unwanted or is not consented to.<sup>22</sup> The non-consensual/unwanted nature of harassment distinguishes it from behaviour that is welcome and mutual. Behaviour becomes harassment if:
- 18.1 it is persistent, although a single act of harassment may constitute an offence warranting disciplinary action;<sup>23</sup> and/or
  - 18.2 the recipient has made it clear that the behaviour is considered offensive and/or unacceptable;<sup>24</sup> and/or
  - 18.3 the perpetrator should have known that the behaviour is regarded as offensive and/or unacceptable.
- 18.3.1 **The management of Equal Education will be held to the highest standard in this regard.** They have a special duty to ensure their behaviour is beyond reproach and should take regular, active steps to be informed about what constitutes acceptable and unacceptable conduct in a progressive workplace. This duty increases for middle and senior management.

### **Sexual Harassment and Sexual Assault**

19. A specific form of harassment is sexual harassment which may fall under the categories of unwelcome physical, verbal, psychological, quid pro quo, victimising or non-verbal

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<sup>21</sup> Correct as of 07.12.20

<sup>22</sup> Repetitive requests for compliance with work tasks will not be considered as harassment, unless they are found to be unreasonable. This can be established by assessing whether a reasonable person would also request compliance with work tasks in a similar manner. Factors to consider are the KPAs/job requirements of the individuals in question, frequency of requests, the time given to respond to the requests, and the quality of responses to the requests. If the requests for work compliance are found to be unreasonable, the conduct may then be considered as potential harassment. This offense though will be considered outside of this policy.

<sup>23</sup> Conduct will also be found to meet the standard of “persistent” if conduct covered in 20 is directed at multiple individuals; each experiencing the conduct only once.

<sup>24</sup> EE recognises that sexual harassment may occur in unequal relationships (i.e. between a member of leadership/management and an employee) and that it may not be possible for the complainant to inform the alleged harasser that their conduct is unwanted. Thus 20.3 must be noted.



conduct. Some examples of sexual harassment are listed in the table below (although this list is by no means exhaustive).

20. For the purposes of this policy, Sexual Assault can be the non-consensual and intentional sexual penetration of another person<sup>25</sup> and/or the non-consensual and intentional sexual violation of another person.<sup>26,27</sup>
21. The category under which alleged conduct is classified as per 20 and 27 has no bearing on whether sexual harassment has occurred. Conduct that is classified under a different category cannot be seen as less likely to meet the definition of sexual harassment.
22. Nor shall the severity of the conduct be relevant to the question of whether sexual harassment or sexual assault has taken place. The severity of the conduct is only an aggravating or mitigating circumstance in determining the appropriate sanction.
23. Anyone can be a victim of sexual harassment and/or sexual assault, regardless of their gender identity and of the gender identity of the perpetrator.
24. The fact that a person may have previously consented to romantic or sexual conduct with the perpetrator does not mean that further conduct will be automatically considered welcome/consensual.
25. The following table contains examples of behaviour that could be defined as sexual harassment. This list is not exhaustive and where behaviour or a version of a behaviour is not expressly covered below, the behaviour will be assessed by applying 20 - 26 above.

Form	Examples
Physical	Unwanted physical contact (this includes touching, rubbing up against a person, slapping, squeezing and/or hugging) <sup>28</sup> A strip search.  For conduct that amounts to sexual assault or rape see 22 above.
Verbal	Unwelcome innuendos, suggestions and hints. Sexual advances. Unwelcome comments with sexual overtones. Unwelcome sex-related jokes or insults. Unwelcome graphic comments about a person's body made in their presence or directed towards a person. Unwelcome and inappropriate enquiries about a person's sex life.

<sup>25</sup> This is the legal definition of Rape in South Africa.

<sup>26</sup> This is the legal definition of Sexual Assault in South Africa.

<sup>27</sup> This covers all conduct listed from Section 3 to 7 of the Criminal Law (Sexual Offences And Related Matters) Amendment Act 32 Of 2007. The definition of sexual violation is similarly covered in the act. Please note that kissing a person without consent is a form of sexual assault.

<sup>28</sup> Conduct of this nature could also be considered under sexual assault should it meet the definition detailed at 22 above.



	Unwelcome whistling directed at a person or group of persons. <sup>29</sup>
Non-verbal	Unwelcome gestures of an explicit or sexually suggestive nature. Indecent exposure. Unwelcome display of sexually explicit pictures, videos, audio clips, and objects, including pornography downloaded off the Internet.
Psychological Sexual Harassment	Repeated unwanted social invitations for dinner, drinks, outings, movies or other activities; <sup>30</sup> Offering or expecting sexual favours, implicitly or explicitly; and Requiring/requesting either explicitly or implicitly that a subordinate wear revealing and/or suggestive clothing.
Victimisation	Where a person denies or threatens to deny an employee an employment benefit OR to give the employee less favourable working conditions because they refuse to submit to sexual or romantic advances.  In other words, when an employee is victimised, intimidated or punished because they do not submit to such advances.  Examples of victimisation or retaliation include, but are not limited to, intimidation, threats, obstruction or contribution to the obstruction of the investigation, and/or related processes and outcomes.
Quid pro quo	Occurs where an owner, employer, supervisor, member of Management or co-employee, undertakes or attempts to influence or influences the process of employment, promotion, training, discipline, dismissal, salary increments, working conditions, or other benefits of an employee or job applicant, in exchange for sexual favours.

<sup>29</sup> Inappropriate and offensive comments made about another person that are sexual in nature will only be considered under this policy should the individual about whom the comments are made hear about the comments and complain. Inappropriate and offensive comments made to a third party without the knowledge of the individual about whom the comments are made are completely unacceptable and will be dealt with under EE's disciplinary code should a grievance about such comments be filed. See for example:

1. *Behaviour which propagates intolerance, for example: racism, sexism, homophobia, xenophobia and related offences* - first offense: dismissal.
2. *Insulting or rude or insolent behaviour / language in respect of a co-employee or Manager* - first offense: final written warning; second offense: dismissal.
3. *Grossly Insulting or grossly rude or abusive behaviour / language in respect of a co-employee or Manager* - first offense: dismissal.

<sup>30</sup> A single request that causes excess discomfort or is perceived to be overtly pressurising either in the nature of the request or due to the relative positionality of the staff members involved, may meet the standard of psychological sexual harassment.



## **Note On Determining If Conduct is Sexual Harassment and/or Sexual Assault**

26. Conduct as described in the table above and that which meets the requirements for harassment set out in 20-27 will be considered sexual harassment and/or sexual assault. The table of offenses has been developed from the *Code of Good Practice on Sexual Harassment*. **Any internal or external inquiry into whether conduct meets the standard of sexual harassment must be guided by 20-27.**

### **APPENDIX 2: ABUSE**<sup>31</sup>

Physical abuse many involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating or otherwise causing physical harm to a child or another person.

Emotional Abuse is the persistent emotional ill-treatment of a child such as to cause severe and continuous adverse effects on the child's emotional development. It may involve conveying to children that they are worthless or unloved, inadequate or valued only so far as they meet the needs of another person. It may feature age or developmentally inappropriate expectations being imposed on children. It may involve causing children to feel frightened or in danger, or the exploitation or corruption of children. Some level of emotional abuse is involved in all types of ill-treatment of a child, though it may occur alone.

Sexual abuse involves forcing or enticing a child to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative or non-penetrative acts. They may include non-contact activities, such as involving children in looking at, or in production of, pornographic material or watching sexual activities, or encouraging children to behave in sexually inappropriate ways.

### **APPENDIX 3: NEGLECT**

Neglect is the persistent failure to meet a child's basic physical and/ or psychological needs, likely to result in the serious impairment of the child's health or development. It may involve a parent or carer failing to provide adequate food, shelter and clothing, failing to protect a child from physical harm or danger, or the failure to ensure access to appropriate medical care or treatment. It may also include neglect or, or unresponsiveness to, a child's basic emotional needs

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<sup>31</sup> See and refer also Chapter 1 of the Children's Act 38 of 2005. Definition of Abuse and Sexual Abuse.

