



# **Association for Progressive Communications Sexual Harassment Policy**

**(Version 5.1 June 2016)<sup>1</sup>**

<sup>1</sup> This version was reviewed by the APC board in April 2016 and then updated by Jac sm Kee and Anriette Esterhuysen. To add to next version: glossary; table with role players and their specific responsibilities; flow chart; text in our contract template that refers to this policy and informational note to be included in all event documentation.

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### A. Who we are (APC)

APC is both a network and an organisation. Our strength comes from our membership (a mix of Southern and Northern based organisations and individuals) and staff, and their combined knowledge and experience of promoting and using ICTs at local, national and regional levels. Through both our members and staff who are located in different parts of the world, APC gains local perspectives, contact with grassroots organisations and insights from engagement with national policy makers that we integrate into our regional and global work.

APC's vision is of all people having easy and affordable access to a free and open internet to improve their lives and create a more just world.

APC's mission is to empower and support organisations, social movements and individuals in and through the use of ICTs to build strategic communities and initiatives for the purpose of making meaningful contributions to equitable human development, social justice, participatory political processes and environmental sustainability. Human rights, gender justice, development justice and feminist perspectives are central principles to our work.

## Our values

APC members are bound together by common values. Since our official founding in 1990, the network has developed guiding principles that we endeavour to integrate into all our activities. These values and principles guide *what* APC does and *how* it is done.

APC values local initiative and ownership, freedom of expression, communications and information, open content and open standards, free and open source software, social equality and gender equality, collaboration and partnership, inclusiveness and diversity, creativity and capacity building, democratic, accountable and transparent governance, and ICT solutions that are appropriate and affordable.

APC is committed to working through decentralised action, sharing information and tools in the public domain, having a strong Southern base and orientation, and creating and strengthening an international membership community for joint action and learning.

APC is committed to work which challenges and transforms all social, cultural, economic and political systems and norms, especially those which are disempowering. We value open, accurate and honest communication; respectful and generous interaction between one another and those we work with; respect for privacy and bodily integrity; reliability and presence; and courage in tackling conflict and difficulties. There are many forms of behaviour which can violate these values. Sexual harassment is one such form which can also intersect with discrimination on the basis of gender, ethnicity, sexuality, religion, age, disability and class.

At APC, we are committed to providing workplaces free from such behaviours, in all contexts. APC does not tolerate sexual harassment.

## B. How we define sexual harassment

**Sexual harassment** is a broad term. For the purposes of this policy it is defined as:

Any unwelcome sexual advance in the form of words, images, gestures or physical contact in physical, digital or communication spaces which may reasonably be expected, or be perceived, to cause distress, intimidation, fear, humiliation, or harm to another. The term also covers any request for a sexual favour, or a threat of a sexual nature. Sexual harassment may occur in any space, and may interfere with work, which includes activities of face-to-face meetings and digital communication of all kinds. It can be a one-time incident or a series of incidents. Sexual harassment may be unintended, deliberate, or coercive. Sexual harassment may occur both within formal working hours and spaces, and outside these. Men, women, transitioning and transgender individuals may be victims or offenders.

Sexual harassment may result in discrimination, and it may create a hostile working environment. Other forms of behaviour which cause discrimination, fear, and/or a hostile working environment may be implicated in sexual harassment, such as harassment based on race, gender, sexuality, national origin, physical appearance, age, ancestry, disability,

economic disparity, or religious or spiritual beliefs. APC recognises that APC's staff members and partners are from diverse contexts, and that sexual harassment experiences are embedded within the cultural, social, historical and personal contexts.

Sexual harassment should not be confused with unintentional careless communication in a diverse working environment, or with our efforts to create an organisational culture which is open to conversations on sexuality and human rights. We understand that the impact of sexual harassment on APC's working culture can be highly destructive, and we understand the impact of sexual harassment on an APC staff member to harm his/her work, mind and body.

Examples of sexual harassment include (but are not limited to):

- Unwelcome sharing of sexualised content in visual, audio or text form
- Deliberate stalking, following or intimidation, online and/or offline
- Harassing photography, video or audio recording
- Inappropriate and/or unwanted physical contact
- Unwelcome sexual attention, in any form of communication
- Requests for sexual favours, verbal or physical contact of a sexual nature in exchange for an opportunity
- Threats, either explicit or implicit, to withdraw an opportunity or resources unless sexual contact and/or communication is permitted
- Advocating for, or encouraging, any of the above behaviour.

If you believe you have been harassed, or notice that someone else is being harassed, or have any other concerns, you are encouraged to raise your concerns in confidence to your manager or the sexual harassment focal point.

APC commits that each case will be considered, and concrete actions will be taken as appropriate.

## **C. Scope of the policy**

### **1. To whom does this policy apply?**

This policy applies to:

- All persons employed by APC, namely: staff members, "contractors", interns, volunteers and occasional workers in the context of the execution of their work for APC or their participation in APC events. The term "contractor" covers any person who is employed by APC under a service contract or consultancy contract.

- Participants in events organised by APC which could include persons outside of APC members and staff team.
- This policy covers harassment occurring in:
- APC individual members, members of APC's board of directors, APC organisational member representatives (APC council members) or staff of APC members, who, in this capacity, are expected to share the same values on sexual harassment as APC, and are expected to take organisational measures to address this issue.

## **2. What settings does this policy cover?**

- APC's virtual workspaces, which include staff, member and project spaces.
- APC-organised events.

## **D. Prevention**

### **1. Responsibility and safe spaces**

Managers, project coordinators, event organisers, facilitators and trainers have a specific responsibility to ensure that working spaces are safe and free from sexual harassment. This includes clear communication of APC's stance on sexual harassment, and taking early action on potential or actual harassment that occurs within spaces and teams for which they are responsible. Where APC is organising an event, the sexual harassment policy needs to be taken into account as part of the planning, including clear communication of the policy to participants and, where possible, a discussion on acceptable codes of conduct. Further, as explained below, there should be appropriate mechanisms set in place to respond to sexual harassment by those in positions of authority.

### **2. Orientation of staff and training in sexual harassment policy and procedures**

All APC staff will be oriented to APC's sexual harassment policy and will be asked to acknowledge that they have read and understood the policy. Any new staff member should be informed of and provided orientation to the sexual harassment policy. Orientations and capacity building will be built into all staff and member meetings.

Some staff and member representatives will be trained on applying the sexual harassment policy and administering the complaints procedure. They will act as advisers and resource people. It is the responsibility of the person responsible for human resources (currently the finance and administration manager) to ensure that this training takes place and to report to

the board on the training and on any incident of sexual harassment.

The purpose of the training is also to build the capacity of some APC staff members and members on creating a working environment that is safe and free from sexual harassment, including ways to respond to sexist behaviour. Trainings will take into account the issue of intersectionality, and how sexual harassment is experienced and embodied differently according to contexts by people of all genders.

### **3. Development of a set of simple and accessible guidelines**

To support the creation of a working environment (including at events) free from sexual harassment, simple and accessible guidelines should be created and shared. This can also be used to raise awareness about the issue in orientation sessions for new staff and during staff and member meetings.

## **E. Complaints procedure**

### **1. Process for implementing this policy in the case of a complaint**

The procedure for dealing with sexual harassment is based on the following principles:

- APC aims to provide concerned individuals with opportunities to correct unacceptable standards of conduct and performance.
- Punitive action should only be taken when prior corrective action has proved ineffectual or when an offence is so serious that the relationship of trust between the parties is destroyed.
- APC is committed to reaching a resolution of the issue within a period of 30 days.
- Should the alleged harasser be a staff member, APC is empowered to require that the alleged harasser be suspended from his/her work, for the duration of the procedure, with full pay, and without prejudice.

Discipline is the responsibility of:

- The executive director in the case of the complaint being made against a member of staff or against a participant in an APC event.
- The executive director has the right to refer discipline to the board should she/he feel that this is appropriate.
- The APC board or a board committee if the complaint concerns an APC individual member or an APC member representative or a staff member of an APC member organisation.

APC is committed to providing the complainant with all reasonable support for the duration of the procedure, including, where appropriate:

- Paid leave to participate in the process (if the complainant is a member of the staff).
- Support to leave an event should the complainant choose to do so (if the harassment occurs at an event organised by APC).

Because sexual harassment frequently involves interactions between persons that are not witnessed by others, reports of sexual harassment cannot always be substantiated by additional evidence. Lack of corroborating evidence or "proof" should not discourage individuals from reporting sexual harassment under this policy.

This policy also prohibits retaliation against a person who reports sexual harassment, assists someone with a report of sexual harassment, or participates in any manner in an investigation or resolution of a sexual harassment report. Retaliation includes threats, intimidation, reprisals and/or adverse actions related to employment.

## 2. Procedures

**Sexual harassment focal points:** The person responsible for human resources (currently the finance and administration manager) is the primary person responsible for responding to complaints of sexual harassment.

Where the complaint is against the finance and administration manager, or where this manager is making the complaint, the designated board committee will deal with the complaint.

Where the complaint is brought against the executive director, the body dealing with the complaint will be the board or designated board committee.

At an event organised by APC, the coordinator **must appoint two sexual harassment focal points** to respond to complaints raised by participants. The focal points are responsible for raising it with the relevant manager(s) of the APC programme that is holding the event.

Where the complaint is brought against an APC individual member or a representative or staff member of an organisational member, the executive director is responsible for raising this with the board. If it involves a member of the board, the board will convene a committee that excludes the concerned individual.

**There are generally two types of complaint, informal and formal.** The complainant will either contact directly or be directed to the focal point for dealing with complaints, and has a choice of making either a formal or informal complaint.

## **a) Informal complaint of sexual harassment**

1. To make an informal complaint of sexual harassment, speak to the relevant focal points.<sup>2</sup> A written description of what has happened must be completed, either by the complainant or by the focal point (in which case it must then be sent back to the complainant for verification). To ensure confidentiality, emails should be encrypted where possible.
2. This complaint must be kept confidential by the focal point until s/he has spoken with the complainant to explore the situation, and to clarify the complainant's choice of taking a formal or informal route forward.
3. If the complainant chooses an **informal** route, the focal point is responsible for communication with the alleged harasser. In this communication, the focal point may not divulge the complainant's identity or description of his/her experience, but should share the APC policy on sexual harassment with the alleged harasser, explaining in detail how important it is that the policy be followed at all times. The alleged harasser should be warned that the focal point has reason for concern about the alleged harasser's behaviour and that should this concern be formalised through a formal complaint, s/he will face a disciplinary procedure. The focal point should assure the alleged harasser that s/he is not currently under any threat of a disciplinary procedure and that the conversation does not constitute a disciplinary warning.
4. The focal point then has the responsibility of contacting the complainant again, informing him/her that the alleged harasser has been informed that someone made an informal complaint against them (anonymously), was made aware or reminded of the sexual harassment policy, and offered any information and/or support s/he may reasonably request. The complainant should also be offered the opportunity to make a formal complaint should the situation not resolve itself.
5. The focal point needs to forward to the executive director, or the person s/he has delegated this responsibility to, a brief description of the processes of informal complaint, including the identities of both the complainant and the alleged harasser, and the dates of all conversations held. The record should be held confidential, and if the alleged harasser is a member of staff, the record should be kept separately from the employment records of both the complainant and the alleged harasser.
6. Should the focal point be concerned that the informal complaint reasonably suggests serious and regular sexual harassment on the part of the alleged harasser, s/he is responsible for seeking the advice of the executive director, or, if it involves a member, the advice of the board, as it might be appropriate to initiate some form of investigation.

2 Focal points will vary. They could be the organiser or facilitator of an event, or they could be the APC finance and human resources manager, or the APC executive director. If it is not clear who the focal point is, complaints will be directed to the APC executive director.



## ***b) Formal complaint of sexual harassment***

The following principles govern formal disciplinary enquiries:

In the case of a complaint made by a staff member against another staff member, APC's grievance procedure outlined in APC's Human Resources Manual will be followed. See **Appendix I** for details.

In all other cases the procedure will be as follows:

1. A formal complaint of sexual harassment can be made by submitting a written description of the situation to the executive director or to the board of directors or a designated board committee. A meeting between the executive director/board/board committee and the complainant will be convened as soon as possible (within five days). If the complainant seeks to make a formal complaint, this will be clarified in the meeting, and the formal procedure will commence.
2. If the complainant chooses to make a formal complaint, this must immediately be recorded by the executive director/board/board committee for the executive director/board/board committee. The executive director/board/board committee will appoint a sexual harassment (SH) focal point to organise the enquiry.
3. The SH focal point should be at management, executive director or board level.
4. The SH focal point is responsible for all further communication with the complainant and the alleged harasser, in order to set up the date, time and venue of the enquiry, and to explain the rights of each party during the enquiry. The SH focal point is required to keep records of all these conversations, and to include them in the final report to the executive director/board/board committee.
5. Enquiries are to be held as soon as possible after the formal complaint is made, provided that a reasonable time is accorded to the alleged harasser to prepare for his/her defence (within 14 days).
6. Because of the virtual working environment of APC, enquiries are to be held by means of a real-time secure online or telephone conference, or where possible, face to face.
7. Should the harassment occur in an event organised by APC, the alleged harasser may be required to leave the event. This is the decision of the relevant manager, in consultation with the event SH focal points and the executive director.
8. The focal point, in consultation with the executive director or a person s/he has designated, is responsible for holding a mediation proceeding and identifying a chairperson to preside at the mediation. The chairperson should be someone in the APC management team or a member of APC's board of directors.
9. Both the alleged harasser and the complainant are to be notified in writing of:
  - The date, time and venue (or online platform) of the mediation

- The sexual harassment offences that have been raised for addressing
  - Their rights at the mediation
  - Who will be present at the proceeding and who will chair the mediation.
10. Both the complainant and the alleged harasser are entitled to be represented by a staff or board member of APC of their choice, or an independently chosen representative with a legal background (at their own cost); it is recommended that this representative have experience with supporting alleged harassers in sexual harassment complaints, and the representative may come from APC's human resources department.
  11. If requested by either the complainant or the alleged harasser, an interpreter will be made available unless this is simply not possible.
  12. The complainant is permitted to bring with him/her a support person who will not participate actively in the proceedings but may be present throughout.
  13. Both the complainant and the alleged harasser may have their cases supported by witnesses, provided the names of those witnesses and any materials drawn upon by those witnesses are available to everyone involved with the enquiry.
  14. The outcome of the mediation proceeding will be decided by the chairperson.
  15. The decision reached at the mediation is final, and will be recorded and sent to the executive director and to the APC board by the chairperson of the hearing.
  16. The SH focal point will be informed of the decision, and will communicate the outcome in writing to the complainant and the alleged harasser.

### **c) The enquiry procedure**

1. At the commencement of the enquiry, the chairperson should present and explain the complaint in terms of an alleged violation of APC's sexual harassment policy.
2. The chairperson should explain:
  - The format of the enquiry
  - The range of possible conclusions, from absolving the alleged harasser of any charge of violation to instant dismissal
  - That the enquiry will be documented and the record kept securely within the organisation's human resources files
  - Any guidelines on the management of interpretation during the enquiry.
3. The chairperson will ask the complainant/the complainant's representative to present his/her case. If the complainant's representative presents the case, s/he may treat the complainant as a witness.

4. The complainant or his/her representative may be asked questions by the chairperson and/or SH committee members and by the alleged harasser or her/his representative.
5. The chairperson will ask to hear, one by one, the witnesses for the complainant. Each witness must appear separately, and will be asked by the complainant or her/his representative for their relevant information.
6. All witnesses may be asked questions by the chairperson and/or SH committee members and by the alleged harasser or her/his representative.
7. The process is repeated for the alleged harasser or her/his representative to present her/his defence against the complaint.
8. The chairperson may ask the complainant and then the alleged harasser, or their representatives, whether they have anything to add.
9. The chairperson and/or SH committee may ask further questions of either party.

#### ***d) Post-enquiry***

1. The chairperson and/or SH committee will reach a decision within 14 days. In that time, all parties will be cautioned that the documentation of the enquiry and decision is confidential, and may not be shared with any APC staff or members. Arrangements will also be made for the reading of the decision, at which all parties (except witnesses) must be present.
2. The chairperson and/or SH committee must present their decision and motivation, weighing the evidence in relation to the sexual harassment policy.
3. The chairperson must then implement the decision on any disciplinary action to be taken.
4. The chairperson will inform the executive director/board/board committee of her/his findings and the disciplinary action taken immediately after the enquiry is closed.
5. Should the alleged harasser be found to have violated the policy in any degree, the complainant should be consulted, post-enquiry, by the executive director, to determine what levels of support are required for her/him to continue their work relationship with APC in the future. The alleged harasser will have the right to appeal. See (e) below.
6. Should the alleged harasser be found not to have violated the policy, all efforts should be made to return the working environment to normal, and prejudice against him/her or the complainant will constitute a violation of APC's policies on the maintenance of a fair, respectful and non-discriminatory work environment.

### **e) Right of appeal**

1. The alleged harasser shall have three days, after receiving notice in relation to point (d) 5 above, to notify the designated board that they they intend to appeal.
2. The appeal can be made in writing, or in a real-time meeting (audio or audio/video), at a time and date agreed by the designated board and the alleged harasser.
3. The designated person or body will, after hearing the appeal, give the alleged harasser a decision as to any change in measures proposed within one day of the appeal.

## **3. Sanctions – disciplinary actions**

1. APC treats any complaint of sexual harassment as a serious matter.
2. The seriousness of the degree of sexual harassment will be a matter for the disciplinary enquiry, and disciplinary action against a harasser may include:
  - A written warning
  - Suspension from working with the organisation or participating in APC events or projects
  - Deduction of pay from salary, where the deduction goes to an initiative working on issues of sexual harassment, whether within APC or externally
  - Re-organisation of the harasser's work conditions
  - Instant dismissal
  - Where the harassment occurs during an event organised by APC, the exclusion of the harasser from the said and future APC activities
  - Where the complaint of harassment is made against an APC individual member, or representative or staff member of an APC organisational member, the APC board will decide upon a course of action as appropriate, which may include making use of APC's membership termination procedures as outlined in APC's governance manual and bylaws.

# Appendix I: Grievance procedure from APC's Human Resources Manual

## 16 Grievance procedure<sup>3</sup>

APC recognises the importance of having effective communication channels through which difficulties and problems in the work situation can be effectively resolved. APC encourages and supports an informal approach, wherever possible and applicable, in which problems are dealt with honestly, pragmatically and with a strong emphasis on constructive resolution.

In instances where an informal approach either fails to resolve a problem, or is inappropriate in the circumstance, it is in the mutual interest of APC and its staff members to abide by a formal grievance procedure, which is capable of solving staff dissatisfaction. APC's formal grievance procedure seeks to resolve grievances as speedily as possible, and as close as possible to the source of origin.

A grievance, for the purposes of this procedure, is any dissatisfaction (except for an appeal in response to a dismissal) in connection with a staff member's work and employment situation that is formally brought to the attention of APC management.

Grievances that occur as a result of disciplinary action taken by APC will be dealt with in terms of the appeal procedure in the disciplinary procedure.

There is to be no victimisation of or prejudicial action against any staff member using this procedure.

### 17.1 Stages of the procedure

Please note that any of the time limits set out in the various stages of this procedure may be extended by agreement of the parties concerned.

#### Stage one: Immediate manager

- i. The staff member must first raise any grievance with his or her direct manager, who will endeavour to resolve the matter without delay.
- ii. If the manager does not settle the matter to the satisfaction of the staff member, or makes inadequate progress towards resolving it, the staff member may, together with a fellow employee who may accompany him or her, raise the matter further with the ED (executive director).
- iii. The ED will endeavour to resolve the issue, consulting where necessary with other staff members and management.

<sup>3</sup> Based on South African labour law.

## Stage two: ED

- i. Where a staff member has a grievance against his or her direct manager, a grievance may be formally lodged, using the grievance form, with the ED.
- ii. In cases where the direct manager is the ED, grievances may be lodged directly with the chairperson of the board.
- iii. On receipt of a completed grievance form, the ED will arrange a meeting with the staff member and their manager, and will attempt to resolve the matter.
- iv. The ED will consider all aspects of the grievance, the evidence surrounding it and the action and findings of the manager. The ED will first attempt to achieve a consensus view, but in any event will try to resolve the grievance in discussion with the aggrieved staff member and, where appropriate, will attempt to conciliate and mediate between the parties to the grievance.
- v. The ED will consult all parties involved in the process thus far and may call for any additional information that is considered necessary.
- vi. The ED will inform the parties of her or his decision, within five working days.