

Sexual Harassment, Sexual Abuse and Sexual Assault Policy



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Table of Contents

1. Purpose	3
2. Audience	4
3. Scope	4
4. Definitions	5
5. Forms of Sexual Harassment	6
6. Incident Procedures	7
6.1 Between Employee and Employee	8
6.2 Between Employee and non-Employee	9
7. Criminal and civil charges	23
8. Victimization	23
9. Confidentiality	24
10. Counselling and support	24
11. Training and development	24
12. Version History	25

1. Purpose

The purpose of this Sexual Harassment, Sexual Abuse and Sexual Assault policy (“**Policy**”) is to introduce a framework and guidelines to prevent Sexual Harassment and also offer guidelines on the processes and management if a case of sexual harassment were to occur at Shout-It-Now NPC (“**Shout**”). This policy is aimed at protecting Shout’s Employees, Clients and non-Employees from Sexual Harassment.

The following principles apply to this Policy:

- Shout has a zero-tolerance policy on all forms of intimidation and Harassment, including Sexual Harassment;
- All Shout Employees, job applicants, consultants, contractors, vendors, Partners, Clients and any other individuals who interact with Shout, have the right to be treated with respect and dignity;
- Sexual Harassment in the workplace will not be permitted or tolerated by Shout;
- Shout is committed to creating a safe working environment for all Employees and consultants of Shout, which prevents and deters Sexual Harassment;
- Shout endeavours to maintain and encourage a climate in the workplace, in which Survivors of Sexual Harassment will not feel that their Grievances are ignored or belittled, or have any fear of reprisal;
- Any form of Sexual Harassment, Sexual Abuse and/or Sexual Assault towards Employees, job applicants, consultants, contractors, vendors, Partners, Clients and any other individuals who interact with Shout is unacceptable;
- Allegations of Sexual Harassment, Sexual Abuse and/or Sexual Assault will be dealt with seriously and swiftly by Shout and treated with the utmost sensitivity and confidentiality;
- Shout will take disciplinary action against any Employee who does not comply with this Policy;
- To the extent possible, Shout will take the requisite action against any job applicants, consultants, contractors, vendors, Partners, Clients and any other individuals who interact with Shout and who do not comply with this Policy;
- This Policy demonstrates compliance with *inter alia* the following legislation (as amended from time to time):
 - Constitution of the Republic of South Africa, 1996;
 - Public Service Act, No. 13 of 1994;
 - Employment Equity Act, No. 55 of 1998,
 - Public Service Laws Amendment Act, No. 86. of 1998;

- National Economic Development and Labour Council Notice 1367 of 1998;
- Employment Equity Act, No. 55 of 1998: Code of Good Practice on the Handling of Sexual Harassment;
- Criminal Law (Sexual Offences and Related Matters) Amendment Act, No. 32 of 2007.

2. Audience

The audience of this Policy includes, but is not limited to, all Clients, Employees, representatives, Partners, consultants, vendors, sub-recipients, sub-contractors, service providers and stakeholders of Shout.

3. Scope

This Policy applies to all Employees, directors, owners, employers, managers, supervisors, job applicants, clients, suppliers, contractors, members, consultants, sub-contracts and Partners of Shout (to the extent applicable) and others having dealings with Shout.

This Policy covers *inter alia* instances where Allegations of Sexual Harassment, Sexual Abuse and/or Sexual Assault has been levied against Employees by (i) another Employee or (ii) non-Employees.

All Employees will be subject to the appropriate disciplinary action, up to and including dismissal, for any contravention of this Policy – including any act of Sexual Harassment committed in the work environment.

Perpetrators and Complainants of Sexual Harassment, Sexual Abuse and/or Sexual Assault can include Employees, representatives of Shout, job applicants, Clients, service providers and any other persons who interact with Shout. Shout recognises that (i) both perpetrators and complainants can be of any sex (male, female or intersex) and (ii) that Sexual Harassment, Sexual Abuse and/or Sexual Assault can occur between two individuals of the same sex.

4. Definitions

In this Policy, unless a contrary intention clearly appears, the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings (whether capitalised or not), namely

- **Allegation** means an assertion of facts that one intends to prove through an investigation procedure (formal or informal), hearing or trial;
- **Child** means a person under the age of 18 years;
- **Client** means those persons to or in respect of whom Shout provides services;
- **Complainant** means a person (this can be a Survivor or witness) who has made an Allegation of Sexual Harassment, Sexual Abuse and/or Sexual Assault, whether formally or informally;
- **Employee** means any employee of Shout, including permanent employees and casual staff (as applicable);
- **Grievance** means any dissatisfaction or sense of injustice, or unfairness felt by an Employee or group of Employees in connection with his/her/their work or employment situation that is brought to the attention of the person(s) in charge of the Employee/s, other than that arising from disciplinary action;
- **Harassment** means any conduct where a person's behaviour will cause mental, psychological, physical or economic harm to the recipient and/or inspire the reasonable belief in the recipient that s/he will be harmed;
- **Partner** means an organisation who has a contractual relationship with Shout, to administer authorised services in terms of such contract;
- **Perpetrator** means a person alleged and/or proven to have committed an act of Sexual Harassment, Sexual Abuse and/or Sexual Assault;
- **Sexual Abuse** means the actual or threatened physical intrusion of a sexual nature, whether by force, under unequal or coercive conditions, by one person upon another – including, but not limited to, rape, Sexual Assault and Sexual Harassment;

- **Sexual Assault** means when one person sexually violates another person without their consent – ranging from inappropriate touching to a life-threatening attack, rape, any act which causes contact between the mouth, genital organs or anus of one person (or the breasts of a woman) and any part of the body of another person or an object. This can also include drug facilitated. sexual assault or any conduct that creates the belief that such behaviour will be engaged in;
- **Sexual Harassment** means unwanted, inappropriate and/or unwelcome conduct of a sexual nature, that has a negative impact on the recipient thereof – including physical, verbal and/or non-verbal conduct;(for example, this can be in person or telephonically or through social media)
- **Survivor** means a person who has experienced Sexual Harassment, Sexual Abuse and/or Sexual Assault. The terms ‘victim’ and ‘survivor’ are sometimes used interchangeably; ‘victim’ is used most often in the legal and medical sectors, while ‘survivor’ is a term generally preferred in the psychological and social support sectors.

5. Forms of Sexual Harassment

Sexual Harassment includes, but is not limited to, the following:

a) Non-Verbal Forms

These forms include unwelcome gestures, indecent exposure (please refer to Shout’s Uniform Policy contained within Shout’s HR Policy), the unwelcome display of sexually explicit pictures and objects, as well as leering and winking. This can also include sexually explicit messages or content on social media.

b) Verbal Forms

These forms of Sexual Harassment include unwelcome innuendos, suggestions and hints, sexual advances, comments with sexual overtones, sexual-related jokes or insults or unwelcome comments about a person’s body made in their presence or directed towards them, unwelcome and inappropriate enquiries about a person’s sex life and unwelcome whistling directed at an individual or group of persons.

c) Physical Forms

Physical conduct of a sexual nature includes all unwanted physical contact, including Sexual Abuse and Sexual Assault – e.g. fondling

of breasts, pinching of buttocks, sexual patting, touching, strip search by or in the presence of the opposite sex and rape.

d) **Quid Pro Quo**

This form of Sexual Harassment occurs where an owner, employer, supervisor, any member of management or co-employee undertakes or attempts to influence the process of employment, promotion, discipline, dismissal, salary increase or any other benefit of an employee or job applicant, in exchange for sexual favours or by suggestion of sex.

This form of Harassment amounts to sexual favouritism. Sexual favouritism exists where a person (whether male or female) in a position of authority or who has the authority to employ, dismiss or change the working conditions of an employee, rewards only those who respond to his/her sexual advances, while other deserving employees who do not submit themselves to any sexual advances are denied promotions, merit rating or salary increases.

Sexual Harassment can be considered if:

- I. Behaviour is persistent, although a single incident of Harassment can constitute Sexual Harassment; and/or
- II. Recipient has made it clear that the behaviour is considered offensive; and/or
- III. Perpetrator should have known from the outset that the behaviour is offensive (i.e. that a reasonable person would have considered such behaviour offensive).

The specific facts and circumstances of each case must be considered in its entirety when determining whether specific conduct (including verbal, non-verbal and physical conduct) can be documented as Sexual Harassment.

6. Incident Procedures

Shout has ensured that it has clear and effective procedures put in place to deal with Sexual Harassment, Sexual Abuse and/or Sexual Assault that occurs both in and outside of the workplace. These procedures ensure the handling of issues in a sensitive, effective and efficient manner.

Where the Survivor is a Child, please refer to Shout's Child Safeguarding Policy.

6.1 Between Employee and Employee

I. Advice and assistance

Sexual Harassment is a sensitive issue and a Survivor may feel uncomfortable approaching the Perpetrator, lodging a formal Grievance or turning to colleagues for support.

Survivors who are Employees of Shout may choose to use the Independent Counselling and Advisory Services for support (“**ICAS**”). ICAS provides wellness services that take care of the physical and mental health of employees. They offer onsite counselling (including trauma counselling) and psychiatric services.

Support can be accessed via:

- Telephonic Counselling through the toll-free number: 0800 214 773,
- Live Chat (via the Mobile App). The Shout App Code is SHO001, or
- Email: callback@icas.co.za or use USSD Code for a Call Back *134*905#.

All support is completely confidential.

For more information on ICAS, please refer to the Human Resources department.

II. Addressing the problem

If an Employee is a Survivor of Sexual Harassment by a fellow Employee, the Survivor must report the incident/(s) to the Human Resources department and/or the employee’s line manager, whomever the employee feels most comfortable with. The disciplinary procedure, as outlined in Shout’s Disciplinary Code of Conduct, will be followed in addressing the complaint and managing the between the Complainant and Perpetrator.

The Complainant and Perpetrator can be referred to a trauma crisis centre for counselling, should they so wish.

6.2 Between Employee and non-Employee

A non-Employee, such as a Client, who is a Survivor of Sexual Harassment, Sexual Abuse and/or Sexual Assault by an Employee of Shout (while the Employee was acting in its capacity as an Employee of Shout), has the right and is encouraged to report this to Shout – in order for Shout to take the necessary steps against such Employee and provide the applicable support to the Survivor.

In the instance that the Survivor is a Child, the procedures laid out in Shout's Child Safeguarding Policy must be followed.

I. Procedure

There are various ways that Shout may become aware of an alleged incident of Sexual Harassment, Sexual Abuse and/or Sexual Assault that has been committed by an Employee of Shout upon a non-Employee – e.g. reported through the Connect Hub, from site or from Shout's whistleblowing email.

Once an Allegation of Sexual Harassment, Sexual Abuse and/or Sexual Assault has been made by a non-Employee against an Employee, the below incident procedures must be followed (“**the Incident Procedures**”).

It is critical that every Employee is familiar with and understands the Incident Procedures.

It is pivotal that the Allegation be dealt with in the correct manner, with the necessary sensitivity, urgency and due diligence.

Disciplinary action will be taken against Employees who fail to follow the Incident Procedures correctly.

Note: Stage 1 of the Incident Procedures must be completed in its entirety before Stage 2 of the Incident Procedures can commence. Stage 2 of the Incident Procedures must be completed in its entirety before Stage 3 of the Incident Procedures can commence.

STAGE 1	STAGE 2	STAGE 3
<p>REPORTING - The following information should be noted when the Allegation is received (i.e. when the call comes in, when the team member is informed of the incident by a non-Employee, or obtained from a whistle-blower (as applicable)):</p> <p>IMPORTANT TO NOTE: Before any information is gathered, as soon as the Shout employee is aware of the nature of the discussion, s/he should request that the Complainant pauses for a moment, and the Shout employee should move to as private a space as possible before continuing to discuss the issue.</p> <p>If a private or empty space is not available, the Shout employee should then caution what information is repeated in the discussion. This will also apply before the Shout employee moves to a private or empty space.</p>	<p>REPORTING - If alleged or suspected Sexual Assault and/or Sexual Abuse, Shout can assist the non-Employee with reporting to SAPS or any other relevant organisation, only if Shout has written permission from the non-Employee to do so (Social Worker/ Nurse)</p>	<p>INTERNAL REVIEW - Implement internal policies and procedures review of the incident (CEO)</p> <p>INSURANCE - In the event that Shout suffers a quantifiable financial loss, a claim is to be submitted under General Liability cover (CEO/CFO)</p>

<p>The details of the discussion are to be treated with the utmost confidentiality and sensitivity.</p> <p>(Shout employee/ Head of Compliance)</p> <ul style="list-style-type: none"> a) The name of the intake worker who is made aware of the Allegation, if applicable b) The name of the non-Employee c) The age of the non-Employee <p>NOTE: If the non-Employee is a Child - refer to Shout's Child Safeguarding Policy IMMEDIATELY, as the rules and procedures to be followed are different</p> <ul style="list-style-type: none"> d) The role/designation of the non-Employee e) The name of the Employee involved in the incident 		
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<p>f) The name(s) of any alleged accomplices</p> <p>g) The name(s) of anyone else who might have known of the incident</p> <p>h) The date and place of the incident</p> <p>i) Any action taken by the non-Employee to remedy the incident</p> <p>j) Whether the incident has been reported to any of the following: SAPS or a NGO specialising in Sexual Abuse, Sexual Harassment or any other relevant organisations</p> <p>k) The date, time and manner in which the non-Employee reported the incident or where Shout became aware of the incident, as applicable</p> <p>l) The name of the person reporting the incident (if not the Survivor himself/herself)</p> <p>m) Try to obtain the identity of the whistleblower and advise them that they will be protected under law, but advise them that they may remain anonymous, if applicable</p>		
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<p>n) Before concluding the discussion, inform the Complainant that this matter will be handed over to other individuals and that you will no longer be involved in the process.</p> <p><u>NOTE:</u></p> <ul style="list-style-type: none"> • Gather as much information as possible • Listen empathetically • Write a report, using the non-Employee's/ Complainant's own words as far as possible, if critical phrases were stated in a language other than English, include what the non-employee said, but include the English translation in brackets • DO NOT investigate – you must REFER 		
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<p>REPORTING – <u>If the Perpetrator is any of the individuals that need to be reported to below, then do not report to them.</u></p> <p>Remove personally identifiable information of the non-Employee and IMMEDIATELY report to your line manager, as well as the COO and Head of POPS (Shout employee)</p> <p>If the report comes through the whistleblowing email, the Head of Compliance should IMMEDIATELY report to the CEO. Only the CEO needs to be made aware of the identity and age of the non-Employee (Head of Compliance) IMMEDIATELY report to the Social Work Manager in the region who can also be made aware of the identify and age of the non-Employee, as well as any intimate details of the incident (Shout employee/ Head of Compliance)</p>	<p>REPORTING - The Social Worker will draft a statement, reflecting the details provided by the non-Employee (no other details, provided by any other persons should be contained in the statement) (Social Work Manager)</p> <p>The non-Employee will have to sign their statement to confirm that it is a true reflection of the events that took place (Social Work Manager)</p> <p>The Social Worker Manager will obtain the requisite permissions from the non-Employee to be able to share the information provided (Social Work Manager)</p> <p>Do not share the statements with anyone internally or externally until permission has been granted. This includes HR, OPS, Management (Social Work Manager)</p>	
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<p>As a double check, the Shout employee, COO and Head of POPS should EACH report the incident to the CEO, acknowledging he/she is aware of the incident (Shout employee/ Head of Compliance)</p> <p>Ensure immediate acknowledgment by the CEO via email. If there is no IMMEDIATE email response, WhatsApp or phone him/her; ensure no personal details of any kind are shared on WhatsApp or in a voice recording (Shout employee/ Head of Compliance)</p>		
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<p>REPORTING - The Social Work Manager will appoint a Social Worker to call the non-Employee immediately and set up an appointment where they will conduct an in-depth assessment with the non-Employee to get full details of the applicable incident. (Social Work Manager)</p> <p>Convene a crisis meeting with the following: (CEO)</p> <ul style="list-style-type: none"> ○ CEO ○ Shout employee or Head of Compliance (depending on how the incident was reported) ○ COO ○ Head of POPS ○ Social Work Manager in the region and their leader <p>Report to the Board (divulging only the necessary information to protect the non-Employee's privacy and dignity; the non-employee's name can only be shared if s/he has given consent) (CEO)</p>	<p>SUPPORT - Social worker to determine support required by the non-Employee and Shout to arrange support to the extent possible and necessary (CEO & Social Work Manager)</p>	
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<p>Reports received must be addressed immediately (if ongoing/active) and within 48 hours if not active/ongoing (respond back to non-Employee) (CEO)</p>		
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<p>LEGAL/ REPUTATIONAL - Obtain legal counsel from Shout’s company lawyers (CEO)</p> <p>Obtain legal counsel from the labour lawyers (CEO)</p> <p>Consult a reputable PR company (if applicable) (CEO)</p>	<p>LEGAL/ REPUTATIONAL - Prepare legal report and opinion (Lawyers)</p> <p>Confidentiality of non-Employee to be always maintained. Identity of non-Employee is only made known on a “need to know” basis (All)</p>	
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<p>HR - Employee to be contacted and a Letter of Explanation is to be obtained from the Employee (HR)</p>	<p>HR - Employee to be suspended, if applicable, immediately pending an investigation launched into the incident subsequent to the non-Employee laying charges against the Employee (HR)</p> <p>Once the official investigation has been completed, Shout may pursue internal disciplinary proceedings, as and when necessary (in line with Shout's Employee Policies) (HR)</p> <p>Any person who is found guilty of Sexual Harassment, Sexual Abuse and/or Sexual Assault pursuant to a disciplinary hearing in such regard will be removed from their position within Shout (HR)</p>	
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<p>3rd PARTY EXTERNAL INVESTIGATION - Commission investigation, if applicable (CEO)</p>	<p>INVESTIGATION - An investigation team should be formed (CEO)</p> <p>The members of the team will depend on the nature of the incident, but the below individuals should be considered:</p> <ul style="list-style-type: none"> ○ A HR Representative ○ The manager of the department within which the Employee works ○ Social Work Manager ○ CEO or another Executive ○ Necessary professional advisors (e.g., attorneys, PR firm) <p>Investigation team to conduct investigation into the report - gather all necessary information/evidence (Investigation team)</p> <ol style="list-style-type: none"> a) Interview notes b) Witness statements c) Pertinent documents d) Supporting documents e) Audio or video recordings, where applicable 	<p>INVESTIGATION - A detailed report must be compiled, subsequent to the findings of any investigations by external parties in relation to the incident (SAPS/ Other relevant organisation)</p>
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	<p>Develop timeline to investigate the incident (Investigation team)</p> <p>Initial written report within 48 hours to CEO, or a reasonable time depending on the circumstances of the incident (Investigation team)</p> <p>All Shout staff, as well as the Survivor and witnesses (if applicable), must cooperate with this process, as and where requested by the relevant authorities or other parties involved (All)</p> <p>Investigation report to be finalised and submitted within 3-5 days to C-suite (Investigation team)</p>	
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<p>FUNDERS - Report to funders as soon as PR company has drafted communication templates to stakeholders. Funders value voluntary, proactive reporting (CEO)</p> <p>DOH - Report to relevant DOH senior official (CEO)</p> <p>Check with funder on who will report to National DOH (CEO)</p>	<p>PR/ CRISIS MANAGEMENT – (PR Company)</p> <p>CEO to contact PR company within 24 hours of being made aware of the incident and request below. PR company to provide the below to Shout within 72 hours:</p> <ul style="list-style-type: none"> • Develop Holding statement • Develop stakeholder list: <ul style="list-style-type: none"> ○ Staff ○ Partners, e.g., CMT ○ Funders, e.g., CDC ○ DOH regional ○ DOH national ○ Other • Develop PR strategy • Develop communications, including scenario permutations • Develop FAQs • Develop comms reporting template in Excel • Relevant staff to undergo media training within 7 workings days of being made aware of the incident • Set up Social Media Monitoring (Head of Marketing) 	
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II. Additional legal options available to survivor

The Survivor of Sexual Harassment, Sexual Assault and/or Sexual Abuse can additionally consider:

- a. laying a charge against the perpetrator at their local SAPS; and/or
- b. applying to court for a protection order against the perpetrator in terms of the Protection from Harassment Act, No. 17 of 2011.

7. Criminal and civil charges

The legal rights of a Complainant are not in any way limited by this Policy. Complainants have the right to press separate criminal and/or civil charges against Perpetrators.

There is no longer a Prescription period applicable in South Africa in respect of the prosecution of Sexual Offences in certain cases, namely where the Survivor was unable to institute proceedings due to his or her mental or intellectual disability, disorder or incapacity. In aforementioned cases the general 20 (twenty) year Prescription period applicable in cases of Sexual Offences does not apply.

8. Victimisation

Shout has a zero-tolerance policy toward victimisation of Survivors or witnesses of Sexual Harassment, Sexual Abuse and/or Sexual Assault.

It is a disciplinary offence to victimise or retaliate against any person who in good faith lodges a Grievance of Sexual Harassment against an Employee and/or who assists Shout (or another party) in investigating an incident of Sexual Harassment, Sexual Abuse and/or Sexual Assault committed by an Employee, or to pressurise a Complainant to retract an Allegation of Sexual Harassment, Sexual Abuse and/or Sexual Assault.

Shout encourages Employees who have any knowledge of Employees being victimised to inform the Human Resources Department thereof.

Shout shall do all it can to prevent any retaliation from taking place and to ensure anonymity and no pressure shall be placed on Survivors to report cases of Sexual Harassment, Sexual Abuse and/or Sexual Assault.

9. Confidentiality

All cases of Sexual Harassment, Sexual Abuse and/or Sexual Assault will be treated with the utmost confidentiality.

Shout shall do all in its power to ensure that Grievances about Sexual Harassment are handled in a manner that ensures that the identities of the persons involved are kept confidential, bearing in mind the legal duties involved.

Management, Employees and the parties concerned must endeavour to ensure confidentiality in any disciplinary enquiry and/or investigations in relation to incidents of Sexual Harassment, Sexual Abuse and/or Sexual Assault. Only appropriate members of management, as well as the Complainant, any representative, Perpetrator, witnesses and interpreter (if required), must be present in any disciplinary hearings or other meetings held in relation to incidents of Sexual Harassment, Sexual Abuse and/or Sexual Assault.

10. Counselling and support

Shout will arrange counselling and provide appropriate and reasonable support to Survivors of Sexual Harassment, Sexual Abuse and/or Sexual Assault.

The Survivor and/or the Perpetrator should be referred to a trauma crisis centre for counselling, should they so wish.

Shout can refer the Survivor and/or the Perpetrator to ICAS. For more information on ICAS, please refer to the Human Resources Department.

11. Training and development

One of the keys ways to prevent Sexual Harassment within a work environment is through regular and relevant training, awareness and staff development.

Shout will undertake the below training:

- a. Relevant staff will be trained on how to handle Allegations of Sexual Harassment, Sexual Abuse and Sexual Assault (including the Incident Procedures);

- b. All staff will be made aware of this Policy and will be trained on the processes contained in this Policy;
- c. Directors and managers will receive training on their legal duties and responsibilities;
- d. All staff will undergo a compulsory annual training on Sexual Harassment, in line with international best practice, include an overview of the law, a review of Shout’s policies, code of conduct and training, how to intervene to prevent Sexual Harassment, how to contribute to a culture in which all staff are treated as equals, etc. and
- e. Shout shall provide regular annual training for managers on how to address and prevent Sexual Harassment within their departments. All new staff should receive training on this as part of their orientation to management roles, responsibilities and expectations.

12. Version History

Date	Version	Editor	Summary of changes
2022/02/18	V1	Kaylin Scheepers	Creation of Sexual Harassment, Sexual Abuse and Sexual Assault Policy