



Document No: RISK_POL_11	
Original Issue: 08/2019	Authorised By: Executive
Last Review: 03/2023	Next Review: 06/2025
Controlled copy: Any photocopies or prints are uncontrolled	
<b>Title: Safeguarding: Preventing Sexual Exploitation, Abuse and Harassment (PSEAH) Policy</b>	

# Safeguarding: Preventing Sexual Exploitation, Abuse and Harassment (PSEAH) Policy

## Background

Fundamental to Burnet's operations is respect for the dignity and basic human rights of people within Australia and throughout the world. Every person who represents Burnet is expected to reflect these values in their professional conduct, regardless of who they are dealing with, or where they are working. Sexual exploitation, abuse and harassment (SEAH) are violations of basic human rights.

Under the Equal Opportunity Act 2010 (Victoria), employers have a duty to take reasonable and proportionate measures to eliminate discrimination, sexual harassment and victimisation as far as possible. Under section 106 of the Sex Discrimination Act 1984 employers may be held responsible if an employee commits sexual harassment, and the employer did not take all reasonable steps to prevent the employee from doing these acts.

Burnet works with a range of partners from government through to community levels, both in Australia and overseas. Engagement with project participants and community members should have a basis of respect for diversity, promotion of gender equality and social inclusion, accountability, and a strong "do no harm" focus.

Sexual abuse, exploitation and harassment can have profoundly harmful impacts on victim-survivors, as well as others in the workplace and the wider community.

We recognise that:

- sexual exploitation, abuse and harassment arise from disrespect and disparities in power.
- workplace hierarchies can create power imbalances which can contribute to SEAH.
- gender inequity has a proven causal relationship with the incidence of sexual harassment of women.
- many people are subject to intersecting forms of harassment relating to their gender, sexuality, race, disability or other attributes.

We recognise the evidence that a complainant-centred approach helps address barriers to reporting by giving the complainant a say in the process, ensuring they are properly supported and are not penalised for making a complaint. This means responding to complaints in a non-judgemental manner and ensuring the complainant is engaged in the process, while minimising re-traumatisation. Importantly, this approach can be adopted while providing procedural fairness to both parties.

## Purpose

This policy outlines Burnet's commitment to safeguard from Sexual Exploitation, Abuse and Harassment (SEAH):

- our own employees, students, and volunteers
- the research/project participants and members of the community that employees and Burnet representatives encounter through their work.

Related to this policy:

- Child Protection Policy which covers safeguarding of children
- Equal Opportunity, Anti-Discrimination and Harassment Policy
- Safeguarding Code of Conduct which details expected and prohibited behaviours

Safeguarding Procedures which provides information on the application of the PSEAH and the Child Protection policies, including steps for reporting and investigating breaches of policy and supporting and assisting survivors.

## Scope

The policy covers all Burnet employees in the course of their work and persons representing Burnet, which includes:

- Members of the Burnet Board

- All Burnet employees, including managers and supervisors; full-time, part-time, or casual, temporary, or permanent staff; job candidates; student placements
- Students
- Contractors, sub-contractors; suppliers and volunteers
- Burnet honorary staff and associates
- Supporters, donors and other participants on field visits organised by Burnet
- Overseas partner organisations (where Burnet staff are placed)
- Partner organisations (engaged in overseas activities with Burnet programs)
- Any person representing the organisation at Burnet's request.

References to 'employee' in this document include all parties listed above.

This Policy applies to:

- On-site, off-site, or after-hours work; work-related social functions; conferences – wherever and whenever employees may be because of their Burnet-related duties
- Employee treatment of beneficiaries and other members of the community encountered during their Burnet-related duties.

Any person, whether they are a Burnet employee or not, can make a disclosure or complaint about sexual exploitation, abuse, or harassment by any former or current Burnet staff, volunteer or student that is related to a Burnet Institute matter. A disclosure or complaint can be made about a current incident or one that has occurred at any time in the past.

## Definitions

**Bystander:** A bystander is someone who sees an act of exploitation, abuse or harassment take place, but who isn't the perpetrator of the act or its victim.

**Consent:** communicated agreement to engage in sexual activity by choice, with the freedom and capacity to make that choice without fear, coercion, force, or intimidation. Consent can be withdrawn at any time, and previously giving consent does not guarantee future consent, even for the same action. The absence of any objection or protest by the person affected does not mean that the conduct was welcome or consent given.

**Contractor:** Includes principal consultants, contractors, their sub-contractors, and suppliers who may be engaged by Burnet for a variety of purposes.

**Employee:** Any person employed under a contract of employment whether the contract is express or implied, oral, or written. The definition includes, but is not limited to:

- persons employed by Burnet in Melbourne or overseas (full-time, part-time or casual);
- persons employed on research grants; and
- Post-graduate students and post-doctoral fellows (when they are employed part-time to perform work such as research assistant).

**Fraternalisation:** Any relationship that involves, or appears to involve, partiality, preferential treatment or improper use of rank or position including but not limited to voluntary sexual behaviour. It could include sexual behaviour not amounting to intercourse, a close and emotional relationship involving public displays of affection or private intimacy and the public expression of intimate relations.

**Participant:** any person who, either directly or by association, derives a benefit from a Burnet or Burnet-affiliated activity.

**Sexual Exploitation:** any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, using monetary, social or political power to coerce others into sexual activity.

**Sexual Abuse:** actual or threatened sexual activity carried out using coercion, intimidation, or physical force, when the person does not want to or cannot consent.

**Sexual Activity:** touching genitals, breasts or bottom (including under and over clothes); masturbation; oral sex; kissing; vaginal or anal penetration by a penis, finger, or any other object; voyeurism; exhibitionism; and exposure to, or involvement in, pornography.

**Sexual Harassment** - means any unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature, which makes a person feel offended, humiliated, or intimidated, and where that reaction is reasonable in the circumstances. The behaviour does not need to be repeated to constitute harassment. Sexual harassment can include physical, verbal or visual acts.

**Survivor** - A person who has SEAH perpetrated against them or an attempt to perpetrate SEAH against them.

**Transactional Sex** - The exchange of money, employment, goods, or services for sexual activity<sup>[1][2]</sup>.

[1] Burnet prohibits fraternalisation by staff and representatives while engaged in work in a very high risk setting as assessed in line with DFAT's PSEAH Risk Assessment Guidance Note.

[2] Burnet acknowledges sex workers' rights to 'work (and) free choice of employment' as stated in the Universal Declaration of Human Rights. Burnet prohibits transactional sex by staff and representatives while engaged in work in a very high risk setting as assessed in line with DFAT's PSEAH Risk Assessment Guidance Note.

## Policy statement/overview

1. **Zero tolerance of SEAH:** Behaviour by Burnet employees that results in the sexual exploitation, abuse or harassment of an employee, student, project participants or member of the community or helps facilitate SEAH is not tolerated under any circumstances. All Burnet employees and Burnet representatives are required to comply with the Safeguarding Code of Conduct as a condition of their engagement with the Institute. Burnet will do whatever is necessary to end harassment where it occurs and prevent the misconduct from recurring.
2. **Zero tolerance of inaction:** Burnet will act to both prevent SEAH and to ensure its reporting. Burnet will actively provide information to employees, students, beneficiaries and the community on its expected employee and contractor behaviours and promote reporting mechanisms. Increased reporting of incidents and responses can be an indicator that Burnet is managing the risk of SEAH appropriately, with victims/survivors feeling more willing to report and the Burnet more likely to act.
3. **Bystander intervention:** Burnet encourages reasonable and safe actions by those who witness or are told about an incident of SEAH to prevent or stop it from occurring or continuing, and to support those impacted. We equip employees and students to be active bystanders through training and support.
4. **Victim/survivor needs are prioritised:** Burnet's approach to PSEAH prioritises the rights, needs, and wishes of the victim/survivor, while ensuring procedural fairness to all parties. Burnet treats the victim/survivor of SEAH with dignity and respect; involves them in decision making where appropriate; provides them with comprehensive information; protects their privacy and confidentiality; and considers their need for counselling and health services to assist with recovery. This approach will be adopted while providing procedural fairness to both parties.
5. **Procedural fairness and confidentiality:** Burnet handles any SEAH concerns with procedural fairness, timeliness and impartiality. All concerns and the names of people involved are handled confidentially. Details will only be disclosed if required as part of an investigation. Refer to Burnet's Complaints and Disputes Procedure for further details.
6. **Gender inequality and other power imbalances are recognised:** The Burnet acknowledges that available data indicates that the majority of SEAH victims/survivors are female, and most perpetrators are male. Burnet also recognises that other inequalities can result in SEAH, such as those based on the distinctions of researcher/project participant; manager/employee; supervisor/student; ability/disability; ethnic and Indigenous status; religion; gender identity and sexual orientation; age; health and poverty. We note that power dynamics in workplace hierarchies can contribute to SEAH.
7. **Shared responsibility for PSEAH:** In managing SEAH risks to employees, students, beneficiaries and members of the community, Burnet requires the commitment of its employees, representatives and contractors who must be accountable for complying with the terms of this policy, the Safeguarding Procedure and Safeguarding Code of Conduct. Burnet is obligated to promote PSEAH to its employees and representatives through regular training and clear procedures. We encourage and support bystanders to speak up and act on instances of sexual harassment.
8. **Transparency:** Burnet collects data on the incidence of sexual harassment to inform policy and annually reports on this data to employees, students, and communities.
9. **Risk management approach:** Careful management can reduce the risks to employees, students, beneficiaries, and members of the community that may be associated with
10. Burnet's activities. SEAH risks must be identified and mitigated through Burnet's risk assessment processes.
11. Burnet acknowledges sex workers' **rights to 'work (and) free choice of employment'** as stated in the Universal Declaration of Human Rights. Burnet prohibits transactional sex for employees and representatives while engaged in work in a very high risk setting as assessed in line with DFAT's PSEAH Risk Assessment Guidance Note. Fraternisation is also prohibited for staff and representatives engaged in work in a very high-risk setting, as assessed through DFAT's PSEAH Risk Assessment Guidance Note.

## Working with partners

Burnet ensures that, when engaging in partnerships, sub-grant or sub-recipient agreements, these agreements: (i) incorporate this Policy as an attachment; (ii) include the appropriate language requiring such contracting entities and individuals, and their employees and volunteers to abide by a Code of Conduct that is pursuant to the standards of this Policy; and (iii) expressly state that the failure of those entities or individuals, as appropriate, to take preventive measures against sexual exploitation and abuse and sexual harassment, to investigate and report allegations thereof, or to take corrective actions when SEAH has occurred, shall constitute grounds for Burnet to terminate such agreements.

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## Reporting

It is the obligation and responsibility of every Burnet employee, student, contractor or representative to report any suspected or alleged cases of SEAH perpetrated by anyone within scope of the Policy in connection with official duties or business.

Burnet acknowledges that available data indicates that the majority of SEAH victims/survivors are female, and most perpetrators are male.

Refer to the Safeguarding Procedures (/media/3331/burnet-safeguarding-procedures-jan-2021.pdf) for details on how to report SEAH cases.

If in doubt, an alleged incident should be reported. Individuals and organisations found not reporting alleged incidents will be viewed as in breach of this policy. Burnet is obligated to report SEAH incidents to external organisations in some cases, such as to the Department of Foreign Affairs and Trade, or, in cases involving students, their institutions of enrolment.

## Recruitment

Burnet takes all reasonable precautions to ensure that Burnet employees and representatives have passed screening procedures and do not pose an unacceptable risk to employees, students, research/project participants and members of the community.

Burnet consistently applies robust recruitment procedures including behavioural questions at interview, criminal records checks and verbal referee checks. This includes all employees and representatives visiting Burnet projects or activities overseas.

## Confidentiality

All concerns and the names of people involved are handled confidentially. Details will only be disclosed if required as part of an investigation.

## Consequences

Any breach of the institute's PSEAH Policy and/or PSEAH Code of Conduct may lead to disciplinary action that may include termination of employment for employees or termination of association and/or contract with Burnet for other Burnet representatives.

There will be no action taken against those who report, in good faith, concerns involving a breach of the PSEAH Policy and/or Code of Conduct. If a person knowingly and wilfully reports false or malicious information regarding other Burnet employees or representatives relating to SEAH, Burnet may take disciplinary action.

## Responsibility for implementation

- All Burnet employees, students & representatives (as defined under Scope)** are required to report any suspicions or incidences of SEAH of others. Failure to report to a relevant person suspicion of SEAH relating to someone else is a breach of Burnet's policy and could lead to disciplinary action being taken against employees and the termination of Burnet's relationship with non-employees. There is no obligation for an individual to report any incident that has happened to them.
- Members of the Board:** hold overall accountability for this policy and its implementation.
- The Executive:** is responsible for the application of this policy and will ensure that a standing agenda item on Safeguarding is considered at every meeting.
- The Chief People Officer (Melbourne Office)** has institute-wide responsibility for PSEAH policy implementation and compliance. They ensure that all Melbourne-based employees are informed of their responsibilities and obligations under the PSEAH Policy, sign the Safeguarding Code of Conduct and receive appropriate training. They also ensure that Australian based employees obtain an Australian National Police Check. The Head of Human Resources will submit all SEAH reports to the Executive and to the Governance Audit & Risk Committee every six months.
- The Head, Occupational, Health, Security & Compliance** is responsible for conducting an internal annual audit to monitor compliance against this policy.
- Human Resources Managers (for PNG & Myanmar offices)** ensure that all locally based employees are informed of their responsibilities and obligations under the PSEAH Policy, sign the Safeguarding Code of Conduct and receive appropriate training. They also ensure that locally based employees obtain a National Police Check or location specific equivalent.
- The Safeguarding Manager** promotes and contributes to program/activity compliance in relation PSEAH (as well as child protection). They ensure that all research, program and activity proposals include a SEAH risk assessment before the research, program or activity commences. They ensure research, program and activity reporting routinely advises on compliance with the PSEAH policy and procedures. They monitor PSEAH compliance with Working Group Heads and Activity Leaders.
- Country Representatives/Country Program Managers** are responsible for in-country PSEAH compliance. They ensure that all in-country Human Resources Managers are informed of their responsibilities and obligations under the PSEAH Policy and Safeguarding Code of Conduct.
- Working Group Heads/Activity Leads** are responsible for promoting awareness of this policy with people they manage and with project partners. They also are responsible for actively providing information to beneficiaries and the community on expected employee and contractor behaviours and promote project specific reporting mechanisms. Working Group Heads should prioritise PSEAH awareness-raising for themselves and their groups and provide budget lines for some activities.

## Related legislation

RISK\_POL\_11-03/2023 International Bill of Human Rights

- The UN Convention on the Elimination of all Forms of Discrimination Against Women
- The UN Convention on the Rights of the Child
- UNSC Resolution 1325: Women, peace and security (WPS)
- Commonwealth Criminal Code Act 1995 - It is a crime for Australian citizens, permanent residents or bodies corporate to engage in, facilitate or benefit from sexual activity with children (under 16 years of age) or vulnerable adults while overseas. These offences carry penalties of up to 25 years imprisonment for individuals and up to \$500,000 in fines for companies (extra territorial legislation).
- Victoria Occupational Health and Safety Amendment (Psychological Health) Regulations 2022

## Related Policies/ Procedures/Guidance

### Burnet Institute

- Safeguarding Code of Conduct (/policies/risk-management-and-governance/safeguarding-code-of-conduct/)
- Safeguarding Procedures (/our-news/safeguarding-update/)
- Complaints Procedures (/policies/workplace-conduct-and-responsibility/complaints-and-disputes-procedure/)
- Equal Employment Opportunities, Anti-Bullying & Anti-Harassment Policy
- Personal Relationships Policy (/policies/workplace-conduct-and-responsibility/personal-relationships-policy/)

- Child Protection Policy (</policies/risk-management-and-governance/safeguarding-child-protection-policy/>)
- Whistle-blower Policy (</policies/risk-management-and-governance/whistleblower-policy/>)
- External Complaints Handling Policy (</policies/risk-management-and-governance/external-stakeholders-complaints-handling-policy/>)
- Social Media Policy (</policies/workplace-conduct-and-responsibility/social-media-policy/>)
- Travel Policy (</policies/workplace-conduct-and-responsibility/it-travel-policy/>)

**Department of Foreign Affairs and Trade**

- Prevention of Sexual Exploitation, Abuse and Harassment Policy (<https://dfat.gov.au/international-relations/themes/preventing-sexual-exploitation-abuse-and-harassment/Documents/pseah-policy.pdf>)
- Prevention of Sexual Exploitation, Abuse and Harassment Risk Guidance Note (<https://dfat.gov.au/international-relations/themes/preventing-sexual-exploitation-abuse-and-harassment/Documents/guidance-on-assessing-the-risk-of-seah.pdf>)

**Australian Council for International Development**

- Guidance for the Development of a Prevention of Sexual Exploitation, Abuse and Harassment Policy 2019 ([https://acfid.asn.au/sites/site.acfid/files/resource\\_document/Guidance%20for%20the%20development%20of%20a%20PSEAH%20Policy.pdf](https://acfid.asn.au/sites/site.acfid/files/resource_document/Guidance%20for%20the%20development%20of%20a%20PSEAH%20Policy.pdf))

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