

Obtaining Informed Consent from Survivors of Human Trafficking and Sexual Exploitation, Sex Workers, and Program Beneficiaries

Guidelines for Somaly Mam Foundation (SMF) Staff

1. WHO CAN GIVE INFORMED CONSENT?

1.1 Adult Survivors over 18 years:

Informed consent to reveal one's identity (through photograph, film, written story, public speaking, or other means) can only be given by Survivors over the age of 18 years. SMF should never reveal, or facilitate another source to reveal, the identities of Child Survivors who we work with either directly or through our partner organizations, including group pictures.

1.2 Survivors in residential care:

1.2.1. SMF recognizes that Survivors who are still undergoing rehabilitation and receiving services through shelter-based care should be allowed to do so unconditionally. As such, SMF will not request media or public speaking participation of them, which would reveal their identities. In any cases where SMF uses information or Recordings featuring Survivors in residential care, their identities will be concealed.

1.2.2. Residents of partner rehabilitation programs who are over the age of 18 and who voluntarily come forward (without prompting) with a desire to speak publicly will not be denied this right to freedom of expression. SMF commits to first reiterating the risks the Survivor is taking by publicly identifying themselves. If the Survivor still wants to proceed, SMF commits to obtaining informed consent in accordance with the processes set out in Section 2 of this document, to include the voice of the Survivor if and when we can provide an appropriate avenue.

1.3 Reintegrated Survivors:

Reintegrated, independent Survivors who are over the age of 18 years may be approached by SMF to participate in media or public speaking opportunities. However it must be made clear to the Survivor at the time of asking that they have the right to refuse without this impacting their relationship with SMF or relevant partner organizations. SMF must also ensure that there is no element of coercion in the request (see Section 2.1). If the Survivor seems unsure about participating, SMF should retract the request instead of encouraging them to participate. If SMF or partner staff has any doubts about the Survivor's mental health and whether participation is in their best interests, the request should be retracted.

1.4 Voices For Change members:

Voices For Change (VFC) is a survivor advocacy program managed by SMF in which adult survivors have made decisions to speak publicly about their experiences of trafficking and sexual exploitation. VFC members can be approached by SMF to participate in media and public speaking

opportunities. However, it must be made clear that they always have the right to refuse any activity in which they do not want to take part. There must also be no element of coercion in making the request. The same process for obtaining informed consent (see Section 2) must be followed for VFC Members as with all Survivors.

1.5 Active sex workers:

1.5.1. SMF recognizes that sex workers receiving services through partner organizations (for example, medical clinic or outreach services) have the right to do so unconditionally. SMF also recognizes that sex workers may experience specific vulnerabilities and safety concerns around publicly identifying themselves. As such, SMF will not request any media or public speaking participation of sex workers that would reveal their identities. In any case where SMF uses information or Recordings featuring sex workers, their identities will be concealed.

1.5.2. Sex workers who are over the age of 18 and who voluntarily come forward (without prompting) with a desire to speak publicly will not be denied this right to freedom of expression. SMF commits to first reiterating the risks the sex worker is taking by publicly identifying herself. If the sex worker still wants to go ahead, SMF commits to obtaining informed consent in accordance with the processes set out in Section 2 of this document, to include the voice of the sex worker if and when we can provide an appropriate avenue.

1.5.3. SMF recognizes the challenges associated with establishing the age of sex workers who possess no official identification. If SMF staff is unable to verify age and have reasonable doubt, the sex worker should be assumed to be a Child, and therefore cannot give informed consent.

2. PROCESS OF OBTAINING INFORMED CONSENT

After using the guidelines set out in Section 1 to determine whether informed consent is appropriate in a given case, SMF staff must then adhere strictly to the following steps defined in this section to obtain consent within ethical standards of practice.

2.1 Ensure that there is no element of coercion in the process of obtaining informed consent for participation in public speaking activities or Recordings. Be mindful of how your status as a member of Staff from an organization that provides services to the Beneficiary may create a sense of obligation to comply, particularly in socioeconomic contexts where the Beneficiary or Survivor might not be aware of their rights/is unaccustomed to being able to say 'no'. SMF staff needs to be particularly mindful of this with regard to any requests for Beneficiary participation in organizational fundraising and promotions. The best interests of the Beneficiary must always be prioritized.

2.1.1. To ensure that there is no financial coercion present and for the sake of journalistic integrity, no compensation can be given to Beneficiaries or Survivors for media interviews. If Beneficiaries or Survivors consent to engaging as speakers at events where there are other paid speakers, fair compensation is appropriate and the Beneficiary or Survivor must be informed of the benefits they are entitled to.

- 2.2** The Beneficiary or Survivor needs to have the following elements clearly explained to them in Khmer (or translated into their first language if they cannot speak Khmer) in advance of the Recording/ event taking place:
- **Who** is making the Recording
 - **How** their image or personal information will be used and in **what context**
 - **Where** it will be published
 - In the case of public speaking, **who** they will be addressing and the broader **context** of the event, and the fact that it may be impossible for public photography or Recordings to be controlled
 - That in giving consent, the Beneficiary or Survivor will be publicly revealing that they have experienced trafficking or sexual exploitation, and the potential associated **risks**, including:
 - That Recordings may enable family, friends and neighbors to become aware of the Beneficiary or Survivor's history of trafficking or sexual abuse
 - That it will potentially be difficult or impossible to dissociate themselves from the label of 'Victim' or 'Survivor' in the future once they have publicly identified themselves as such. This should also be considered in relation to secondary implications for present or future partners and children
 - That past traffickers, controllers, or estranged family members may become aware of the Survivor's whereabouts
 - That choosing to tell their story of exploitation publicly is likely to be an emotionally taxing experience
 - Whether and how they can **revoke consent** at a later date if they wish. If it will not be possible to revoke consent later, this must be clearly explained
 - That images and Recordings published on the **Internet** can be accessed, shared and copied by anyone, at any time. SMF cannot control the Recording's reach and usage by others once published on the Internet
 - That they have the right to **ask questions** at any point
 - That they have the right to **skip any question** put to them during the interview or Recording that they do not wish to answer, and that they can change their mind regarding participation at any point

2.3 If it is the first time that an individual has given informed consent, SMF staff must allow a one day period between communicating the above risks, and the Beneficiary or Survivor deciding whether to consent.

2.4 A Media Release & Informed Consent Form needs to be filled out (with help from SMF staff and the Approved Media Representative if relevant) and signed/finger printed by the Survivor. This form is available in Khmer and English.

2.5 Where possible, a second witness should be present during the above explanation and signature.

3. ACCURATE REPRESENTATION OF IDENTIFIED SURVIVORS & BENEFICIARIES

3.1 In any case where a Survivor or Beneficiary identifies themselves publicly by (or facilitated by) SMF, SMF will ask them how they would like to be referred to, and will do all in their power to ensure language used in the published piece is in accordance with the Beneficiary or Survivor's wishes. This

includes sensitivities around the use of the words 'victim', 'survivor', and 'prostitute', in addition to whether or not the individual identifies themselves as a victim of human trafficking and/or sexual exploitation. Rape and sexual assault cases which do not include the element of human trafficking or cases of consensual sex work should all be clearly identified as such, for the purpose of upholding the dignity of the Survivor and not misleading the audience. Any prevention cases must be accurately identified as such.

- 3.2** Any images or Recordings published in SMF External Use communications that contain individuals who are not victims of trafficking or sexual exploitation, but who could reasonably be assumed to be, must include a disclaimer to indicate that they are not a victim.