

## **Complaint Mechanism against Sexual and Gender-based Harassment**

### **We stand against sexual and gender-based harassment!**

- Sexual harassment is unwelcome, unwanted, not consensual and inappropriate conduct of a sexual nature which causes discomfort and makes a person feel offended, humiliated and/or intimidated. It affects the person's dignity.
- We do not tolerate any type of exclusion or discrimination based on racism, sexism, class, disability, religion, ideology, age, identity etc.
- Not all harassment is of a sexualised nature. An individual can be harassed because they are a woman, and/or are gender non-conforming, and/or because they identify as lesbian, gay, bisexual, transgender, intersex or queer.

Any person within the FES community (staff, partners, service providers) who has been affected by sexual or gender-based harassment, has the right to report a complaint within the FES complaint mechanism. FES will ensure that the identity of any person lodging a complaint is protected. Similarly, we will respect the will of this person in terms of the actions they might decide to take – taking into account the seriousness of the situation. FES will also protect any other information the person wants to keep confidential.

### **How can a complaint be reported?**

Any person from the FES community and FES staff who has been subjected to sexual or gender-based harassment, or who would like to report on behalf of another person, may bring the complaint to the attention of FES by reporting it (also anonymously) to one of the national or regional focal-point persons, the external whistleblowing hotline, the FES Director or to any person that they trust in the organization.

After the filing of a complaint, the respective focal-point person and FES Director will be responsible for taking the required action to address the complaint in terms of FES Anti-Sexual and Gender-based Harassment Policy.

While it is difficult to anticipate every sexual and gender-based harassment incident that may occur within the FES community, here are some fundamental procedures for the handling of possible incidents:

### **How will a complaint be addressed?**

Once the focal-point and the FES Director have been informed, the following steps are taken:

- (a) The details of the complaint are recorded using a Case Documentation Form.
- (b) The complainant is offered access to protective measures and counselling.

- (c) The needs and wishes of the complainant are respected while handling the complaint and discussing the next steps for dealing with the complaint. The complainant may choose:
- To not take any action or pursue any process.
  - To participate in an informal process.
  - To pursue a formal process.
  - To take action outside of FES in terms of criminal, civil, or labour law.

### **What do the different modes of handling the complaint entail?**

FES commits to a thorough investigation being carried out before any decision or action is taken in case the complainant decides on an informal or formal process. The FES Director, in consultation with the focal-point person, will decide on and appoint an independent, external investigator to conduct an investigation or to investigate internally. In case of addressing an external investigator, the investigator will produce a report detailing the findings and any recommendations.

On the basis of the investigation results and the will of the complainant, the complaint can be handled through:

#### **Informal process**

In certain circumstances it may be sufficient for an incident to be resolved through an informal process. The informal process aims to put an end to the behaviour complained of and to restore the relationship between the complainant and the accused individual. This can be achieved by an approach to the accused/the institution of the accused, or a mediated process (internal or external mediator) between the parties, with the goal of identifying how the harm(s) can be repaired.

Under no circumstances will the following cases be determined informally or via a mediated process:

- (a) Cases in which the offence affects the complainant in a very serious way, for example, physical, psychological and emotional violence, rape or sexual abuse, coercion and threats.
- (b) Cases in which the FES Director is the accused.
- (c) Cases in which the accused has previously had a case of harassment resolved by mutual agreement.

#### **Formal process**

On the basis of the report, the FES Director appoints in consultation with the focal point a panel (3-5 people) to conduct the formal hearing.

The principles of the panel to oversee cases based on violations of this policy are as follows:

- (a) The panel needs to include a gender and/or safeguarding expert, besides the focal point and the FES Director.
- (b) The complainant and the accused will be notified of the composition of the panel and can veto members of the panel, e.g., on grounds of proven partiality.

- (c) The panel will rely on the investigator's file and interviews in determining the relevant facts of the case. However, at its own discretion, the panel may request additional information in advance of the hearing or may request the opportunity to hear witnesses in support of either party.
- (d) The disclosure of personal information of the complainant and respondent will be limited to those who need to know; ensuring confidentiality and the security of any sensitive information that may have been disclosed that may cause harm.
- (e) If the panel finds the accused guilty, it may impose an appropriate sanction. Any sanction(s) will be decided by a majority vote of the panel.

Either the perpetrator or the complainant may lodge an appeal against the findings and sanctions of a formal hearing.

**Important to know:**

- Where the allegation relates to a partner organisation, service provider, contractor or consultant, FES will liaise with the relevant partner organisation, service provider, contractor or consultant to ensure appropriate steps are instituted.
- Under certain circumstances and in the event that a complainant does not wish to pursue action against an alleged perpetrator in terms of this policy, FES may itself institute such action if it is required to ensure the safety of the victim or potential future victims.