

**United Nations Development Programme
Office of Audit and Investigations**



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Investigation Guidelines: Social and Environmental Compliance Unit

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1. Purpose

1. The Guidelines explain the process SECU will utilise in investigating alleged violations of UNDP's social and environmental commitments. The purpose of the Investigation Guidelines (Guidelines) for the Social and Environmental Compliance Unit (SECU) is to:
 - Inform UNDP's staff, UNDP-supported organisations, and those affected by UNDP-supported projects about the procedural process of SECU;
 - Provide guidance for SECU in order to ensure that investigations of alleged breaches of UNDP social and environmental policy are conducted thoroughly, objectively, and effectively.
2. Complaints related to UNDP-supported projects or programmes approved after 31 December 2014 and meeting eligibility criteria (described in para. 8) will be investigated through a Compliance Review Investigation process.
3. Complaints related to projects approved prior to 31 December 2014 will, similarly, be investigated through a Compliance Review Investigation process if UNDP has committed to providing a compliance review process for social and environmental commitments made by UNDP in the context of the specific funding programme or project, and these complaints meet eligibility criteria described in para. 8.
4. For other projects approved prior to 31 December 2014, two possibilities for remedies exist: (1) SECU can determine if the criteria for a Compliance Advice Note are met and, if so, inform requestors that this option is available and that the Note would provide advice that may assist UNDP Management in improving policy compliance in the project; and (2) the Stakeholder Response Mechanism (SRM) may assist the Complainant. If both options are available, the Complainant can choose which option(s) to pursue, or both.
5. In order to foster consistency, Compliance Review Investigation and Compliance Advice Note processes are conducted in accordance with these Guidelines to the extent possible; however, the circumstances of a particular compliance process may require a deviation from guidelines in the interest of a fair process to the complainants. In addition, best practices through practical experience may inform an evolution of specific procedures.
6. If the Compliance Review Investigation process outlined in the Guidelines results in findings of non-compliance, SECU will (1) make recommendations to bring the project into compliance and (2) make recommendations, where appropriate, to mitigate any harm that results from the breach of UNDP's social and environmental commitments. SECU will refer the claim to the Administrator for further action, pursuant to Section 10 of the Guidelines.
7. The SECU is not akin to a court of law nor does any finding or outcome change any underlying legal responsibility, immunity or liability of the UNDP. Nothing in the accountability process will be construed as a waiver, express or implied, of the privileges and immunities of UNDP. The UNDP's SBAA template, which forms the legal context and is integrated into every project document, provides for recognition of UNDP privileges and immunities by the Government and indemnification by the Government. The Government "bears all risks of operations arising under this Agreement".

1.1. Policy Basis

8. The Compliance Review Investigation process for projects or programmes approved after 31 December 2014 is intended to investigate alleged or potential violations of UNDP's Social and Environmental Standards (SES), the Social and Environmental Screening Procedure (SESP), and

social and environmental commitments made by UNDP in the context of a specific funding programme or project.

9. The Compliance Review Investigation process for pre-2015 projects or programmes for which UNDP has committed to provide compliance review, will apply commitments reflected in the project or programme document, and, for FCPF-related projects, the Common Approach to Environmental and Social Safeguards for Multiple Delivery Partners.
10. The Compliance Advice Note process for pre-2015 projects that meet criteria for such a note will apply commitments in existence when the project was approved.
11. The following complaints will be excluded from SECU's compliance processes:
 - 1) Any complaint that is filed fraudulently or for malicious purposes. Note that the SECU may continue on its own initiative to investigate a complaint that was filed with malicious intent but otherwise merits an investigation;
 - 2) Complaints that raise issues of fraud, corruption or procedural abnormalities in the procurement process will not be processed by the Unit, but will be forwarded to the appropriate units of the OAI;
 - 3) Complaints that neither implicitly nor explicitly raise issues of potential non-compliance with UNDP's social and environmental commitments in a specific project or programme;
 - 4) Complaints relating to projects or programmes that are not supported by UNDP or for which UNDP's support has ended and its role can no longer reasonably be considered a cause of the concerns raised in the claim. Note, however, that when UNDP's support has ended, but impacts can fairly and reasonably be traced to UNDP's involvement, the SECU will accept complaints that are likely to provide institutional learning, prevent future mistakes and abuses, or support resolution of concerns of communities;
 - 5) Complaints by a complainant who has already raised the same issue with respect to the same project or programme with SECU, unless significant new information is available or there has been a significant change in circumstances;
 - 6) Anonymous complaints.
12. The compliance processes are systematic, documented processes of objectively obtaining and evaluating evidence to determine whether UNDP-supported activities are in conformance with UNDP's social and environmental commitments. They must be consistent with the Charter of the Office of Audit and Investigations.¹
13. SECU investigations are administrative fact-finding processes. In assessing facts relevant to social and environmental compliance issues, SECU uses the "preponderance of evidence" standard, which is an assessment of whether a fact is more likely to be true than not true, based on information available to and assessed by SECU.

2. SECU's Mission and the Nature of its Investigations

14. SECU provides UNDP, and those affected by UNDP projects, with an effective system of independently and objectively investigating alleged violations of UNDP's social and environmental commitments. SECU seeks to protect locally-affected communities and, in particular, disadvantaged and vulnerable groups, and to ensure participation of local stakeholders.
15. SECU seeks to ensure, through ongoing dialogue, that external stakeholders are aware of and know how to access SECU. SECU seeks, also, to help increase awareness at UNDP of issues that have the

¹ Charter of the Office of Audit and Investigations (December 2012).

potential to cause non-compliance with UNDP policies and procedures.

3. Responsibilities

16. SECU will engage in the following activities in order to promote compliance with social and environmental commitments:

- Receive Complaints and determine eligibility of requests for compliance processes;
- Ensure that information is provided to Complainants about their choice to use SECU or the Stakeholder Response Mechanism (SRM), when both processes are available to the Complainant;
- When Complaints are eligible and the compliance process has been chosen, conduct thorough and objective reviews of policy compliance, including in-country inspections, interviews of people reportedly affected by UNDP-supported projects, and comprehensive information gathering to provide for a factual determination of the issues raised;
- Publicly issue draft reports with findings on policy compliance and accept public comment on its findings;
- Receive comments from those who have alleged non-compliance, UNDP staff, non-governmental organisations, private investors, and governments affiliated with UNDP-supported projects;
- For Compliance Review Investigations, prepare and submit reports to the UNDP Administrator with findings and recommendations to promote UNDP compliance with its social and environmental commitments;
- For Compliance Advice Notes, prepare reports with advice to promote UNDP compliance with its social and environmental commitments;
- For Compliance Review Investigations, monitor implementation of the UNDP Administrator's decisions on compliance, and make monitoring plans and reports available to the Complainant and the public;
- Report at least annually to the UNDP Administrator on the functions, operations and results of the compliance processes and make these reports available to the public and other stakeholders;
- Issue to the Administrator reports that provide systemic advice based on lessons learned from past cases; and
- Explain the SECU process to potentially affected persons, through various means and collaborations, including through project-level grievance mechanisms and in collaboration with the Stakeholder Response Mechanism.

17. These activities are described in greater detail in Paragraphs 7 through 11, below.

4. Transparency

18. The principle of transparency requires public comment and participation in the operations of SECU. To this end, SECU publishes the Guidelines on its website and makes them readily available to those requesting them. In addition, SECU makes public its terms of reference, factual findings, draft reports, and final reports. SECU also publicises the social and environmental compliance mechanism to the general public, particularly in areas where UNDP projects are implemented.

19. Public disclosure of the facts of each investigation is integral to ensuring the transparency and effectiveness of SECU. As such, SECU will post on its website all conclusions and factual findings of a compliance process.

20. In furtherance of disclosure SECU administers a website that contains information about the following:

- Compliance process procedures;
- Links to the Stakeholder Response Mechanism;
- Instructions about how to file a Complaint and or a grievance with the Stakeholder Response Mechanism;
- A link to an external page to file a Complaint;
- A registry of Complaints, including information about the Complaint and its status;
- Terms of reference and investigation reports pertaining to each Complaint;
- Other information as reflected in the SECU Disclosure Policy;
- Annual reports describing SECU's activities.

5. Independence

21. SECU functions within the Office of Audit and Investigation (OAI), which is independent from all UNDP bureaux and directorates. Independence is further reinforced in a number of structural ways:

- OAI reports to the Administrator and functions independently from UNDP projects and programmes;
- The OAI Director is limited to one five-year term with the possibility of extension for one more term;
- SECU's staff and consultants are hired by OAI;
- The Lead Compliance Officer may not have worked for the UNDP within three years of being appointed to this position and cannot work for the UNDP after his or her service is complete.

6. Investigation Standards

22. The general principles set out in the *Uniform Principles and Guidelines for Investigations*, as endorsed by the 10th Conference of International Investigators, apply to all compliance investigations². These principles include the following:

- The investigation office will maintain objectivity, impartiality and fairness throughout the investigative process and conduct its activities competently and with the highest levels of integrity;
- SECU will perform its duties independently from those responsible for, or involved in, operational activities and from staff members liable to be related to an investigation;
- SECU investigations will be free from improper influence and fear of retaliation;
- SECU staff and consultants will disclose to a supervisor in a timely fashion any actual or potential conflicts of interest;
- Appropriate procedures will be put in place to investigate allegations of misconduct on the part of any staff member of SECU;
- SECU will take reasonable measures to protect as confidential any non-public information associated with an investigation (see Public Disclosure SOP);
- Investigative findings will be based on facts and related analysis, which may include reasonable inferences;
- SECU expert consultants and investigators will make recommendations to the Lead Compliance Officer and Compliance Officer derived from their investigative findings;
- All investigations conducted by SECU are administrative in nature.

7. Complaints

² Uniform Principles and Guidelines for Investigations, 10th Conference of International Investigators (2009).

23. Any person, group, or representative of a person or group, who is or could be affected by a UNDP-supported project, is permitted to file a Complaint. Complaints are received by mail, email, telephone, and SECU's dedicated online submission form. Anonymous Complaints are not accepted. However, the Complainant's name will be kept confidential if he or she so requests. Note that after the initial Complaint is filed, Complainants may amend complaints, providing additional information or evidence or alleging new violations. If new policy violations are alleged after the process has started, the process may need to be restarted.
24. Investigations may also be triggered on SECU's own initiative by the Lead Compliance Officer, or at the request of the UNDP Administrator. When this occurs, disclosure of documents will occur in a manner similar to disclosure pursuant to complaint processes triggered by community complaints. UNDP takes all reports of alleged breaches of social and environmental commitments seriously, and all allegations are assessed to determine whether an investigation is appropriate.
25. The channels for reporting a matter to SECU are as follows:
 - By email (directly to SECU): secuhotline@undp.org
 - Through an online form accessible on the SECU's website www.undp.org/secu:
 - Through UNDP's hotline telephone answering system (toll-free):
 - Worldwide: 001 (646) 781-4299
 - In the United States: +1 (646) 781-4299
 - By mail addressed to: Social and Environmental Compliance Unit, 1 UN Plaza, 4th Floor, New York, NY 10017, USA
 - By text message through a variety of applications including SMS, WhatsApp, Viber, and WeChat to +1 (917) 207-4285
26. Complaints should be as specific as possible, describing current or potential adverse impacts that have a plausible causal link to a UNDP-supported activity and, if possible, the UNDP social and environmental standards/commitments that are believed to have been violated.

8. The Complaint Processes – Eligibility and Terms of Reference

27. Complaints not automatically excluded (see Section 1.1 Policy basis, above) will be registered on the case registry by SECU within five days of receipt by SECU. If a complaint has been sent to the wrong office, it will be redirected, rather than registered. Concurrent with registration, SECU will acknowledge receipt of the Complaint to the Complainant. If SECU can immediately determine that the Complaint is ineligible, it will notify the Complainant in writing. The registration of the Complaint will be accessible to the public through SECU's web site. SECU will also inform the Stakeholder Response Mechanism and provide it with a copy of the Complaint. When a Complainant requests that his or her name be kept confidential, the name and identifying details shall be redacted from the documents uploaded onto SECU's website and from documents provided to the Stakeholder Response Mechanism.
28. If a complaint is registrable under either the SECU or SRM processes but it is unclear which path(s) the Complainant wishes to pursue, prior to registering the case, the SECU and SRM have an additional 5 business days to jointly communicate with the complainant(s) to clarify whether they wish to pursue a Compliance Review Investigation/Compliance Advice Process, a Stakeholder Response, or both.

8.1. Determining Eligibility of a Complaint

29. Within twenty business days from registration of a Complaint, SECU shall reach a conclusion about eligibility of the Complaint, secure approval of the Director of OAI, and inform the Complainant of

the decision. The OAI will interpret eligibility broadly to ensure the mechanism is accessible to all stakeholders potentially affected by UNDP-supported projects while also ensuring that a plausible causal relationship exists between UNDP's involvement and the alleged harm. If the Complainant does not allege any specific non-compliance, SECU will evaluate the Complaint itself to determine if the Complaint raises issues of potential non-compliance with UNDP's social and environmental commitments. During the eligibility phase, SECU may consult the Complainant, UNDP staff, and project sponsors, as well as review any relevant documents. If a Complaint is determined to be ineligible, SECU will provide the Complainant and the public a clear and detailed explanation of the reasons for the determination. If the Complaint is found to be eligible, it will then move to the investigation stage (see Section 9).

8.2. Eligibility Assessment

30. In order to be eligible a complaint must:

- (1) Relate to a project or programme supported by UNDP;
- (2) Raise actual or potential issues relating to compliance with UNDP's social and environmental commitments; and
- (3) Reflect that, as a result of UNDP's noncompliance with its social and environmental commitments, complainants may be or have been harmed.

31. Additionally, for a Compliance Advice Note, the Lead Compliance Officer must determine that such a note could strengthen the effectiveness of the project or otherwise enhance UNDP's effectiveness.

32. The Lead Compliance Officer will reach a conclusion about the eligibility of the Complaint, and seek approval from the Director of OAI to either close the case or pursue a compliance process. The Lead Compliance Officer will either:

- Close the case because eligibility criteria are not met or the Complaint is of a type listed on the Exclusions List; or
- Prepare a plan for a compliance process, including terms of reference and timeframe, setting forth the steps to assess the factual basis of the allegation(s).

8.3. Consultation with the Stakeholder Response Mechanism and the Complainants

33. While determining the eligibility of the Complaint, SECU will consult with the Stakeholder Response Mechanism function based in UNDP Headquarters to obtain their assessments of the Complaint. If both processes are applicable, the Complainant will be informed that both are applicable, and be given the choice to proceed with a compliance process, stakeholder response, or both. Offices may together provide this information to the Complainant. If the Complaint is deemed ineligible for a compliance process, the Complaint may still be eligible for a mediation-type process and may be referred to the Stakeholder Response Mechanism.

8.4. Developing Terms of Reference for the Compliance Processes

34. Within twenty business days of determining that a Complaint is eligible, SECU will develop and publicly release a draft terms of reference and time frame for its investigation. UNDP staff, Complainants, and other interested parties will be given ten business days to comment on the investigation plan. Within ten days of receiving these comments, SECU will consider them and issue a final investigation plan. This can be amended at any time after allowing a similar opportunity for Complainants and the public to comment.

8.5. Protection against Retaliation or Retribution

35. In the event that individuals holding UNDP assignments/contracts (i.e., staff members, interns, UN Volunteers and contractors) fear retaliation as a result of cooperating in a duly authorized investigation, he or she may report the matter to the Director, Ethics Office at the following email address: ethicsoffice@undp.org. The UNDP Policy for Protection against Retaliation applies in these cases. In coordination with the Ethics Office, the Legal Support Office or other UNDP offices, SECU will advise on other measures available where the circumstances fall outside the scope of the Policy for Protection against Retaliation.

9. Preserving the Record

36. Upon determining a case is registrable, but prior to adding the case to the public Case Registry, SECU will preserve, as appropriate, the record of relevant websites, documents, news articles, and any other information that may be altered or removed after relevant stakeholders are made aware of a SECU investigation. Preservation may include downloading documents to SECU's servers, taking relevant screen shots, and gathering any other evidence SECU can reasonably gather without deviating from the Guideline's timeframes.

10. Investigation

37. Upon approval of the Terms of Reference, SECU will initiate the compliance process. The process will commence as soon as possible and will include the following steps:

- Notify the Complainants and other potentially-affected persons that the investigation process has been initiated;
- Interview those people with relevant information including, for example, both the Complainants and Project Manager of the project at issue;
- Obtain documents and other related evidence;
- Evaluate information and evidence;
- Conduct on-site visits (Such visits will be conducted as appropriate for Compliance Advice Notes)

10.1 The Roles of UNDP Country Offices/Units and UNDP Staff/Consultants during Investigations

38. UNDP Country Offices and Units, as well as UNDP Staff and Consultants, play a useful role during SECU investigations. Their support and cooperation in providing documentation relating to the project is a basic requirement. Country offices should also assist SECU to conduct field visits, obtain necessary information, and meet with relevant stakeholders.

39. Maintaining actual and apparent independence is important for SECU's work. As such, it is important that UNDP Staff and Consultants respect SECU's independence during investigations, particularly with regard to determining meetings, interviews, and access to information.

10.2 The Draft Compliance Review Report

40. After completing its Compliance Review investigation and making findings and proposed recommendations, SECU will issue to the Director, OAI, a draft report for his/her review. The review by the Director will be completed within 10 days. Following this review, the report will be released to UNDP staff, the Complainants, and the public. Comments may be provided on the draft report for twenty business days by UNDP, Complainants, other affected persons, or any other interested person. The report will include:

- A discussion of the procedural steps taken to address the Complaint;
- Any relevant factual findings, including any findings of non-compliance;
- Recommendations to bring UNDP into compliance with social and environmental commitments and/or to mitigate harm to the Complainants; and
- A proposed plan for monitoring implementation of any recommended actions that UNDP decides to take in response to the Complaint.

10.3 The Draft Compliance Advice Note

41. Compliance Advice Note review with findings and advice, SECU will issue to the Director, OAI, a draft report for his/her review. The review by the Director will be completed within 10 days. Following this review, the report will be released to UNDP staff, the Complainants, and the public. Comments may be provided on the draft report for twenty business days by UNDP, Complainants, other affected persons, or any other interested person. The report will include:
- A discussion of the procedural steps taken to address the Complaint;
 - Any relevant factual findings, including any findings of non-compliance; and
 - Advice to bring UNDP into compliance with social and environmental commitments and/or to mitigate harm to the Complainants.

10.4 Receiving and Reviewing Public Comments

42. SECU will compile and review comments received during the public comment period. SECU will create a comments matrix that includes all comments except those deemed privileged, confidential, or sensitive. SECU will respond to comments in an efficient and transparent manner, and will post on its website the comments matrix (including SECU's responses) alongside the final report.

10.5 Submission of Final Report

43. Within twenty-five business days of receiving comments on the draft report, SECU will issue to the Director, OAI, a final compliance report, including findings and recommendations, and input from Complainants and other stakeholders. The SECU will notify the public that this has been done.
44. The Director, OAI, will review, clear, and submit a final Compliance Review Investigation report to the UNDP Administrator within ten working days, with a copy sent to the Complainant (or to the office that requested the compliance review in cases initiated within UNDP) and released to the public. This process may be delayed by exigent circumstances or reasons.
45. The Director, OAI, will review, clear, and submit the Compliance Advice Note to the appropriate UNDP Manager within ten working days, with a copy sent to the Complainant (or to the office that requested the compliance review in cases initiated within UNDP) and released to the public. This process may be delayed by exigent circumstances or reasons.

10.6 The Administrator's Decision

46. After receipt of the final Compliance Review Investigation report, the UNDP Administrator will expeditiously make a final decision regarding what steps, if any, UNDP will take to bring the project or programme into compliance and/or mitigate any harm to the Complainants or other affected persons, as appropriate. SECU will forward the UNDP Administrator's decision to the Complainants, publicly release the decision on its case registry, and announce the decision on SECU's website.

11 Compliance

47. There are numerous options to encourage compliance with UNDP's social and environmental commitments. Such options include:
- Case-specific and UNDP-wide recommendations for improving implementation;
 - Revisions to the project;
 - Action by the Administrator, where harm to affected people is imminent, to stop UNDP's financial disbursements or other support to a project pending the outcome of SECU's compliance review;
 - Permanent suspension of any financial disbursements by the UNDP Administrator, assuming that the project is not otherwise able to comply with the UNDP's social and environmental commitments;
 - Decision by the UNDP Administrator to mitigate any harm caused by a project, and to restore claimants to a pre-harm state, in collaboration with the implementing partner, where the circumstances and financial resources allow for it;
 - Condition future UNDP participation in a project or programme on compliance with UNDP policies;
 - Include in underlying legal documents provisions indicating that breach of social and environmental policies are material breaches of the project agreements.
48. In all cases the UNDP Administrator has the ultimate authority to rule on the remedy. The compliance review function is not a court of law, and thus does not create any legally enforceable responsibility, immunity, or liability for the UNDP or affiliated organisations.

12 Monitoring

49. In cases where UNDP is found to be in compliance, SECU will close the investigation.
50. In cases where UNDP is found to be out of compliance and the Administrator directs staff to undertake remedial measures, SECU will keep the case open and monitor the situation until actions taken by UNDP assure SECU that UNDP is addressing the noncompliance. This monitoring may involve desk review, correspondence with the affected communities, progress reports from the Country Office or relevant business unit, and onsite inspections, as appropriate. When UNDP completes the steps to bring the project into compliance, SECU will close the case.
51. Monitoring plans, including relevant timelines and reporting requirements from relevant units/offices, will be described in detail with the final report.
52. SECU makes public the current status of all compliance cases, including the monitoring phase, as part of its annual report to the Administrator and on the SECU public case registry.

13 Advisory Notes

53. SECU may on its own initiative provide Advisory Notes to the UNDP Administrator regarding systemic, institution-wide, or policy issues that it believes need to be addressed, based on lessons learned from investigating social and environmental non-compliance in specific cases, and other sources. The UNDP Administrator may also request an Advisory Note from SECU on social and environmental compliance issues. Advisory Notes will be made available to the public on SECU's website unless the OAI Director determines that an effective outcome would be compromised by disclosure of the Note. The SECU will release a draft advisory note and solicit comments from the public and other stakeholders unless the effectiveness of the Notes would be constrained by such

action, i.e., prompt action is needed in response to the Advisory Note.

54. The Director of OAI determines to whom Advisory Notes are addressed. Advisory Notes may be addressed to the Administrator, relevant Country Offices/Units, and/or relevant Bureaux/Departmental directors.

14 Temporary and Pre-emptive Measures

55. Notwithstanding the procedures set forth above, if at any time after receiving a Complaint the Lead Compliance Officer believes significant, irreversible harm to the Complainants or other affected people is imminent, the Lead Compliance Officer may recommend to the Administrator that UNDP take interim measures pending completion of a compliance process. The Lead Compliance Officer may employ outside experts to secure evidence to inform such a recommendation. Such interim measures could include suspending financial disbursements or taking other steps to bring UNDP into compliance with its social and environmental commitments, or to address the imminent harm. The Lead Compliance Officer will endeavor to consult potentially affected people on these measures, depending on time and related constraints.

15 Secu and the Media

56. SECU investigations are public in nature, and therefore there will be circumstances when the media is interested in its investigations or findings. As appropriate, SECU will seek guidance from the Bureau for External Relations and Advocacy (BERA), and/or other relevant units within UNDP in order to engage with the media in a manner consistent with UNDP policies, procedures and best practices. SECU endeavors to be as transparent as possible. If the media report incorrect facts or conclusions about the investigation process, SECU may post clarifying statements on its website and disseminate that statement to relevant stakeholders, in consultation with BERA.

16 Annual Report

57. SECU will report at least annually to the UNDP Administrator on the functions, operations and results of the compliance review process. Such annual reports will also be made available to the public and to other stakeholders.

17 Responsibility for Updating the Guidelines

58. The Director of OAI has approved the Guidelines, and the Lead Compliance Officer is responsible for keeping the Guidelines up to date as approved by the Director of OAI.

ANNEX I – Definitions

Accountability Framework – UNDP’s existing Accountability Framework, which applies to all levels of UNDP through Planning & Strategic Direction, Policy & Programme, Results & Performance and Partnership Management.

Accountability Mechanism – this term describes both compliance review and grievance process at the international financial institutions and bilateral finance agencies.

Affected Persons – Individuals or groups who are or may be affected by a UNDP Project or Programme, as defined in the Social and Environmental Standards.

Assessment – the evaluation of an allegation by SECU to determine its credibility, materiality and verifiability. All allegations are assessed to determine whether there is a legitimate basis to register, find eligible, and warrant an investigation³.

Compliance Process – the process of accepting and addressing Complaints alleging non-compliance with the social and environmental elements of UNDP’s policies and procedures in an independent, transparent, fair, accessible, and effective manner. SECU must adhere to these principles when investigating Complaints.

Compliance Advice Note – a compliance process undertaken in response to eligible complaints filed prior to 31 December 2014, and for which advice is provided to UNDP management.

Compliance Review Investigation – full investigation undertaken in response to an eligible complaint filed after 31 December 2014 or in the context of a project for which UNDP committed to provide a compliance review process.

Complainant – the person making an allegation.

Duty of cooperation – the obligation placed on staff and other personnel to assist in an investigation when requested to do so.

Evidence – any type of proof that tends to establish or disprove a fact material to the case. It includes, but is not limited to, oral testimony of witnesses, including experts on technical matters, documents, electronic, audio, video records, and photographs.

Investigation – a detailed inquiry and examination of evidence to objectively determine the facts following the receipt of an allegation and a positive determination of eligibility. At the conclusion of an investigation, a dossier of evidence is assembled to form the basis of findings and recommendations to the Administrator.

Investigator – a person employed or engaged by SECU as an investigator.

Project Manager – a staff member or other personnel with a supervisory role of a UNDP project.

Personnel – UNDP staff members, service contract holders (SCs), individual contractors (ICs), interns, and United Nations volunteers (UNVs)⁴.

Staff Members – any person who holds a UNDP Letter of Appointment according to the United Nations Staff Regulations and Rules⁵.

³ Paragraph 30, “Uniform Principles and Guidelines for Investigations” as endorsed by the 10th Conference of International Investigators (June 2009).

⁴ Definition of “personnel” from the UNDP Anti-Fraud Policy.

⁵ Definition of “Staff Members” from the HR User Guide section on workplace harassment and abuse of authority.

ANNEX II – References

Social and Environmental Screening Procedure (SESP)

Social and Environmental Standards (SES)

Charter of the Office of Audit and Investigations (December 2012) (OAI)

UNDP Legal Framework for Addressing Non-Compliance with UN Standards of Conduct (January 2010)

UNDP Programme and Operations Policies and Procedures (UNDP POPP)

Uniform Principles and Guidelines for Investigations, adopted by the 10th Conference of International Investigators (June 2009)

Title	SECU Public Disclosure Policy
Date of Original Issue	May 2013

Introduction

1. SECU's approach to transparency and public engagement is in compliance with UNDP's transparency policy.⁶ As such, SECU will make all appropriate public documents⁷ available through public disclosure⁸ via SECU's website and available upon request.
2. This SOP describes the methodology that SECU will use to disclose information relating to the social/environmental issues within its purview, as well as the results of its investigations.

Rationale

3. Public involvement is fundamental to SECU's work. As such, SECU will provide access to information and strengthen public participation in decision making in order to:
 - a. Enhance the quality and impact of UNDP's decisions;
 - b. Contribute to public awareness about social and environmental issues; and
 - c. Provide the public, particularly project-affected parties, with the opportunity to express its concerns about UNDP development projects.⁹

Public Documents

4. Public documents include:
 - a. Complaints, posted after the Eligibility determination (subject to '**Restrictions on Public Disclosure**' below.);
 - b. Eligibility determinations
 - c. Draft and final reports;
 - d. Closure / non-eligibility notices submitted to complainants;
 - e. Terms of Reference;
 - f. The Administrator's decision;
 - g. Management decisions and plans in response to the Administrator's decision;
 - h. Monitoring Report;
 - i. Advisory Report;
 - j. Annual Report; and
 - k. Written materials, pictures, recordings and other information gathered for purposes of an investigation, except for those covered in paragraph 10 below.
5. Other Documents that SECU may make public if available and not confidential
 - a. Relevant Project Document(s)
 - b. Relevant UNDP Policies
 - c. Relevant Social and Environmental Screening Procedures
 - d. Relevant Due Diligence Documents
 - e. Any other non-confidential documents that SECU believes will assist the public in understanding the case

Transparency and Public Engagement

6. Transparency and public disclosure of information are fundamental to SECU.

⁶ See UNDP Disclosure Policy: http://www.undp.org/content/undp/en/home/operations/transparency/information_disclosurepolicy/.

⁷ See paragraph 4 for definition of public documents.

⁸ See paragraph 5 for definition public disclosure.

⁹This SOP draws upon *Aarhus, Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters*, 25 June 1998.

7. SECU will publish and disseminate an annual report detailing and summarising the outcomes of its investigations and related policy documents.
8. SECU recognises that it is essential that the general public meaningfully participate in its activities in order to improve social and environmental compliance. SECU, thus, encourages the general public to address any grievances it may have related to social and environmental compliance through using SECU's various methods of communication (mail, email, telephone, facsimile, and online compliant forms).
9. SECU will make a concerted effort to publicise its work, particularly in areas where UNDP is engaged in development projects, in order to increase awareness about its activities amongst the general public.

Restrictions on Public Disclosure

10. Public disclosure is subject to restrictions. Documents may be kept confidential if one or more of the following events could occur:
 - a. Disclosure could impair the safety of a complainant, witness, SECU staff, and UNDP staff and personnel;
 - b. Disclosure could undermine SECU's work through, for example, compromising, destroying or manipulating evidence;
 - c. Disclosure could undermine the confidentiality of a parallel criminal or wrongdoing investigation that involves similar parties; and
 - d. Disclosure could compromise an individual's due process rights.
11. When the name of an individual must remain confidential due to the reasons outlined in paragraph 9, or the individual requests confidentiality as per SOP 001, SECU will redact the documents accordingly; however, SECU will make the remainder of the information available as long as this does not compromise the safety of an individual or compromise an investigation.
12. SECU must justify non-disclosure or redaction through a memorandum that will be made public when the information no longer implicates any of the concerns as enumerated in paragraph 9.

Confidential Documents

13. SECU will not release or cite any document that has been properly designated as confidential.
14. UNDP's system of designating documents as confidential is sometimes ambiguous and contradictory. Where no one is identifiable as a document's owner, or where documents are inconsistently deemed confidential, SECU will exercise its best judgment. SECU defines "document owner" as either 1) the signatory a document affecting its approval, or 2) the director of the unit from which the document was originally created or signed.

Updated and Accessible Information

15. SECU will ensure that it updates all relevant information relating to social and environmental compliance investigations in a timely fashion, and this information is available on its website.

This SOP is effective immediately.

Helge S. Ostveiten
Director, OA

Title	Intake of Complaints and Eligibility Assessment
Date of Original Issue	May 2013

This Standard Operating Procedure provides guidance to the staff of the Social and Environmental Compliance Unit (SECU) on how to:

- Document all Complaints received by SECU;
- Assess and prioritize these Complaints; and
- Ensure that appropriate steps are taken in a timely and structured manner in reviewing the allegations.

Intake of Complaints

1. Currently, SECU will accept complaints in any language by email, or in English by phone. Beginning January 2015, SECU will maintain a Complaint Hotline, (managed by an independent service provider), which includes multi-language, web-reporting, and toll-free telephone lines accessible from any country in the world, along with traditional email, fax and mail reporting options. Complaints shall be accepted in any language. Note that subsequently prepared documents in response to the complaint will be translated into relevant languages as useful. If the translation involves a locally distinct language not often encountered by UNDP, timeframes for issuance of documents may need to be revised.
2. The Lead Compliance Officer or Compliance Officer screens the Complaints received and registers non-excluded Complaints (See Section 1.1, above) in the Case Registry and internal case management system.
 - a. The Lead Compliance Officer or Compliance Officer assigns a case number, and the case file is created on the SECU shared drive.
 - b. All documents related to the case are stored on the drive using the “standard naming convention.”
 - c. A green folder is opened to collect and file all original/printed documents relevant to the case.
 - d. The Complaint is listed on a registry accessible to the public through the SECU website.
 - e. SECU will also inform the Stakeholder Response Mechanism and, if appropriate, provide it with a copy of the Complaint with confidential information redacted as per the Investigation Guidelines.
3. The Lead Compliance Officer or Compliance Officer will acknowledge receipt of the Complaint to the Complainant within five working days of receiving the complaint.

Determination of Eligibility of a Complaint

4. After a Complaint has been registered in the system, the Lead Compliance Officer or Compliance Officer will assess the case. The primary purpose of the eligibility review is to determine:
 - If the Complaint meets the eligibility criteria and the process should be continued, or if the Complaint does not meet the eligibility criteria and thus should be closed without further assessment;
 - If the Complaint is of a type listed on the Exclusions List, in which case it will be closed without further assessment;
 - If the Complainant requests a compliance review investigation or stakeholder response process, or both, assuming both processes are applicable to the Complaint;
 - If the Complaint should be referred to another unit.

5. The Lead Compliance Officer or Compliance Officer completes the Assessment as a summary directly in the case management system and/or SECU shared drive as appropriate. The Assessment details information regarding the origin, date, allegations, and status of the case and all actions taken during the eligibility assessment stage.

Results of Eligibility Assessment

(A) Closure or Referral

6. Within twenty business days from registration of the complaint or referral of a request from the Stakeholder Response Office, the Lead Compliance Officer will make an initial determination of eligibility, seek approval of this determination from the OAI Director, and notify the parties of the outcome.
7. If the Complaint does not meet the eligibility criteria, the Lead Compliance Officer will prepare a closure note recommending closure of the case without further assessment. SECU will provide to the Complainant and the public a clear and detailed explanation of the reasons for the ineligibility determination.

(B) Investigation

8. If there are sufficient grounds to warrant a formal investigation, the Lead Compliance Officer or Compliance Officer will prepare the case file for possible assignment to a social or environmental consultant and investigator based on: geographic location, specialization/skills, language, and workload. Within 20 days of determining a Complaint eligible for an investigation, SECU will release a draft Terms of Reference. UNDP staff, Complainants and other interested parties will be given ten business days to comment on the Terms of Reference.

This SOP is effective immediately.

Helge S. Ostveiten
Director, OAI

Title	Interview Guidelines
Date of Original Issue	May 2013

1. This Standard Operating Procedure describes how SECU will conduct interviews and gather testimonial evidence.

Purpose of Interviews

2. Interviews are aimed at obtaining testimonial evidence. Testimonial evidence refers to the recollection evidence from individuals who have knowledge or expertise relating to an event or issue under investigation.

Confidentiality

3. The interview process is “on the record”. Only in justifiable instances as outlined in the SECU’s disclosure policy will an interview be treated as confidential in SECU records and reporting.

Basic Requirements

4. All interviews shall be conducted in an appropriate environment, at a reasonable time, and for a reasonable duration with breaks as needed.
5. Affected Persons shall receive advance notice of the interviews and full information disclosure prior to the interview.
6. Before conducting an interview of UNDP personnel, investigators shall inform the interviewee of the:
 - Identity and function of the individual(s) conducting the interview;
 - Investigative process and purposes of an investigation;
 - SECU’s rules with regard to conducting an interview; and
 - In the case of UNDP staff and personnel, the duty of all staff to cooperate.
7. At the end of every interview, the interviewee shall be given the opportunity to provide any additional comments or relevant information.
8. At the end of the interview (or as soon as the notes of the interview are prepared) the interviewee should be asked to review the record of his or her interview prepared by SECU to ensure that it is accurate.
9. Investigators shall not engage in covert recording of interviewees, nor shall they request others to do so.

Witnesses

10. A witness is any individual whose statements are transcribed or memorialised by SECU and used as evidence.
11. Any individual with direct or indirect knowledge or expertise of matters relevant to the investigation may be a witness. Types of witnesses include (but are not limited to):
 - Individuals making an allegation;
 - Victims of the alleged act and their representatives;
 - Experts.
12. A written record shall be made of every witness interview, regardless of whether an audio or video

recording was also made. Audio or video recording of witness interviews shall be limited to exceptional cases, after consultation with the Lead Compliance Officer (for example, where there is limited time and the issues covered are highly specialised or complex and it may therefore be useful to be able to review the recording), or when requested by Affected Persons.

13. A witness shall be permitted to amend or correct his or her testimony upon reviewing the written record prepared by investigators. In cases where a witness retracts or amends a prior statement for known reasons, investigators may at their discretion preserve the original record of interview and incorporate the witness's corrections and amendments in the form of a separate addendum signed by the witness.

Interpreters

14. An interviewee shall be notified in advance of the interview that he or she is entitled to the use of an interpreter if the language in which the investigators will conduct the interview is not one that the interviewee speaks natively. The interpreter shall be provided by SECU or, if the interviewee is a UNDP employee, by the Head of Office to whom the interviewee answers. The interviewee should not furnish her or his own interpreter.

Observers

15. Compliance Officers or investigators may invite an observer to attend the interview if, after considering the cultural context of the interview, they conclude that the observer's presence is in the best interest of the investigation. However, Affected Persons can reject an observer proposed by SECU, in which case the interview of the Affected Person shall proceed without an observer.

This SOP is effective immediately.

Helge S. Osttveiten
Director, OAI

Title	Proactive Investigations by the Social and Environmental Compliance Unit
Date of Original Issue	4 August 2017

Introduction

This document describes OAI/SECU's approach to proactive investigations to identify possible failures to implement UNDP's social and environmental commitments. It identifies risk and prioritization factors that will be used in methodologies to identify projects for possible proactive investigations of noncompliance. The Director of OAI will review and approve all proactive investigations.

Background

1. In 2010, the Administrator re-enforced OAI's mandate to conduct proactive investigations, and in response, OAI established a methodology for pursuing and conducting proactive investigations related to financial or other irregularities. Through this SOP, OAI SECU provides the foundation for an additional methodology that will formalize the process through which projects are selected for proactive investigations related to UNDP's social and environmental commitments.

Rationale for proactive investigations

2. Experience has shown that it is not effective to rely exclusively on requests for investigations as the driver for investigations. Among other challenges, communities often lack awareness of UNDP commitments and standards, the existence of accountability mechanisms and how to use them, as well as cultural factors, and a limited capacity and resources to formulate a complaint. These challenges create situations in which a UNDP project that is harming a community will not be reported and SECU may not receive requests that merit an investigation and a response by the UNDP Administrator.
3. Proactive investigations are defined as investigations intended to identify and respond to significant potential or actual harm to an individual or community resulting from an existing (but yet unidentified) failure of UNDP to meet its social and environmental commitments.
4. The ability to investigate matters without first having to receive a request is intended to:
 - Allow SECU to respond to high risk projects before harm occurs to individuals or communities, as well as damage to project success and UNDP's reputation;
 - Address the situation in which, for a variety of reasons (e.g. cultural, lack of knowledge, etc.), impacts are not likely to be reported;
 - Serve as an effective deterrent to avoiding compliance with these commitments;
 - Build a more comprehensive and balanced portfolio of compliance cases at the corporate level across regions and development sectors
 - Strengthen UNDP's credibility with donors.
5. The aim of this procedure is to introduce a data-led component to the identification of projects and/or programs for which SECU should conduct investigative work without awaiting the receipt of a request for an investigation.
6. This approach to proactive investigations proposes that SECU focus on investigating possible shortcomings in compliance with social and environmental commitments in UNDP projects and processes that have been categorized as 'high risk' based on the elements below.

Current Risk Assessments

7. Separate risk based assessments are being conducted for UNDP and/or SECU to identify environmental and social risks/issues associated with a given project. These assessments include:
 - The Social and Environmental Screening Procedure (SESP);
 - Various forms of Environmental and Social Assessments, e.g., EA, ESIA, SESA, etc. prepared in response to results of the SESP
 - Quality Assurance
 - Risk logs
8. The approach to proactive investigations is designed to be consistent with these risk assessments, using their results and many of the same risk indicators, as appropriate.

Scope

9. The proactive investigations model will consider only the types of projects and issues for which requests for compliance review can be made.

Methodology

10. OAI/SECU will employ risk assessment methodologies that consider the following risk factors using an objective and weighted ranking system. The weightings within the model are to be determined by the Lead Compliance Officer in coordination with the Director of OAI and the Director of Investigations:

Risk Factors	
1	Presence of High Risk Project/Programme Activities
2	OAI/SECU Investigations/Information
3	Budget Data
4	Governance Indicators
5	Human Rights and Environmental Risk Indicators

The specific weighting of the risk factors, as well as the selection process and proactive target ranking system will be appended to this SOP after they are developed and tested.

Presence of High Risk Project/Programme Activities

11. UNDP's Social and Environmental Screening Procedure (SESP) provides a tool for characterizing risks associated with project activities. For example, the SESP reflects the considered judgment that projects involving indigenous peoples, land tenure, critical biodiversity habitat, extractives, resettlement, and the like, often involve greater risks. Risk logs provide the results of the SESP. Additional assessments performed in response to the initial screening of a project can also be a valuable source of information. It is important to note, however, that the SESP and assessments are not always robust and, in fact, may be the subject of complaints to SECU. Additional sources of information include results of the Quality Assurance Process, results of Executive Snapshot, and other project descriptions. Issues raised in complaints to other accountability mechanisms can also be used to inform the identification of types of risky activities for which to search.

OAI/SECU Investigations/Information

12. OAI and SECU investigation and information gathering can also assist SECU in identifying various types of risks, including not only operational but also reputational risks. Considerations from OAI Investigations include:
 - Information gathered from discussions internally including with BPPS, Regional Bureaus and CO personnel;

- Results from other accountability mechanisms, including the multilateral financial institutions;
- Information gathered from open sources including media reports, e.g. using Arachnys
- Information gathered from discussions with external parties such as implementing partners.

Budget Data

13. Various sources of budget data, including not only financial data, e.g., country office budget, size of project budget, but also source of funding for the project budget, e.g., FCPF, GEF, can provide initial filters, ensuring a focus on projects that are likely to pose greater harm to communities and reputational risk. Additionally, budget allocations based on project themes are informative. UNDP categorizes its projects broadly into “Responsive Institutions”, “Inclusive & Sustainable Growth”, “Democratic Governance”, “Crisis Prevention & Recovery”, “Climate Change & Disaster Resilience”, “Development Impact & Effectiveness”, and “Gender Equality”. SECU’s historical experience, and the experiences within the development community, have shown certain categories of development activity raise social and environmental issues more than others. The budget allocations within these categories can provide a useful and objective approach to target refinement.

Governance Indicators

14. Governance indicators can reflect country capacity and political willingness to meet social and environmental standards. One such set of indicators is provided by the World Bank through its annual World Governance Indicator (WGI). This indicator defines Governance as the set of traditions and institution by which authority in a country is exercised. The WGI captures the political, economic and institutional dimensions of governance for 213 economies over the period 1996–2013 by six aggregate indicators; (i) voice and accountability; (ii) political stability; (iii) government effectiveness; (iv) regulatory standards; (v) rule of law; and (vi) control of corruption – and include factors related to social and environmental concerns.

The aggregate indicators combine the views of a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. The individual data sources underlying the aggregate indicators are drawn from a diverse variety of survey institutes, think tanks, non- governmental organizations, and international organizations. The WB indicator is considered more comprehensive than the Transparency International Corruption Index.

Human Rights and Environmental Risk Indicators

15. Closely related to governance indicators are Human Rights and Environmental Risk Indicators. Some such indicators include the Maplecroft Human Rights Risk Index, the Early Warning System for Bank Projects, and the Yale Environmental Performance Index.

Other Indicators

16. In addition to the above, additional factors may influence the selection of projects for proactive investigations. OAI/SECU has the discretion to initiate a proactive investigation for which any of the following additional factors are relevant:
 - In-country discovery by OAI investigators or auditors who are on-site and see indications of social and environmental non-compliance (which may or may not relate to the initial investigation). Investigators and auditors are encouraged to identify such potential leads, including, for example, through information reports, and to inform the Lead Compliance Officer who can evaluate them for prima facie evidence that may lead to an investigation;
 - Information from credible sources that provides UNDP with knowledge to support a request for a proactive investigation;

- Opportunities for joint investigations in areas of common interest with other agencies (e.g. multilateral development banks and bilateral aid agencies);
- Information indicating that a proactive investigation would likely find evidence of violations of UNDP's social and environmental commitments, and that an investigation would prove useful to relevant stakeholders, including UNDP project implementers;

Conflict of Interest

17. When a complaint is filed in relation to a project for which SECU has completed a proactive investigation, and issues raised in the complaint are the same as issues examined in the proactive investigation, SECU will ensure that the SECU lead investigator(s) in the proactive investigation will not participate in the investigation related to the complaint. The conflict of interest assessment and determination will be made by the OAI Deputy Director.
18. The proactive investigation report will indicate that results of that report will not preclude or prejudice future consideration of issues raised by a complainant in the context of the same project.

Periodic updates

19. To keep the risk assessment results relevant and appropriate, risk factors and methodologies will be subject to review, as deemed necessary by the Lead Compliance Officer. A note-to-file on any updates made will suffice, unless there are significant changes that will require an update of this SOP, approved by the Director OAI.
20. This SOP is effective immediately.

Helge S. Osttveiten
Director, OAI