



Zihi  
Institute

# Sexual Misconduct and Harassment **Policy**

### **Sexual Misconduct Policy**

<b>Organization</b>	<b>Zihi Institute</b>
<b>Policy Name</b>	<b>Sexual Misconduct and Harassment Policy</b>
<b>Policy Category</b>	<b>Ethical Engagement and Compliance Policies</b>
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## 1. Introduction

Zihi Institute (hereinafter referred to as "the Organization" or "Zihi Institute") is committed to fostering a work environment that is free from sexual misconduct and harassment. This policy outlines the Organization's stance on sexual misconduct, provides a clear definition of prohibited behaviors, and establishes a fair process for addressing reports of misconduct. The Organization's Executive Leadership Team and Management Advisory Board are responsible for ensuring compliance with this policy in alignment with relevant legal and international frameworks, including:

### **Kenyan Legal Framework:**

- Employment Act of Kenya (2007)
- Sexual Offences Act (2006)
- Data Protection Act (2019)
- Occupational Safety and Health Act (2007)

### **International Guidelines:**

- International Labour Organization (ILO) Convention 190 on Violence and Harassment
- United Nations Guidelines on Sexual Harassment and Abuse
- United Nations Declaration on the Elimination of Violence Against Women (1993)
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

### **1.1 Objectives**

The objectives of this policy are to:

1. Establish a clear framework for preventing and addressing sexual misconduct within the Organization.
2. Ensure that all stakeholders, including employees, volunteers, contractors, and beneficiaries, are aware of their rights and responsibilities.
3. Provide accessible and confidential reporting channels for individuals affected by sexual misconduct.
4. Outline a transparent and fair process for investigating allegations and implementing corrective measures.
5. Promote a culture of dignity, respect, and zero tolerance for sexual misconduct in all organizational activities.
6. Provide clear definitions and examples of sexual misconduct to enhance awareness and understanding.
7. Align the Organization's standards with relevant Kenyan laws, including the Employment Act (2007) and Sexual Offences Act (2006), as well as international guidelines such as ILO Convention 190 on Violence and Harassment.

## 2. Scope of the Policy

This policy applies to all individuals associated with the Organization, including but not limited to:

- **Employees:** All full-time, part-time, and contract employees across various departments.
- **Volunteers:** Individuals offering their services without monetary compensation in various roles.
- **Executive Leadership Team:** Senior management responsible for the strategic direction of the Organization.
- **Management Advisory Board:** Providing strategic advice and oversight.
- **Scientific Advisory Board:** Experts offering technical and scientific guidance.
- **Contractors and Vendors:** External individuals or entities providing services to the Organization.
- **Beneficiaries:** Individuals or groups receiving support or services from the Organization.
- **Stakeholders and Resource Persons:** Partners, consultants, and collaborators involved in the Organization's initiatives.
- **Visitors and Partners:** Any person participating in activities or programs organized by or in partnership with the Organization.

The policy applies in the following settings:

- **Workplace Premises:** All official offices, coworking spaces, and operational facilities.
- **Field Activities:** Locations where employees, volunteers, or partners conduct fieldwork or community engagement.
- **Community Engagements:** Interactions with multiple communities in the country where the Organization operates.
- **Events and Conferences:** Meetings, workshops, and any other events organized or attended by the Organization.
- **Digital and Online Spaces:** Communication via emails, social media, and virtual meetings related to organizational activities.
- **Third-Party Premises:** Any external environment where representatives of the Organization are present in an official capacity.
- **Training and Capacity Building Venues:** Spaces where educational sessions and training programs are conducted.
- **Networking and Partnership Events:** Engagements involving external partners, donors, and stakeholders.

### 3. Definition of Sexual Misconduct

Sexual misconduct includes, but is not limited to, the following behaviors as defined by the Kenyan Sexual Offences Act (2006), the Employment Act (2007), and international standards such as the ILO Convention 190 on Violence and Harassment:

- **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature that creates an intimidating, hostile, or offensive work environment.
- **Sexual Exploitation:** Taking advantage of an individual for sexual purposes, including offering benefits such as employment opportunities, promotions, or financial incentives in exchange for sexual favors.
- **Sexual Abuse:** Any actual or attempted physical sexual contact without consent, including coercion or force.
- **Sexual Assault:** Any act of a sexual nature committed without consent, including rape and attempted rape as defined under the Sexual Offences Act (2006).
- **Sexual Coercion:** Use of power, threats, or influence to force an individual into unwanted sexual activity.
- **Sexual Bullying:** Persistent unwanted advances or derogatory remarks related to a person's gender or sexuality.
- **Inappropriate Use of Technology:** Sharing sexually explicit content, images, or messages via digital platforms without consent.
- **Indecent Exposure:** Deliberately exposing private body parts in a manner intended to harass or intimidate another individual.
- **Retaliation:** Any adverse action taken against an individual who reports sexual misconduct or participates in an investigation, in contravention of the Employment Act (2007).

### 4. Prohibited Conduct

The Organization strictly prohibits any form of sexual misconduct in the workplace or during organizational activities. This includes but is not limited to:

- **Physical Conduct:** Unwanted touching, groping, brushing against another's body, or any form of physical contact that makes an individual feel uncomfortable or unsafe.
- **Verbal Conduct:** Sexual jokes, comments, innuendos, or derogatory remarks about a person's gender, appearance, or sexual orientation.
- **Non-Verbal Conduct:** Leering, suggestive gestures, or inappropriate body language of a sexual nature.
- **Visual Conduct:** Displaying or circulating sexually explicit images, posters, cartoons, or written materials in the workplace.

- **Digital Harassment:** Sharing sexually explicit messages, images, or videos via email, text, social media, or any other digital platforms.
- **Sexual Coercion:** Coercing or attempting to coerce an individual into sexual activity as a condition for employment, promotion, or other work-related benefits.
- **Quid Pro Quo Harassment:** Offering employment opportunities, promotions, or benefits in exchange for sexual favors.
- **Stalking and Intimidation:** Persistently following, watching, or intimidating an individual in a manner that causes fear or distress.
- **Exploitation of Power:** Abuse of authority to solicit sexual favors or engage in inappropriate relationships with subordinates or beneficiaries.

These behaviors are prohibited under the Employment Act of Kenya (2007), the Sexual Offences Act (2006), and international labor standards.

## 5. Reporting Procedures

### 5.1 Reporting Channels

Any individual who experiences or witnesses sexual misconduct should report the incident through one of the following channels:

- **Direct Reporting:** To their immediate supervisor.
- **Anonymous Reporting:** Through the Organization's confidential reporting system available through a form platform that will be available to everyone who engages with the organization.
- **Human Resources (HR):** Reports can be made directly to the HR department or personnel responsible for Human Resource.
- **Executive Leadership Team:** Reports involving senior management can be escalated to the Executive Leadership Team. Involvement of any member of the board should be reported directly to the Executive Director. Where a member of the board is involved, the Executive Director will constitute a committee to handle the case.
- **Advisory Board of Management:** Cases of a sensitive nature or involving leadership can be reported directly to the Advisory Board.

### 5.2 Confidentiality

Zihi Institute is committed to maintaining the highest level of confidentiality throughout the reporting and investigation process. The following principles will guide confidentiality measures:

1. **Access Control:** Only individuals with a legitimate need to know, such as investigators, designated HR personnel, and relevant decision-makers, will have access to information related to reports.
2. **Data Protection Compliance:** All personal data collected in relation to a report will be handled in accordance with the Data Protection Act (2019) of Kenya and applicable international standards.

3. **Secure Reporting Channels:** Confidential and secure reporting channels will be provided to ensure individuals feel safe reporting incidents.
4. **Non-Disclosure Obligations:** All parties involved in an investigation, including witnesses and decision-makers, will be required to sign confidentiality agreements to prevent unauthorized disclosure.
5. **Anonymous Reporting:** Individuals will have the option to report misconduct anonymously where legally and practically feasible.
6. **Supportive Environment:** The Organization will ensure that those reporting misconduct do not experience undue exposure, stigma, or retaliation.
7. **Retention of Records:** Investigation records will be securely stored and retained only for as long as necessary to comply with legal and organizational requirements.
8. **Regular Review:** The Organization will periodically review confidentiality protocols to strengthen security and trust in the process.

## 6. Investigation Process

Once a report is received, the Organization will undertake a thorough and impartial investigation following these steps in accordance with the Employment Act of Kenya (2007) and ILO guidelines:

- **Initial Assessment:** the Human Resource department/personnel in charge will conduct a preliminary review to determine the appropriate course of action.
- **Investigation:** An impartial investigator will be appointed to gather facts through interviews, reviewing relevant documentation, and collecting any other necessary evidence.
- **Interviews:** The investigator will conduct confidential interviews with the complainant, the accused, and any relevant witnesses, ensuring adherence to due process.
- **Documentation:** A detailed report of the investigation, including findings, witness statements, and recommendations, will be compiled in compliance with the Data Protection Act (2019).
- **Findings & Resolution:** The findings will be reviewed by a designated panel, including representatives from the Executive Leadership Team and Advisory Board, ensuring alignment with both Kenyan legal provisions and international best practices.
- **Fair Hearing:** The accused individual will be given an opportunity to present their side of the case before a resolution is determined.
- **Decision & Corrective Actions:** Based on the evidence, appropriate disciplinary or remedial actions will be taken, which may include training, warnings, suspension, termination, or legal action in accordance with the Sexual Offences Act (2006).
- **Appeal Process:** Individuals involved may appeal the decision within 14 days if they believe the outcome was unfair, in accordance with Kenyan labor laws and ILO standards.



- **Follow-up:** Regular monitoring will be conducted to ensure that corrective actions are implemented, prevent retaliation, and promote a safe work environment.

### **Procedures for Executive Leadership Team and Advisory Board Members**

If a member of the Executive Leadership Team or Advisory Board experiences, witnesses, or is accused of sexual misconduct, the following steps will be taken:

- **Reporting:** The matter should be reported directly to the Executive Director and Chairperson of the Advisory Board. An independent external body designated panel constituted of board members will handle the case where the Executive Director or Chairperson of the Advisory Board is involved.
- **Initial Review:** An independent external investigator will be appointed to assess the complaint and determine the next steps.
- **Formal Investigation:** A comprehensive and impartial investigation will be conducted, ensuring transparency and adherence to Kenyan legal standards and international best practices.
- **Interim Measures:** If necessary, interim measures such as temporary leave or suspension may be imposed to prevent further issues during the investigation.
- **Review by Independent Panel:** Findings will be reviewed by an independent panel, including legal and human resource experts, ensuring unbiased decision-making.
- **Outcome & Sanctions:** Appropriate actions, including removal from leadership positions, termination, or legal referrals, will be taken based on the findings.
- **Appeals Process:** The accused has the right to appeal the decision through an independent arbitration mechanism.
- **Public Disclosure:** In cases involving public interest, a transparent communication strategy will be employed in line with legal obligations and organizational policies.

## **7. Disciplinary Actions**

Violations of this policy may result in disciplinary actions, including but not limited to:

- **Verbal or Written Warnings:** Formal warnings issued in accordance with Section 44 of the Employment Act of Kenya (2007).
- **Mandatory Training:** Offenders may be required to undergo sensitivity and misconduct prevention training.
- **Suspension:** Temporary suspension with or without pay, subject to investigation outcomes and as per the Employment Act.
- **Demotion or Reassignment:** The Organization may opt to reassign or demote individuals found guilty of misconduct.
- **Termination of Employment:** In cases of severe violations, employment may be terminated following due process in line with Kenyan labor laws.
- **Legal Action:** Where applicable, cases may be referred to law enforcement under the Sexual Offences Act (2006) for criminal prosecution.

- **Loss of Benefits:** Employees found guilty may forfeit certain benefits as stipulated in the organization's employment contracts and the Employment Act.
- **Permanent Blacklisting:** Individuals who engage in egregious misconduct may be blacklisted from future engagements with the Organization.

## 8. Policy Reinforcement in Events, Coworking Spaces, and External Environments

The Organization is committed to ensuring that the Sexual Misconduct Policy is actively enforced and reinforced in all environments where organizational activities take place, including events, coworking spaces, and external engagements. To achieve this, the Organization will implement the following measures:

- **Pre-Event Communication:** All participants in organizational events and external engagements will receive clear communication regarding the Sexual Misconduct Policy, including guidelines on expected behavior and reporting channels.
- **Code of Conduct Display:** The policy and related guidelines will be visibly displayed in all coworking spaces, event venues, and partner organizations' premises.
- **On-Site Support:** A designated point of contact or safeguarding officer will be available at events and shared workspaces to address any concerns related to sexual misconduct.
- **Verbal Reminders:** Include brief policy reminders at the beginning of events or team meetings to reinforce expectations.
- **Training and Awareness Sessions:** Periodical awareness sessions will be conducted for all employees, volunteers, and external stakeholders to reinforce the policy and foster a culture of respect and safety.
- **Confidential Reporting Mechanisms:** Anonymous and confidential reporting options will be made available during events and in coworking spaces to encourage the safe reporting of misconduct.
- **Digital Reporting Options:** Encourage the use of email or messaging apps for confidential reporting, reducing the need for physical infrastructure
- **Collaboration with Partners:** Request partner organizations and vendors to acknowledge and commit to the policy by embedding it in agreements to be signed with partners.
- **Incident Response Plan:** Establish clear, actionable steps such as reporting to leadership and documenting incidents.
- **Monitoring and Evaluation:** Regular assessments will be conducted to evaluate the effectiveness of the policy in external environments and to identify areas for improvement.

## 9. Prevention and Training

To prevent sexual misconduct, the Organization commits to the following:

- Periodical training sessions for employees and volunteers in compliance with ILO and UN standards.
- Awareness campaigns to reinforce the zero-tolerance policy.
- Inclusion of this policy in onboarding materials for new hires and engagements.

## 10. Non-Retaliation Policy

The Organization strictly prohibits any form of retaliation against individuals who report sexual misconduct in good faith, participate in investigations, or support those who report misconduct. Retaliation is defined as any adverse action taken against an individual in response to their involvement in reporting or addressing misconduct and may include but is not limited to:

1. **Employment-Related Retaliation:** This includes termination, demotion, loss of benefits, denial of promotions, or unfavourable work assignments.
2. **Social and Professional Exclusion:** Actions that seek to isolate individuals from work-related activities, partnerships, or community involvement.
3. **Defamation and Discrediting:** Spreading false information or malicious rumours to harm an individual's reputation.
4. **Harassment or Intimidation:** Any verbal, physical, or digital threats, bullying, or undue pressure intended to deter reporting or cooperation in an investigation.

### Protective Measures Against Retaliation:

The Organization will take the following steps to ensure protection against retaliation:

1. **Awareness during onboarding and periodical training:** Anyone who engages with the organization will be sensitized and training sessions will be conducted periodically to educate employees, stakeholders, and beneficiaries about their rights under the policy.
2. **Monitoring and Follow-Up:** The Organization will monitor the treatment of individuals involved in the reporting process to ensure they are not facing retaliation.
3. **Reporting Retaliation:** Employees and stakeholders who experience or witness retaliation can report through the same confidential channels established for reporting sexual misconduct.
4. **Corrective Action:** Any individual found guilty of retaliation will be subject to disciplinary action, which may include warnings, suspension, or termination in accordance with Kenyan labor laws and international guidelines.
5. **Whistleblower Protection:** The Organization commits to upholding whistleblower protection laws to safeguard those who report misconduct in good faith as per the organization's Whistleblower protection policy.

## 11. Acknowledgment

By signing any terms of reference, agreement, contract or any other engagement with the organization, all staff, board members, and stakeholders acknowledge understanding and commitment to this policy.

## 12. Review and Amendments

This policy will be reviewed **every 3 years** or as necessary to accommodate changes in the operating environment. Amendments will be approved by the Executive Director and the Management Advisory Board.

## 13. Approval

Approved by:

**Daniel Waruingi**



**Executive Director, Zihi Institute.**

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