

## **FES CHILD PROTECTION POLICY**

### **FES Mission**

As 'ecological security' is the foundation for sustainable and equitable development, Foundation for Ecological Security (FES) is committed towards conserving nature and natural resources through coordinated efforts of the rural communities. By securing the ecological foundations of lives and livelihoods of present and future generations, FES's work contributes to the rights, protection and futures of children in the communities that FES works in.

The Constitution of India empowers the States to make special provisions for children and to further ensure that children are not abused. It casts a duty upon the States to ensure that all the needs of the children are met and their basic human rights are fully protected. The Constitution directs the States to ensure that children are given opportunities and facilities to develop in a healthy manner, in conditions of freedom and dignity and the childhood and youth are protected against exploitation and against moral and material abandonment.

The UN Convention on the Rights of the Child (UNCRC) has been adopted by the UN General Assembly in 1989 which universally recognizes the core principles of Child Rights - non-discrimination, devotion to the best interests of the child, the right to life, survival and development.

FES is informed of the provisions of The Protection of Children from Sexual Offences Act (POCSO), 2012, enacted to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of Special Courts for trial of such offences.

FES is aware that The Juvenile Justice (Care and Protection of Children) Act, 2015 Act has been enacted with an objective to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs and related matters.

FES, keeping in view with the above Constitutional and the prevailing laws, is committed towards protection of child from any harm, exploitation, abuse and will fulfil its obligations that are required under the above stated laws and cooperate with the concerned authorities including complying with the model guidelines framed there under.

FES will also ensure compliance with the Guidelines on Mandatory Reporting (**Annexure-1**) of cases of child sexual abuse to the enforcement authorities as failure to report a suspicion of child abuse is an offence under the POSCO Act.

### **Definitions**

**Juvenile/Child:** is defined as anyone under the age of 18.

**Child Abuse:** Any harm caused to a child, intentionally or unintentionally, is child abuse, which includes neglect, exploitation, emotional and physical danger and violence.

## **OBJECTIVE**

The broad objective of the Policy is to educate all the members of the organisation, including executives/managers, staff, consultants, volunteers, interns and visitors, regarding the policies and laws on child protection in India, whenever they may come in contact with children during the course of their work. The broad objectives are to:

- Create awareness about the issue of child abuse and the risks children face.
- Lay down a process/format for reporting instances of child abuse and procedures to conduct an in-house inquiry, apart from complying with any legal requirements.
- Make available a format for reporting instances of child abuse or instances/suspicion of sexual offences against children to the concerned enforcement authorities.

### **Mandatory reporting in case of sexual abuse of a child**

Every citizen of India is expected to inform the Police about the commission or likely commission of a cognizable offence\*. In line with this, FES will ensure compliance with the statutory obligation of mandatory reporting of cases of child sexual abuse to the law enforcement authorities as required by Section 21(1) of the POSCO Act. Consequently, FES adopts the Guide to Mandatory Reporting of cases of sexual abuse.

\* (A cognizable offence is the one in which the police officer can arrest an accused without a warrant and can start investigation without seeking permission of the court.)

### **Child Helpline Number (Childline No. 1098)**

FES will create awareness in the organisation about the 24-hour Toll Free telephonic helpline service on 1098, which offers medical assistance, shelter, reporting missing children, cases of sickness, abuse of children, runaways and child labour, repatriation, protection from abuse, emotional support and guidance and such other matters.

## **IMPLEMENTATION OF THE POLICY**

FES shall do the following:

**Awareness and Acknowledgement:** FES will circulate this Policy to inform all the divisions, officers, staff, consultants, volunteers, interns and visitors and its associate organisations. FES will strive to create awareness and build a responsive culture within the organisation and within the communities where it works to ensure rights and safety of the children. Therefore, all efforts would be made through communication materials and awareness programs to ensure safety, protection and dignity of the children. The Executive Director (ED) of FES shall ensure the implementation of this Policy.

**Preventing, Reporting and Responding:** It shall be responsibility of every member of FES to prevent child abuse by reporting to the Police in case of an offence is committed or is likely to be committed under the POSCO Act or reporting on the HELPLINE no. in the case of a child in distress. The report should confirm with the guidelines issued under the POSCO Act. (Refer Annexure A1). In these cases, the concerned authorities will take charge once they are informed. In the POSCO case, the Police will investigate the offense and file a case against the accused in the Court, whereas the HELPLINE will rescue the child and transfer him to a child care centre run by the Government/Civil society. Thereafter, the citizens/ FES do not have any role to play.

**Inquiry and disciplinary action:** The Executive Director, on receipt of a report of a lapse committed by any officers/staff of the FES which is in violation of the present policy, shall initiate an inquiry into the matter by forming a Internal Committee for the purpose of implementation on the policy. The Committee shall follow the principles of natural justice by giving adequate opportunity to the person against whom such an inquiry has been initiated. Disciplinary action as per the FES Rules shall be taken against any such person, if found guilty. FES, in its actions, shall at all times ensure the best interest of the child.

**Information and Confidentiality:** A written record on the cases reported to IC should be maintained, which should be dated and signed. The Executive Director shall ensure that all the information and records relating to the child protection incident are kept safely and securely. The information and records must contain accurate information so that it of use later in any proceedings. FES shall maintain full confidentiality about child protection concerns and this information may be shared only on need to know basis.

## **Code of Conduct**

All the members of FES including management members, staff, consultants, volunteers, interns and visitors, who come in contact with children shall:

### **Do:**

1. Respect the privacy and dignity of every child.
2. Be conscious of and sensitive towards making appropriate arrangements for the special needs of children, particularly physically and mentally challenged children.
3. Be informed of towards children's age, sex, ethnicity, background, sexuality, religion, their social customs, etc.
4. Always seek informed consent from children and their parents or guardians regarding the medium of communication and the purpose, before taking formal interviews, photographs of/with children or recording videos of their activities and engagements.
5. Respect the decision of children to say 'No' to an image being taken or a video being recorded.
6. Ensure that all images/videos taken of children are respectful of their dignity – all children must be properly and adequately clothed.

7. Keep data about the children confidential and refrain from sharing it to any third party without the consent from parent/guardian.
8. Prevent, respond or report any situation that might place a child at risk or harm.

**Don't:**

1. Not allow use of language or behaviour towards children that is inappropriate, harassing, abusive, provocative, demeaning or culturally inappropriate.
2. Not take/collect photos, videos, or stories of children and/or upload the same online or on any social networking sites without prior permission from the parent/guardian.
3. Not share your mobile phones or use technology with children which may lead to inappropriate usage, especially relating to the creation, viewing, downloading or distribution of any offensive or objectionable material.
4. Not use or encourage children to run personal errands in any form that may be construed as exploiting the relationship with the child for personal purposes.
5. Not give cash or gifts to children in a personal capacity.

## GUIDE TO MANDATORY REPORTING

Section 21(1) of the POCSO Act, 2012 requires mandatory reporting of cases of child sexual abuse to the law enforcement authorities, and applies to everyone including parents, doctors and school personnel. Failure to report a suspicion of child abuse is an offence under the Act. The legislation makes it clear that the reporting obligation exists whether the information was acquired through the discharge of professional duties or within a confidential relationship. Any private person who fails to report suspected child abuse, having acquired the information in the discharge of his or her professional responsibilities, commits a summary conviction offence.

Similarly, school personnel, doctors and other professionals may, in the course of delivering services, receive information which causes them to suspect that a child has been sexually abused. It is possible that the information obtained includes the identity of the perpetrator. The alleged perpetrator may be a person who is unknown to the reporter of the offence, but the suspicion could also involve a colleague, co-worker, friend or other associate. The obligation to report is unrestricted by any pre-condition that the complaint be first reported within the respective departments, services or agencies, even if the perpetrator is alleged to be an employee of that institution, service or agency. Thus, a person who has knowledge that an offence has been committed under the child can directly report it to the police or magistrate.

### 1. Why report?

The purpose of reporting is to identify children suspected to be victims of sexual abuse and to prevent them from coming to further harm. Without detection, reporting and intervention, these children may remain victims for the rest of their lives, carrying the scars of the abuse throughout their lives and even, in some cases, repeating the pattern of abuse with their own children.

However, the nature of sexual abuse, the shame that the child victim feels and the possible involvement of a parent, family friend or other close person, makes it extremely difficult for children to come forward to report sexual abuse. This is why the law provides for mandatory reporting, placing the responsibility to report not on the child but on a surrounding adult who may be in a better position to help.

### 2. Obligation to inform the child

The Act does not lay down that a mandatory reporter has the obligation to inform the child and/ or his/her parents or guardian about his/her duty to report. However, it is good practice to let them know that this will need to be done.

For example, where a doctor is confronted with a situation where a child brought into his/her care is exhibiting symptoms of child sexual abuse, he should inform the child and/or his/her caregiver that he has a legal duty to report the abuse. This will help establish an open relationship and minimize the child's feelings of betrayal if a report needs to be made. When possible, discuss the need to make a child abuse report with the family. However, be aware that there are certain situations where if the family is warned about the assessment process, the child may be at risk for further abuse, or the family may leave with the child.

### **3. What to Report?**

Explain, as well as you can, what happened or is happening to the child. Describe the nature of the abuse or neglect and the involved parties. Be as specific as possible. Be prepared to give the name, address, and telephone number of the child and also the name of the parent or caretaker if known. Even if you do not know all of this information, report what you do know. Tell all you know about the situation.

However, the reporter is not expected to investigate the matter, know the legal definitions of child abuse and neglect, or even know the name of the perpetrator. This should be left to the police and other investigative agencies.

A report of sexual abuse should contain the following information, if it is known:

- i) The names and home address of the child and the child's parents or other persons believed to be responsible for the child's care.
- ii) The child's present whereabouts.
- iii) The child's age.
- iv) The nature and extent of the child's injuries, including any evidence of previous injuries.
- v) The name, age, and condition of other children in the same household.
- vi) Any other information that you believe may be helpful in establishing the cause of the abuse to the child.
- vii) The identity of the person or persons responsible for the abuse or neglect to the child, if known.
- viii) Your name and address.

### **4. Sanctions**

#### **4.1 Failure to Report Child Abuse**

The POCSO Act, 2012 provides under Section 21(1) that any person, who fails to report the commission of an offence or who fails to record such offence shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

#### **4.2 Reporting False Information**

The POCSO Act, 2012 makes it an offence to report false information, when such report is made other than in good faith. It states that any person, who makes false complaint or provides false information against any person, in respect of an offence committed under sections 3, 5, 7 and section 9, solely with the intention to humiliate, extort or threaten or defame him, shall be punished with imprisonment for a term which may extend to six months or with fine or with both. Where such information is provided against a child, the punishment may extend to one year.

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