



United Nations Development Programme

## **HR USER GUIDE**

### **Chapter I Duties and Responsibilities**

#### **Section Workplace Harassment, Sexual Harassment & Abuse of Authority**

Office of Human Resources  
Bureau of Management

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## I. Definitions

### Introduction

1. UNDP does not tolerate harassment in any form. Such behaviour or conduct is contrary to the Charter of the United Nations, the Staff Rules and to the Standards of Conduct for the International Civil Service. Staff Rule 101.2 (d) provides that "**any form of discrimination or harassment, including sexual or gender harassment, as well as physical or verbal abuse at the workplace or in connection with work, is prohibited.**" Staff members and non-staff personnel exhibiting such behaviour or conduct may be subject to appropriate administrative, disciplinary or contractual measures as appropriate.

### Workplace Harassment

2. Harassment is any improper and unwelcome conduct that has or that might reasonably be expected or be perceived to cause offence or humiliation to another.
3. Harassment may be present in the form of words, gestures, or other actions that annoy, alarm, abuse, demean, intimidate, belittle, or cause personal humiliation or embarrassment to another, or cause an intimidating, hostile or offensive work environment. It includes harassment based on any grounds, such as race, religion, color, creed, ethnic origin, physical attributes, gender or sexual orientation. Harassment may be deliberate, unsolicited, and coercive. It will often consist of a series of incidents, but in exceptional cases it may be brought about by a single incident, only.
4. The mere expression of disagreement, admonishment, criticism or similar action regarding work performance, conduct or related issues within a supervisory relationship shall not normally be considered harassment within the meaning of this policy. Such work-related disagreement is dealt with under the provisions of the [Performance Management Policy](#).

### Sexual Harassment

5. Sexual Harassment is understood as any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature (including pornography, sexually-colored remarks) that has or that might reasonably be expected or be perceived to cause offense or humiliation to another.
6. Sexual harassment may occur when it interferes with work, is made a condition of employment or when it creates an intimidating, hostile or offensive environment. Sexual harassment normally implies a series of incidents. However, a one-time incident could fall within the definition of sexual harassment if it has an unambiguously offensive sexual character. Both male and female staff members can be either the injured party or the offender.

### Abuse of Authority

7. The abuse of authority is the improper use of a position of influence, power or authority by a staff member or non-staff personnel against another staff member or non-staff personnel or a group thereof. This is particularly serious when the person in question uses his or her influence, power or authority to arbitrarily influence the career or employment conditions (including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion) of another staff member or non-staff personnel.
8. Abuse of authority can include a one-time incident or a series of incidents. It may also consist of conduct that creates a hostile or offensive work environment, which includes, but is not limited to, the use of intimidation, threats, blackmail or coercion.

### Retaliation

9. Retaliation by a staff member against a staff member or non-staff personnel because he/she made a good faith report of workplace harassment, sexual harassment or abuse of authority or cooperated in good faith with a preliminary assessment or formal investigation into an allegation of workplace harassment, sexual harassment or abuse of authority, is prohibited. Allegations of retaliation are dealt with in accordance with the UNDP [Legal Framework for Addressing Non-Compliance with the UN Standards of Conduct](#). That policy provides, *inter alia*, that retaliation constitutes misconduct for which disciplinary measures, including summary dismissal, may be imposed.

### Staff Members

10. Any person who holds a UNDP Letter of Appointment of a 100-, 200-, or 300-Series of the United Nations Staff Regulations and Rules.

### Non-Staff Personnel

11. Any person who is engaged by UNDP under a Special Service Agreement (SSA), Service Contract (SC), Reimbursable Loan Agreement (RLA) or through an employment agency or internship, or who is an UN Volunteer (UNV) or employed by a UN specialized agency, fund, or programme under the applicable staff rules and regulations of that agency, fund or programme.

### Third Party

12. A UNDP staff member who assists an injured person or an alleged offender in an informal process. In Country Offices, a third party may also be a staff member of an agency, fund, programme or subsidiary organ represented in the UN Country Team.

### Other Definitions

13. For the purpose of the present policy:

- **OAI** is the Office of Audit and Investigations, formerly referred to as OAPR (Office of Audit and Performance Review).
- **LSO** is the Legal Support Office, formerly referred to as the Office of Legal and Procurement Support (OLPS).
- **BOM** is the Bureau of Management.
- **OHR** is the Office of Human Resources.
- **Office of the Ombudsman** is the Office of the Ombudsperson for the Funds and Programmes, formerly referred to as the Office of Joint Ombudsperson.

## II. Prevention

### Responsibilities of Staff members and Non-Staff Personnel

14. Staff members and non-staff personnel must:

- a) Be respectful to their colleagues and maintain the highest standards of conduct;
- b) Maintain a harmonious working environment for other staff members and non-staff personnel by behaving in a manner that is free of intimidation, hostility, offence and any form of workplace harassment, sexual harassment, or abuse of authority;
- c) Familiarize themselves with UNDP's policies, including an understanding of conduct that constitutes workplace harassment, sexual harassment, or abuse of authority, and of the protection against retaliation; in particular. In addition, staff members must take the compulsory on-line [Training and Certification Programme on the Prevention of Harassment and Abuse of Authority](#) and the Training Course on Ethics available in UNDP's Learning Management System.
- d) Be aware of the various options and internal channels available to them for addressing such behaviours; and
- e) Respect confidentiality and cooperate with the investigation (for staff members, see Staff Regulation 1.2 (r)).

### Responsibilities of Managers and Supervisors

15. Managers and Supervisors must:

- a) Create a harmonious working environment, free of intimidation, hostility, offence and any form of harassment, sexual harassment and abuse of authority. In order to achieve such an environment, managers and supervisors must act as role models by upholding only the highest standards of conduct;
- b) Communicate the policy on workplace harassment, sexual harassment and abuse of authority to all staff members, ensure that staff take the compulsory on-line Training and Certification Programme on the Prevention of Harassment and Abuse of Authority and the Training Course on Ethics, and act as a resource for staff members and non-staff personnel;
- c) Ensure that staff and non-staff personnel do not engage in workplace harassment, sexual harassment, or abuse of authority. Special attention needs to be given to staff members supervising others.
- d) Take measures consistent with the present policy should they witness any acts of workplace harassment, sexual harassment, or abuse of authority;

- e) Ensure that incidents of workplace harassment, sexual harassment or abuse of authority are promptly addressed. In such cases, managers and supervisors must demonstrate fairness, impartiality, and be free from intimidation or favoritism;
  - f) Ensure that all discussion, communications and actions are handled with extreme sensitivity and utmost confidentiality; and
  - g) Ensure that no staff is retaliated against.
16. The failure of a manager or supervisor to address any known act of workplace harassment, sexual harassment, or abuse of authority may result in the imposition of appropriate administrative or disciplinary measures.
17. The HR BAS Advisor or OHR's Focal Point on Workplace Harassment are available to provide support to managers dealing with issues of Workplace Harassment, Sexual Harassment, or Abuse of Authority.

### **Responsibilities of UNDP**

18. In implementing the present policy, UNDP shall act consistently and take the appropriate administrative, investigative, disciplinary and/or contractual action required, regardless of the function, title, length of service and contractual status of all parties involved in the case including staff member and non-staff personnel.
19. An on-line Training and Certification Programme on the Prevention of Harassment and Abuse of Authority and a on-line Training Course on Ethics are available in the Learning Management System and must be taken by all staff members.
20. UNDP has appointed the HR Specialist on Staff Well-Being in OHR/BOM as the focal point for any question on the present policy.
21. OAI is responsible for conducting preliminary assessments and formal investigations of complaints of workplace harassment, sexual harassment and abuse of authority. Those complaints may be sent to OAI, in particular through the following email address: [hotline@undp.org](mailto:hotline@undp.org). Complaints of retaliation may be sent to the UNDP Ethics Office through the following email address: [ethicsoffice@undp.org](mailto:ethicsoffice@undp.org).

### III. Dispute Resolution Process

22. Staff members and non-staff personnel have several dispute resolution processes available to them depending on their contractual status and prior to filing a complaint, are encouraged to speak with a HR person, a Manager, the Office of the Ombudsman, or the OHR Focal Point about the situation, who may advise them on the support and/or redress options available to them.
23. Within the applicable timeframe, staff members and non-staff personnel may choose to deal with any complaint or grievance through either an informal or formal process, as detailed in Sections IV and V.
24. For a breakdown of the available processes for addressing cases of workplace harassment, sexual harassment, and abuse of authority, please refer to Annex A.
  - a) It is strongly advised that all parties maintain detailed written records (including hard copies of e-mails), of all incidents, dates, places, witnesses, and their feelings at the time of the alleged workplace harassment, sexual harassment, or abuse of authority. All parties should note that not all informal processes are successful and that an investigation may occur in the future, and as such written records would prove useful should any more formal approaches occur.
  - b) If a staff member, or former staff member, has been notified of a decision (which may be administrative or disciplinary in nature) and he/she believes that the decision derives from workplace harassment, sexual harassment or abuse of authority, he/she can seek the administrative review of that decision in accordance with the appeals procedures available to UNDP staff members under the Staff Regulations and Rules<sup>1</sup>.
25. The timeframes for the different dispute resolution processes are included in Table 1 below:

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<sup>1</sup> Pursuant to Staff Rule 111.2 (a), a staff member can request the Administrator to review the challenged decision within two months from the notification of that decision. The administration has sixty days to review the case and notify the staff member of his decision (thirty days if the staff member is stationed in New York). If the staff member wishes to pursue his/her appeal, he/she may lodge an appeal with the Joint Appeals Board (JAB) within one month of receipt of the response to his/her request for review, pursuant to Staff Rule 111.2 (a)(i). The JAB makes recommendations to the Secretary-General of the United Nations, who takes a final decision. That decision may then be challenged before the Administrative Tribunal of the United Nations (UNAT) within ninety days of receipt of the Secretary-General's decision. The UNAT renders final and binding judgements. Staff members may request the assistance of the Panel of Counsel (Room S-B101, United Nations, New York, NY 10017, telephone number (212) 963-3954, or by fax on (212) 963-0252). **In 2009, a new administration of justice system will be put in place. Please refer to the new staff rules governing the appeals procedure.**

<b>Table 1: Time Frame for Dispute Resolution Processes</b>	
<b>Process</b>	<b>Time Frame</b>
Informal Process	Staff may wish to consult the Office of the Ombudsman to examine options for informal solutions or mediation after the incident of alleged workplace harassment, sexual harassment, or abuse of authority. The Office of the Ombudsman may offer informal advice to staff who do not wish to proceed immediately to a formal process. Should staff wish to pursue the informal mechanism they are encouraged to do so as soon as possible after an incident has taken place.
Formal Process	Written complaint must be filed within 6 months from the date of the last incident of workplace harassment, sexual harassment, or abuse of authority. In exceptional circumstances the time limits may be extended by the Director, OAI.
Request for Review	Only for staff members: A request for review of an administrative decision must be filed within two months of notification of the challenged decision in accordance with <b>Staff Rule 111.2 (a)</b> <sup>2</sup> .

2 In 2009, a new administration of justice system will be put in place. Please refer to the new staff rules governing the appeals procedure.

## IV. The Informal Process

### Informal Options

26. An informal complaint process can provide staff members and non-staff personnel with the opportunity to resolve any complaints or grievances in an open, honest, non-threatening, and non-contentious manner. The informal options available to staff members include:
- a) Approaching the Alleged Offender;
  - b) Involvement of a Third Party; *or*
  - c) Consulting the Office of the Ombudsman.

### Approaching the Alleged Offender

27. A staff member or non-staff personnel may not understand that he/she is being offensive and, if asked, may stop or alter his/her behaviour. Staff members and non-staff personnel who feel that they are being subject to workplace harassment, sexual harassment, or abuse of authority are encouraged, where necessary, to inform the alleged offender that his/her conduct is unwelcome and request that such conduct cease.

### Involvement of a Third Party

28. Either the injured person or the alleged offender may suggest that a Third Party mediate the issue. Both the alleged offender and party must agree to the Third Party before attempts at mediation commence. It is vital that the Third Party ensures that confidentiality is respected at all times. The Third Party should be fully knowledgeable about the present policy. The Third Party should always act in the best interests of the injured person/offender yet refrain from defaming the character of the injured person/offender. The Third Party should be aware that sometimes the best form of assistance is a referral to a more appropriate source within UNDP. When they are uncertain about what appropriate actions to take, the Third Party should inform, with the consent of the injured person, the focal point in OHR.

### Consulting the Office of the Ombudsman

29. The Office of the Ombudsman plays an important role when it comes to workplace related problems. Staff members and non-staff personnel may consult the Office if they feel harassed and/or have witnessed an incident of harassment. The Office of the Ombudsman will help to examine the various options in the dispute resolution process, provide support within the informal process and inform on the procedures foreseen in the formal grievance process.

30. It is essential to remember that all discussions with the Ombudsman are confidential and that confidentiality must also be maintained on the part of those seeking assistance from the Ombudsman. The Ombudsman will never reveal the source of information nor will any action be taken without the expressed permission of the aggrieved person.
31. In cases where the Ombudsman deems that direct intervention is necessary or where mediation may be in order, arrangements are made by that Office to visit to a country office or to a bureau in headquarters. Every effort is made to ensure that the services of the Ombudsman are readily accessible to all staff regardless of geographical location

### **Moving from an Informal Process to a Formal Process**

32. If the injured person is not satisfied with the results, he/she may submit a written complaint to begin the formal grievance process.

## V. Formal Process

### Filing a Complaint

33. Any staff member or non-staff personnel may file a complaint, regardless of the nature, length and type of contract they hold with UNDP. The complaint should be submitted to the OAI at [hotline@undp.org](mailto:hotline@undp.org).
34. **Content of the complaint.** The complaint shall state:
- a) The name of the alleged offender;
  - b) The date(s) and location of the alleged incident(s) of workplace harassment, sexual harassment, or abuse of authority; and
  - c) The names of witnesses and any physical and/or documentary proof, which corroborate the allegation (e.g. e-mails, message recordings, photos, letters, medical exams).
35. All complaints must be signed and dated. No anonymous complaints of harassment/sexual harassment shall be accepted. The complaint must be as detailed and documented as possible. The complainant must be aware that for due process, his/her complaint and/or information from the complaint will be shared with the alleged offender to allow the latter to provide countervailing arguments and evidence.
36. **Effect of the complaint.** The filing of a complaint does not have the effect of suspending the regular administrative measures, such as extension or expiration of a contract, reassignment, challenged by the complainant.
37. If no attempt to reach informal resolution or to file a formal report of harassment incidents has been made, filing a complaint only upon notification of an administrative decision that the complainant wants to challenge may cast doubt about the credibility of the allegations of harassment. The report of allegations should therefore be made as soon as the complainant considers that harassment or abuse of authority took place after determining that informal processes are not appropriate or informal processes have failed.
38. **Protection of the complainant.** The complainant will be protected against any retaliation during the whole process and after the case is closed<sup>3</sup>. It is the responsibility of the managers to ensure that the complainant does not suffer from any retaliation.
39. **Responsibility of the Complainant:** The complaint must be made in **good faith**, which means the complaining person must believe that the way she/he perceived the alleged harassment, abuse of authority reflects reality. The dissemination of rumors in which there is no reasonable basis of belief or the submission of an allegation or report of allegations of wrongdoing that is intentionally false or misleading is not a protected

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<sup>3</sup> See Chapter II of the UNDP Legal Framework for Addressing Non-Compliance with the UN Standards of Conduct. Complaints of retaliation are to be addressed to the UNDP Ethics Office. Protection against retaliation does not apply in the case of accusations made in bad faith.

activity under this policy. Intentionally making a false report, verbally or in writing, constitutes misconduct for which, depending on the contractual status, disciplinary measures, including summary dismissal, or other appropriate measures may be imposed.

40. The complainant must be prepared to cooperate with the investigation and during the disciplinary proceedings if any. If the complainant resigns in the course of the investigation or of the disciplinary proceedings, the Director, OAI (during investigation), or the Director, BOM (during disciplinary proceedings), will determine whether or not such a resignation brings the case to an end. If it appears that the allegations have been made in bad faith, UNDP will leave a note in the Official Status File of the complainant, disclosing that he/she resigned while his/her allegations are at the investigative or disciplinary stage and appear to have been made in bad faith. The complainant will be advised by OAI accordingly.

### **OAI action**

41. Upon receipt of a formal complaint, the Director, OAI will complete a review and decide if the matter warrants a preliminary assessment. If the Director, OAI decides not to pursue a preliminary assessment, the matter will be closed and, if appropriate, OAI will advise the complainant and the Director of the respective Bureau accordingly, so that other action as appropriate may be pursued.

### **Preliminary Assessment**

42. During a preliminary assessment, OAI shall interview the complainant (in person or by phone) in order to:
  - a) Clarify the allegation(s);
  - b) Ensure that the complaint bears of harassment related events;
  - c) Make sure that all available evidence is submitted, and
  - d) Consider the possibility of informal resolution.
43. During the preliminary assessment, the alleged offender to whom a copy of the complaint or information from the complaint will be sent, shall be given 10 working days to respond to the allegations and provide countervailing evidence.
44. On the basis of the results of the preliminary assessment, the Director, OAI, will evaluate whether there is prima facie evidence of harassment, sexual harassment or abuse of authority. If required, Director, OAI, will extend the enquiries in order to ensure that all relevant evidence is obtained.
45. Should the facts as a result of the preliminary assessment indicate that no harassment or abuse of authority has occurred, the Director, OAI, will recommend that the case be closed. If appropriate OAI will advise the complainant and the Director of the respective Bureau accordingly, so that other action as appropriate may be pursued.
46. If the Director, OAI, finds that there are reasons to believe that the complaint is founded, he/she will launch a formal investigation. The relevant parties will be notified accordingly. This notification will indicate the nature of the allegations, the steps that will be followed to have the complaint investigated.

### Interim measures

47. When necessary, the Director, OAI, will suggest to the respective Bureau that interim measures be taken to physically or hierarchically separate the alleged offender and the complainant on a temporary basis. Taking into account the contractual status of the parties, this may include, but is not limited to, the identification of alternative duties or the consideration of special leave for either the alleged offender or the complainant.
48. With only limited exceptions, management is not allowed to put a staff member on (temporary) suspension. If management considers the need of a (temporary) suspension, they have to suggest this measure to the Director, LSO that will treat the request according to UNDP [Legal Framework for Addressing Non-Compliance with the UN Standards of Conduct](#).

### Formal Investigation

49. The formal investigation should begin as soon as possible, but not later than **one month** after the completion of the preliminary assessment.
50. OAI will conduct the investigation in accordance with the Investigation Guidelines.
51. When the investigation is completed and OAI consider the allegation(s) is (are) substantiated, a written confidential report will be submitted by the Director, OAI, to the Director, LSO, with a copy to the Director, OHR. If OAI considers that the allegation(s) is (are) not substantiated, it will prepare an internal closure memorandum noting its decision and which will be forwarded to LSO for their review. If appropriate, OAI may also advise the complainant and the Director of the respective Bureau of its decision, so that other action as appropriate may be pursued.

### Procedures following the formal investigation

52. If the alleged offender is a staff member, the Director, LSO will recommend one of the following actions:
  - a) Should the findings contained in the investigation report indicate that no misconduct occurred, the staff member will be notified by the Director, BOM, that he/she is exonerated from misconduct and that the case is closed;
  - b) Should the facts reported in the investigation indicate that no misconduct took place but raise performance/behaviour issues other measures than disciplinary sanctions, such as a reprimand by a supervisor may be taken; or
  - c) Should the findings in the investigation report indicate that misconduct occurred, disciplinary action will be initiated pursuant to the [UNDP Legal Framework for Addressing Non-Compliance with the UN Standards of Conduct](#).

53. If the alleged offender is not a staff member, the Director, LSO, will recommend appropriate action in accordance with the terms of the contract or agreement governing the relationship between the person in question and UNDP.
54. The complainant will be informed of the findings of the investigation by
- a) LSO, when OAI has submitted an investigation report to LSO,
  - b) OAI if the matter is closed,
  - c) Office of the Ethics Advisor in matters regarding retaliation.

## Special circumstances

55. **Resignation of the alleged offender:** It may happen during the investigation process that the alleged offender resigns from UNDP. The Organization cannot force an individual to remain employed with UNDP if he or she wishes to resign<sup>4</sup>. However, in such an event, UNDP will leave a note in the Official Status File of the individual in question, disclosing that he/she resigned while under investigation for allegations of workplace harassment, sexual harassment or abuse of authority. Such an individual will be banned to work with UNDP under any contractual modalities until he/she is fully cleared from the allegations of misconduct raised against him or her. OAI, in consultation with LSO, will determine whether or not the investigation will be pursued despite the resignation of the alleged offender. The complainant will be advised by OAI accordingly.
56. **Investigation without formal complaint:** While, generally, a complaint of harassment, sexual harassment or abuse of authority is receivable only on the basis of a written and signed statement of complaint, the Director, OAI, reserves the right to initiate an investigation into allegations of harassment, sexual harassment or abuse of authority at his/her own initiative, including without reference to a written and signed complaint.
57. **Non-UNDP complainant or alleged offender:** In the event that the complainant belongs to another UN agency, fund, programme or subsidiary organ but files a complaint against a UNDP staff member or non-staff personnel, the present policy will apply. Consultations will be held between UNDP and the other organization concerned about the handling of the case. On the other hand, if the complainant is a UNDP staff member or non-staff personnel but files a complaint against an employee of another UN agency, fund, programme or subsidiary organ, the present policy will not apply to the alleged offender. However, UNDP will use best efforts to ensure that the interests of its staff are protected by the other Organization.
58. **Non-UNDP staff administered by UNDP:** In the event that the complainant or the alleged offender is administered by UNDP on behalf of another UN agency, fund, programme or subsidiary organ, UNDP will verify with that Organization whether the present policy applies or whether the policy from that Organization applies.
59. **Referral to Local Authorities:** At any juncture in either the informal or formal process, should it become apparent that the alleged act of workplace harassment, sexual harassment, or abuse of authority constitute a serious breach of local laws, the respective management should be informed. Thereafter, management may, after consultation with the Director, LSO, and in accordance with established procedures, refer the alleged offender to the appropriate local authorities.

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4 The validity of a resignation is not conditional upon acceptance by the Administration (see UNAT Judgment No. 874, Abbas)

## Annex A

### Procedural Flowchart for Addressing Cases of Workplace Harassment, Sexual Harassment, and Abuse of Authority

