



## MOTHERS AND MARGINALISED ADVOCACY CENTRE

### Prevention of Sexual Harassment and Assault (SHA) Policy

## 1. INTRODUCTION

The Mothers and Marginalised Advocacy (MAMA) Centre is committed to maintaining a working environment where total respect and dignity of staff will be taken as priority despite gender disparity; and ensure an atmosphere that is free of harassment, exploitation, or intimidation through thorough implementation of enabling policy environment to promote inclusiveness, equal involvement and participation in leadership positions, programmes and activities.

Sexual violence, sexual harassment, retaliation, and other behaviour prohibited by this Policy interfere with those goals. The organisation will respond promptly and effectively to reports of such conduct. This includes action to stop, prevent, correct, and when necessary, discipline, behaviour that violates this Policy.

MAMA Centre is committed to fostering an organisation that promotes prompt reporting of all types of sexual misconduct including sexual violence, sexual harassment, relationship violence, stalking, or gender based violence and/or discrimination, and ensures timely and fair resolution of sexual misconduct and harassment complaints in accordance with the Sexual and Interpersonal Violence Response Procedures. It is the intention of MAMA Centre to take appropriate action to end the misconduct, prevent its reoccurrence and address its effect.

This Policy addresses the MAMA Centre's responsibilities and procedures related to sexual violence, sexual harassment, retaliation, and other prohibited behaviour as those terms are defined in this Policy (together, "Prohibited Conduct") in order to ensure an equitable, inclusive and employment environment. The Policy defines Prohibited Conduct and explains the administrative procedures the organisation uses to resolve reports of **Prohibited Conduct**.

This Policy will be implemented in a manner that recognizes the importance of the rights to freedom of speech and expression and will not be interpreted to prohibit expressive conduct that is protected by the freedom of speech and expression.

## 2. Prohibited Conduct

### A. Sexual Violence:

a. **Sexual Assault - Penetration:** Without the consent of the Complainant, penetration, no matter how slight, of:

- the Complainant's mouth by a penis or other genitalia; or
- the Complainant's vagina or anus by any body part or object.

b. **Sexual Assault - Contact:** Without the consent of the Complainant, intentionally:

- i. Touching Complainant's intimate body part (genitals, anus, groin, breast, or buttocks);
- ii. Making the Complainant touch another or themselves on any intimate body part; or
- iii. Touching the Complainant with one's intimate body part, whether the intimate body part is clothed or unclothed.

Sexual Assault—Penetration and Sexual Assault—Contact are aggravated when they include any of the following:

- i. Overcoming the will of Complainant by force: This includes the use of physical force or inducing reasonable fear of immediate or future bodily injury);
- ii. Violence: This includes the use of physical force to cause harm or injury);
- iii. Menace (a threat, statement, or act showing intent to injure);
- iv. Duress: This includes a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person of ordinary sensitivity, taking into account all circumstances including age and relationship (including a power imbalance), to do or submit to something that they would not otherwise do); or
- v. Deliberately causing the Complainant to be incapacitated (for example, through drugs or alcohol);
- vi. Deliberately taking advantage of the Complainant's incapacitation (including incapacitation that results from voluntary use of drugs or alcohol); or
- vii. Recording, photographing, transmitting, or distributing intimate or sexual images of Complainant without Complainant's prior knowledge and consent.

**c. Relationship Violence** includes the following:

- i. Physical violence toward the Complainant or a person who has a close relationship with the Complainant (such as a current or former spouse or intimate partner, a child or other relative), or
- ii. intentional or reckless physical or non-physical conduct toward the Complainant or someone who has a close relationship with the Complainant (such as a current or former spouse or intimate partner, a child or other relative) that would make a reasonable person in the Complainant's position fear physical violence toward themselves or toward the person with whom they have the close relationship, that is by a person who is or has been in a spousal, romantic, or intimate relationship with the Complainant, or who shares a child with the Complainant, and that is part of a pattern of abusive behaviour by the person toward the Complainant.
- iii. Physical violence is physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior, including assault.
- iv. Patterns of abusive behaviour may consist of or include non-physical tactics (such as threats, isolation, property destruction, abuse of pets, economic control, displaying weapons, degradation, or exploitation of a power imbalance).
- v. The nature of the relationship between the Complainant and Respondent is determined by the length and type of relationship, and the frequency of interaction between them. Relationship violence includes both "dating violence" and "domestic violence." v. Conduct by a party in defense of self or another is not Relationship Violence under this Policy. If either party

asserts that they acted in defense of self or another, the MAMA Centre will use all available, relevant evidence to evaluate the assertion, including reasonableness of the defensive actions and which party is the predominant aggressor.

**d. Stalking:** This includes repeated conduct directed at a Complainant (for example, following, monitoring, observing, surveilling, threatening, communicating or interfering with property), of a sexual or romantic nature or motivation, that would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress.

**3. Sexual Harassment:** A Sexual Harassment in this policy constitutes an unwelcome sexual advances, unwelcome requests for sexual favours, and other unwelcome verbal, nonverbal, or physical conduct of a sexual nature when:

- A person's submission to such conduct is implicitly or explicitly made the basis for employment decisions, promotion, participation in the organisation's programme or service, evaluation
- Such conduct is sufficiently severe, persistent or pervasive that it unreasonably denies, adversely limits, or interferes with a person's participation in or benefit from employment, promotion or other programs, activities or services of the MAMA Centre, and creates an environment that a reasonable person would find to be intimidating or offensive.
- Consideration is given to the totality of the circumstances in which the conduct occurred.

#### **4. Other Prohibited Behaviour in MAMA Centre**

a. Invasions of Sexual Privacy:

- i. Without a person's consent, watching or enabling others to watch that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy;
- ii. Without a person's consent, making or attempting to make photographs (including videos) or audio recordings, or posting, transmitting or distributing such recorded material, depicting that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy; or
- iii. Using depictions of nudity or sexual activity to extort something of value from a person.

b. Sexual intercourse with a person under the age of 18.

c. Exposing one's genitals in a public place for the purpose of sexual gratification.

d. Failing to comply with the terms of a no-contact order, a suspension of any length, or any order of exclusion issued under this Policy.

e. Retaliation, an adverse action against a person based on their report or other disclosure of alleged Prohibited Conduct to the organisation employee or their participation in the investigation, reporting, remedial, or disciplinary processes provided for in this Policy. An adverse action is conduct that would discourage a

reasonable person from reporting Prohibited Conduct or participating in a process provided for in this Policy, such as threats, intimidation, harassment and coercion. Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Conduct.

## **5. Policy Coverage**

This Policy covers acts of Prohibited Conduct committed by MAMA Centre management, employees, and third parties (such as contractors, vendors, visitors, guests, patients and volunteers), and acts of Prohibited Conduct committed against employees and third parties.

## **6. Conduct that Violates this Policy**

This Policy prohibits sexual violence, sexual harassment, retaliation and other prohibited behaviour. Incidents that violate this Policy may occur between:

- Members or staff or employees of the organisation and third parties
- Employees in hierarchical relationships and peers;
- People of any gender, gender identity, or sexual orientation; and
- Strangers and non-strangers. People may engage in Prohibited Conduct in person or through other means. This includes electronic media, such as the internet, social networks, cell phones, texts, and other devices or forms of contact.

## **7. Protection of Complainants, Respondents, and Witnesses**

- MAMA Centre will encourage and ensure appropriate support Complainants or witnesses.
- Retaliation: MAMA Centre prohibits retaliation against someone for reporting or participating in a process under this Policy.
- Privacy: MAMA Centre will balance the privacy interests of people involved in a report of Prohibited Conduct against the need to gather information, ensure a fair process, and stop, prevent and remedy Prohibited Conduct.
- Open door policy: MAMA Centre shall maintain open door policy to support complaints or reporting.
- Freedom of speech. This Policy is intended to protect members of the MAMA Centre from discrimination, not to regulate protected speech. This Policy will be implemented in a manner that recognizes the importance of rights to freedom of speech and expression.
- Violence Against Person Prohibition Act. This Policy will fully implement relevant provisions of the VAPP Act on sexual violence or harassment.

## **8. Compliance with the Policy**

The Executive Director will ensure full compliance to the implementation by assigning a responsible officer for monitoring, enforcing, and reporting policy compliance. The Board of MAMA Centre will periodically audit and monitor compliance with the Policy.

## **9. Noncompliance with the Policy**

Consequences of non-compliance with the Policy may result in counseling, adverse performance evaluations, corrective actions, sanctions and termination.

## **10. Procedures for Reporting and Responding to Reports of Prohibited Conduct**

The Board of MAMA Centre has responsibility for oversight of the reporting and response processes. The specific procedures for investigating and resolving complaints of Prohibited Conduct depend on the Respondent's identity and relationship to the organisation.

## **11. Responsibility to report**

All staff of MAMA Centre are required to report, at the time they become aware of, concerns expressed to them by an alleged victim of sexual assault, sexual harassment, relationship violence, stalking, or gender based violence and/or discrimination, whether direct or third party, to the Gender and Affirmative Action Officer to be designated by the Board of MAMA Centre.

## **12. Confidentiality**

The Gender and Affirmative Action Officer, managers, supervisors, and other designated employees have an obligation to respond to reports of sexual misconduct, including sexual assault, sexual harassment, relationship violence, stalking, and gender based violence and/or discrimination even if the individual making the report requests that no action be taken. An individual's request regarding the confidentiality of reports of sexual misconduct will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the organisation's legal obligation to ensure a working and learning environment free from violence and harassment and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation, although MAMA Centre will comply with requests for confidentiality to the extent possible.

## **13. Response Procedures**

MAMA Centre will constitute a Review Committee or other appropriate officials, to ensure that a complete investigation is held to respond to discrimination, remedy its effects, and prevent it from recurring.

During the investigation procedures, a Claimant and a Respondent are permitted to be accompanied by an Advisor of their choice at any proceeding or meeting relating to the resolution or investigation of a report of Prohibited Conduct. The Advisor cannot be a Claimant, Respondent, or witness in the proceeding. The Claimant and Respondent are permitted to rely on their Advisors for support and advice during any meeting or proceeding, but Advisors cannot speak on behalf of the individual they are advising or participate in any meeting or proceeding. MAMA Centre reserves the right to exclude any Advisor who is deemed disruptive at any time.

The Claimant, the Respondent, and any witnesses who participate in an investigation and resolution of Prohibited Conduct are expected to respect the

privacy of the individuals involved. Disclosure of information about a case may also undermine the integrity of the pending investigation. In some circumstances, the disclosure of information about a case may constitute Retaliation or violate other MAMA Centre policies. This provision does not prohibit, and should not be construed to discourage, any individual impacted by Prohibited Conduct from seeking appropriate resources and support.

The investigatory Committee consisting well trained internal and external experts will be designated to conduct a prompt, thorough, fair, and impartial investigation appropriate to the needs and circumstances of each particular case. A Claimant or Respondent can challenge the selection of an Investigator on the basis of bias or conflict of interest by reporting the concern to the MAMA Centre Board to determine whether an alternate Investigator is needed.

Upon initiating an investigation, the Investigator shall provide the Claimant and Respondent with a written notice of the investigation that includes a general summary of the facts giving rise to the investigation, including but not limited to the individuals involved, the conduct alleged, and the potential policy violations being investigated.

The Committee after thorough scrutiny and process will recommend appropriate punishment against the offender to the Board of MAMA Centre. The Board has the mandate to ensure full implementation of the recommendations.