

2022 ANNUAL REPORT ON ADMINISTRATION OF JUSTICE AND OTHER ACCOUNTABILITIES AT UNDP

1. The administration of justice plays a crucial role in upholding principles of fairness, accountability, and transparency within UNDP. These principles apply to all facets of the Organization including decisions made by management, as well as the conduct of UNDP staff members, other personnel¹ and vendors.
2. This report described UNDP's administration of justice framework for the year 1 January to 31 December 2022. Section I deals with the formal system of the administration of justice as it applies to staff members. Section II concerns accountability as applied to other personnel, including UN Volunteers, vendors, and possible criminal behavior.

I. STAFF MEMBERS

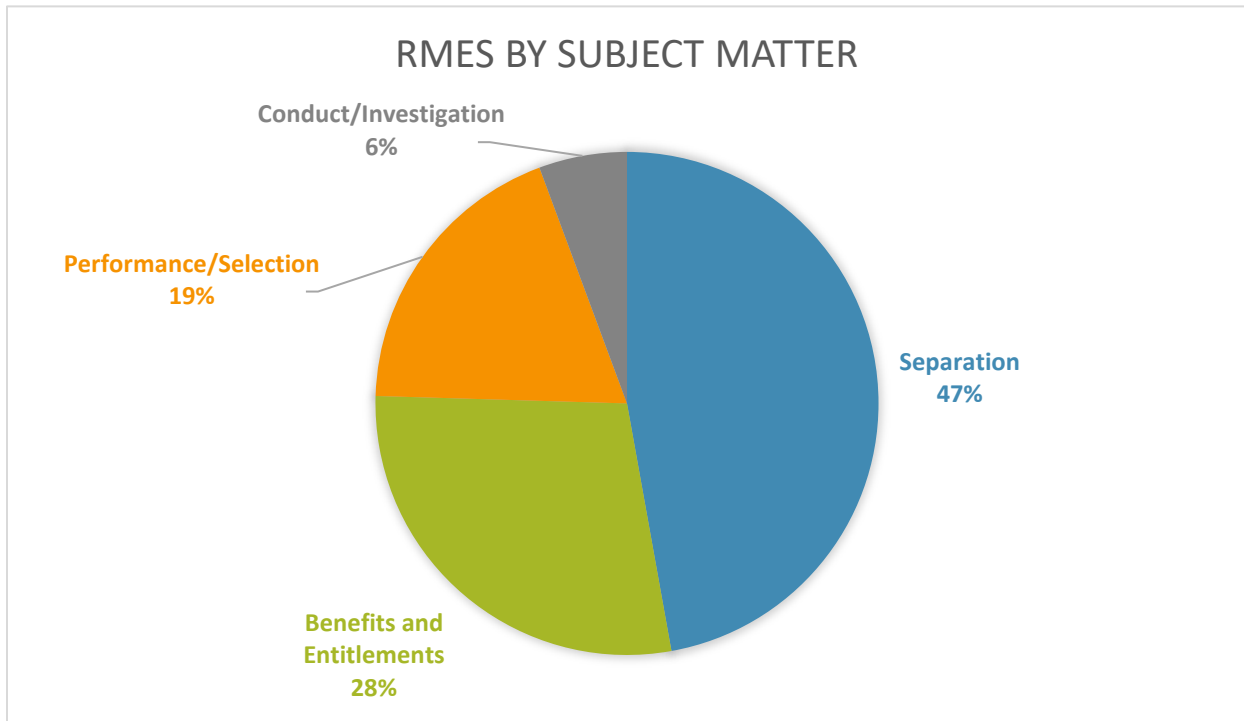
3. The current system of administration of justice at the United Nations was established by the General Assembly in its resolutions 61/261, 62/228 and 63/253, which became operational on 1 July 2009. These resolutions highlight the importance of establishing clear mechanisms for addressing grievances and ensuring due process in employment-related matters. They underscore the UN's commitment to upholding the rule of law and ensuring that justice is available to all UNDP staff members.
4. In addition to informal dispute resolution, staff members may pursue resolution of a dispute through a formal appeals process. The first step in the formal system of internal dispute resolution is a Request for Management Evaluation (RME) by which staff members request review of an administrative decision that they consider not to be in compliance with their employment contract or terms of appointment. In UNDP, most RMEs are considered by the Director, BMS, who has delegated authority from the Administrator to decide on the outcome of such requests.
5. An RME is a prerequisite for a staff member to appeal an administrative decision to the UN Dispute Tribunal (UNDT). In addition, a staff member may appeal to the UNDT a decision to impose a disciplinary or an administrative measure following an investigation, or the decision of certain technical bodies. UNDT judgements may be appealed, either by the relevant staff member or by UNDP, to the UN Appeals Tribunal (UNAT). Tribunal decisions are binding on both parties.

A. Requests for Management Evaluation (RME)

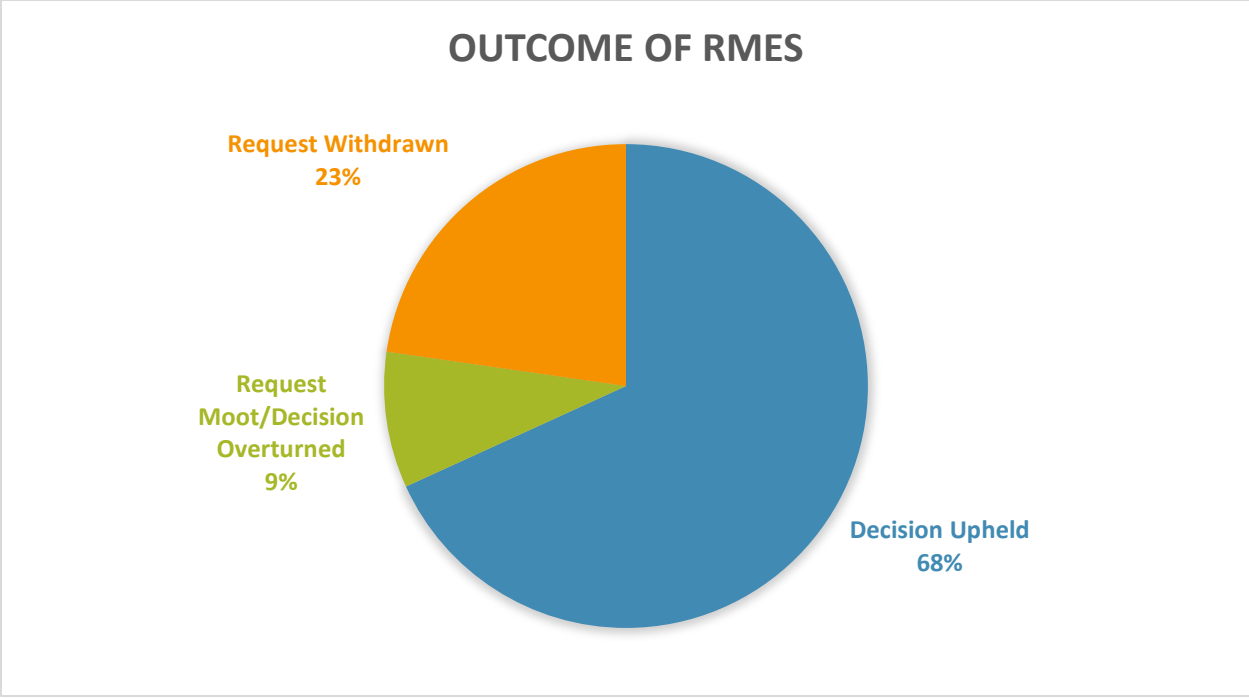
6. In 2022, UNDP received 18 RMEs, and 22 responses to RMEs were issued. Of these 22 responses, 18 concerned RMEs received in 2022 and four concerned RMEs carried over from 2021.
7. The decisions contested by staff members through RMEs during 2022 covered a broad range of topics and specific circumstances. The subject-matter of the cases is categorized as follows:
 - a. 10 relating to separation.

¹ Personnel include UN Volunteers, Service Contract holders, Individual Contractors, and Personnel Service Agreement holders.

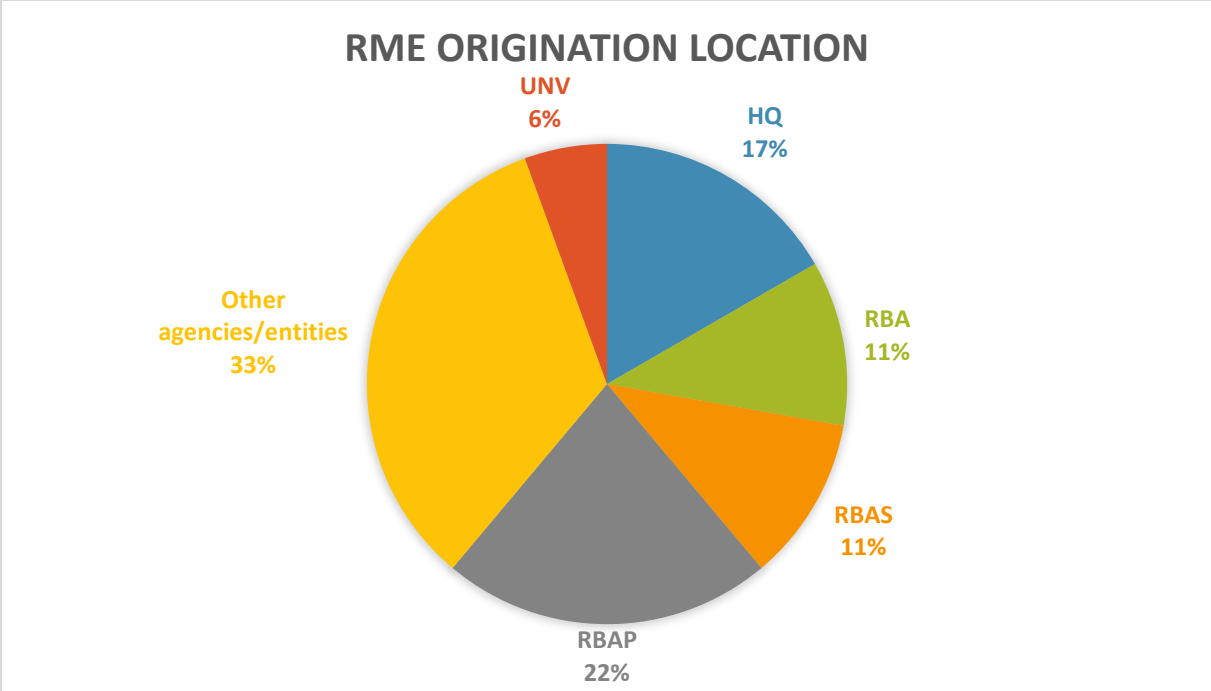
- b. Six relating to benefits and entitlements.
- c. Four relating to performance/selection.
- d. Two relating to conduct and investigation.



8. The outcomes of the 22 RMEs answered were:
- a. 15 administrative decisions were upheld.
 - b. Two requests were moot or the administrative decision was overturned.
 - c. Five requests were withdrawn.



9. Any staff member on a UNDP Letter of Appointment may submit an RME. Of the 18 RMEs received in 2022:
- Three were from Headquarters;
 - Two were from the Regional Bureau for Africa;
 - Two were from the Regional Bureau for Arab States;
 - Four were from the Regional Bureau for Asia and the Pacific;
 - Six were from staff members with service limited to other agencies; and one was from UNV.



B. Disciplinary Action Pertaining to Staff Members

- 10. Article 101, Paragraph 3 of the Charter of the United Nations states that the “*paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity*”. UN Staff Regulation 1.2(b) provides that “[*t*]he concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status”.
- 11. In observance of the above principles, UNDP is committed to preventing, identifying, and addressing breaches of the required standards of conduct committed by UNDP staff members.
- 12. The Administrator or the Associate Administrator imposes disciplinary measures following a thorough process as described in the UNDP Legal Framework for Addressing Non-Compliance with United Nations Standards of Conduct (the “Legal Framework”).²
- 13. Disciplinary proceedings within the UN system are administrative, not criminal, in nature. Proof beyond reasonable doubt is not a requirement. Where misconduct by a staff member is alleged, UNDP will investigate the matter to determine whether the evidence supports the allegation. Throughout such proceedings, staff members have the right to due process, as detailed in the Legal Framework.
- 14. In UNDP, the Office of Audit and Investigations (OAI) is generally responsible for investigating all allegations of misconduct. Investigation reports relating to staff members are submitted to the Office of Legal Services in the Bureau for Management Services, (BMS/OLS) for review and further action.

² The Legal Framework may be found on the UNDP intranet website.

Clear Check

15. To help combat against sexual harassment and sexual exploitation and abuse, UNDP continued to use the Clear Check Database (“Clear Check”) in 2021. Clear Check is an electronic database containing the names of former UNDP personnel whose conduct resulted or would have resulted in their separation from service or dismissal for misconduct, or the termination of their contract with UNDP, due to the substantiated allegations of sexual exploitation and abuse or sexual harassment. Individuals can also be included if UNDP has come into possession of information confirming that an individual has a criminal record of a serious sexual offence. Clear Check is used by UNDP and other UN entities to prevent the hiring and re-hiring of such individuals within the UN system. Clear Check was created in consultation with other UN entities pursuant to the Report of the Secretary-General on Special Measures for protection from sexual exploitation and sexual abuse, A/72/751.
16. In 2022, UNDP added the names of two staff members, and one non-staff personnel, to Clear Check.

Paragraphs 72(a) and 73 of the Legal Framework

17. Paragraph 72(a) of the Legal Framework provides that, if an investigation subject resigns or otherwise separates prior to the completion by OAI of an investigation report, the investigation report may be finalized at OAI’s discretion. Notwithstanding separation, if the investigation report is finalized, OAI sends the draft investigation report to the former staff member for comments. After consideration and amendment of the investigation report as appropriate, OAI sends the final investigation report and comments to BMS/OLS for review.
18. Following review, the Director, BMS/OLS issues a letter to the former staff member indicating whether, if they had remained on a staff appointment: (i) a recommendation would have been made to initiate charges of misconduct against them, or (ii) they would have been exonerated from the allegations of misconduct, or (iii) the matter would have been dealt as a work performance matter. The former staff member is invited to comment on the letter. The Director, BMS/OLS’s letter and the former staff member’s comments are placed on the former staff member’s Official Status File.
19. A similar procedure exists when the subject of an investigation resigns or otherwise separates from service after the investigation report is issued, but prior to the initiation of disciplinary proceedings. In that case, upon review of the investigation report and the comments of the subject thereon, pursuant to Paragraph 73 of the Legal Framework, the Director, BMS/OLS issues a letter to the former staff member as described above.

Paragraph 72(b) of the Legal Framework

20. When OAI decides that the investigation report concerning an already separated staff member cannot be finalized, the Director, BMS/OLS places a letter in the former staff member’s Official Status File indicating that they resigned or their contract expired while under investigation. In both instances, the former staff member is given an opportunity to present comments, and the letter and the comments are placed in the former staff member’s Official Status File.

Paragraph 81(a) of the Legal Framework

21. Under Paragraph 81(a) of the Legal Framework, if a staff member resigns or otherwise separates from service after the initiation of disciplinary proceedings but prior to the imposition of a disciplinary sanction, the Director, BMS/OLS may nevertheless decide that a recommendation would have been made to impose disciplinary sanctions if they had remained a staff member. The Director, BMS/OLS may place a letter to this effect, indicating the relevant recommended sanction, on the former staff member's Official Status File. The former staff member is invited to comment on the letter, and their comments will be attached to the Director, BMS/OLS letter and placed in the former staff member's Official Status File. The Director, BMS/OLS may similarly recommend that the former staff member be exonerated of misconduct and/or that the matter should be treated as a performance issue. In such a case, such a recommendation will be made to the Assistant Administrator and Director, BMS who may formally and fully exonerate the subject, or exonerate the subject and issue a reprimand.

Clearance or exoneration of the allegations

22. Where the allegations are not substantiated, or do not warrant a disciplinary measure, the staff member may be cleared or exonerated from the allegations.

C. Disciplinary Action

23. In 2022, BMS/OLS received 29 investigation reports, of which 26 were accepted. In addition, BMS/OLS considered 20 open cases from previous years. At the end of 2022, 23 open cases were carried over to 2023.
24. Of the 46 open disciplinary cases in 2022, 24 cases were concluded as follows:
 - a. 13 cases resulted in the imposition of a disciplinary sanction on a staff member: 11 cases led to the staff member's dismissal or separation from service; One case led to deferment for consideration for promotion and written censure; One case led to a loss of four steps and deferment for two years of eligibility for salary increment. **Annex A** to this Report contains a summary of the cases resulting in disciplinary measures against staff members in 2022 and other administrative action.
 - b. Three cases were concluded under Paragraph 72(a) of the Legal Framework with the placement of a note on the matter on the staff member's Official Status File, as the staff member had resigned or otherwise separated from UNDP during the investigation or prior to a final decision on the case. No cases were closed under Paragraph 73 or under Paragraph 72(b) or 81(a). **Annex B** to this Report contains a summary of Actions taken pursuant to Paragraphs 72(a) of the Legal Framework in 2021.
 - c. Six cases were concluded with clearance or exoneration because the staff member provided evidence to support their lack of culpability, or the facts established by the investigation report did not rise to the level of misconduct.
 - d. Two cases were transferred to other UN entities.
25. Staff members appealed five of the disciplinary cases finalized in 2022 to the UNDT.

D. Appeals to the UN Dispute Tribunal (UNDT) and UN Appeals Tribunal (UNAT)

26. As noted above, the relevant staff member may appeal UNDP's response to an RME to the UNDT. The time limit for such an appeal is 90 days from receipt of the reply to the RME, or 90 days from the date on which the reply to the RME would be due. In 2022, three RMEs were appealed to the UNDT.³
27. During 2022, the UNDT issued seven judgments (which included appeals filed in previous years) where UNDP was a party. Of the seven judgments issued, the UNDT upheld UNDP's decision in six cases and overturned UNDP's decision in one case.
28. During the same period, the UNAT issued three judgments pertaining to UNDP decisions. Of the three cases, the UNAT upheld UNDP's decision (either upholding or overturning the UNDT's decision) in two cases and overturned UNDP's decision in one case.

II. OTHER PERSONNEL

A. United Nations Volunteers

29. On 1 October 2021, UNV's Unified Conditions of Service for UN Volunteers came into effect and modified the list of disciplinary measures.
30. During 2022, 16 cases were reviewed by UNV concerning allegations against UN Volunteers undertaking assignments across the United Nations system. 10 of the 16 cases resulted in the imposition of disciplinary sanctions: two resulted in a letter of censure; two resulted in non-extension of the UN Volunteer's current contract; one resulted in early separation; and five resulted in summary dismissal.

B. Non-Staff Personnel

31. UNDP has zero tolerance for fraud, corruption and certain other wrongdoing by any personnel. As these individuals are not UNDP staff members, their contract with UNDP constitutes the Legal Framework governing their employment with UNDP. A breach of the terms and conditions of their contract may lead to the termination or non-renewal of their contract. Such decisions are within the competence and authority of the office for which the non-staff personnel works, because that office is responsible for such non-staff personnel and accountable for their conduct. **Annex C** to this Report contains a summary of the cases involving non-staff personnel in 2022.

³ Because of the time limits for appeal, the RMEs may have occurred in the previous year.

C. UNDP Vendors

32. Effective governance and integrity are critical to enable UNDP to achieve its mandate. UNDP requires its vendors to comply with the highest ethical standards, and report to UNDP all suspected acts of fraud, corruption and all proscribed practices.
33. The Vendor Review Committee (VRC) is an internal administrative body tasked with making recommendations to UNDP's Chief Procurement Officer (CPO) concerning the imposition of sanctions on vendors who engage in proscribed practices. The VRC analyzes OAI Investigation Reports that substantiate actions and omissions by vendors. Sanctions against UNDP vendors are regulated by UNDP's Vendor Sanctions Policy and may range from a censure (letter of reprimand) to a debarment, depending on the type and severity of the proscribed practices. UNDP records the names of sanctioned vendors in an internal UNDP ineligibility list. This information is also shared with the UN Global Marketplace (UNGM) which hosts an ineligibility list that aggregates information disclosed by UNDP and other Agencies, Funds or Programs of the UN System.
34. In 2022, the VRC received 17 investigation reports from OAI, four of which were closed in 2022 and one in 2023. The remaining 12 cases are under review.
35. The VRC reviewed and closed 23 cases in 2022. This resulted in 43 vendors (companies, NGOs and individuals) being sanctioned, resulting in 33 debarments and 10 censures.
36. In 2022, one vendor was placed on interim suspension pending the completion of OAI's investigation or the VRC proceedings. The VRC processed five requests for rehabilitation. It approved two requests and denied three.

D. Possible Criminal Behavior

37. In its Resolution 59/287, the General Assembly requested the Secretary-General to take action expeditiously in cases of "proven [...] criminal behaviour" and ensure that Member States are informed of the actions taken. Further, in its Resolution 62/63, the General Assembly requested the Secretary-General "to bring credible allegations that reveal that a crime may have been committed by United Nations officials and experts on mission to the attention of the States against whose nationals such allegations are made, and to request from those States an indication of the status of their efforts to investigate and, as appropriate, prosecute crimes of a serious nature [...]". The UN Under-Secretary-General for Management reports on such cases in the yearly "Information Circular" entitled "Practice of the Secretary-General in disciplinary matters and possible criminal behaviour".
38. When an OAI investigation reveals credible evidence that a violation of law has occurred warranting referral to the law enforcement authorities of a Member State, UNDP recommends referral of such matters to the UN Office of Legal Affairs (OLA) for its review and appropriate action. In 2022, UNDP referred to OLA three cases of possible criminal behaviour by staff members, and no cases pertaining to non-staff personnel.

Annex A: Summary of cases resulting in disciplinary measures against staff members in 2022

	Fraud
1.	<p>A staff member at the NO-B level was found to have committed procurement fraud, theft, and forgery. The staff member was also found to have accepted bribes in the award of contracts and have engaged in unauthorized outside activities in owning one company and acting as manager of another company. The fact that the staff member engaged in numerous and different types of repeated misconduct was considered an aggravating factor. There was no finding of direct financial loss in this case.</p> <p><i>Sanction: Dismissal</i></p>
2	<p>A staff member at the G-7 level was found to have committed entitlement fraud by falsely certifying official travel and retaining the reimbursement of the travel expenses received. The lack of remorse and the fact that the staff member attempted to blame other colleagues were considered aggravating factors. As a result of the conduct, the Organization incurred a financial loss. The amount was recovered from the staff member's final entitlements.</p> <p><i>Sanction: Dismissal</i></p>
3	<p>A staff member at the G-2 level was found to have committed entitlement fraud and attempted entitlement fraud by submitting false claims for medical treatment on behalf of the staff member and the staff member's dependents. The staff member obtained reimbursement of some claims. The fact that the staff member engaged in repeated instances of fraud was considered an aggravating factor. As a result of the conduct, the Organization incurred a financial loss. The amount was recovered from the staff member's final entitlements.</p> <p><i>Sanction: Dismissal</i></p>
4	<p>A staff member at the NO-B level was found to have committed procurement fraud by diverting contracts to favoured contractors and submitting false certifications regarding the process. The staff member received kickbacks from the vendors. The repeated instances of procurement fraud were considered an aggravating factor. There was no finding of financial loss in this case.</p> <p><i>Sanction: Dismissal and Fine for receipt of undue benefits</i></p>

5	<p>A staff member at the G-5 level was found to have committed entitlement fraud by submitting false claims for medical treatment on behalf of the staff member and the staff member's dependents. The staff member obtained reimbursement of some claims. The lack of remorse and the fact that the conduct was repeated were considered aggravating factors. As a result of the conduct, the Organization incurred a financial loss. The amount was partially recovered from the staff member's final entitlements.</p> <p><i>Sanction: Dismissal</i></p>
6	<p>A staff member at the G-6 level was found to have committed entitlement fraud by submitting a false claim for reimbursement for medical treatment of the staff member's spouse. The staff member obtained reimbursement. The fact that the staff member failed to both cooperate with the investigation or accept responsibility were considered aggravating factors. The decision-maker recognized the absence of any prior record of misconduct and the fact that the conduct was a single incident as mitigating factors. As a result of the conduct, the Organization incurred a financial loss. The amount was recovered from the staff member's final entitlements.</p> <p><i>Sanction: Separation from service with compensation in lieu of notice and without termination indemnities</i></p>
7	<p>A staff member at the G-5 level was found to have committed entitlement fraud by submitting a false claim for reimbursement for medical treatment of the staff member's child. The staff member obtained reimbursement. The fact that the staff member failed to both cooperate with the investigation or accept responsibility were considered aggravating factors. The decision-maker recognized the absence of any prior record of misconduct and the fact that the conduct was a single incident as mitigating factors. As a result of the conduct, the Organization incurred a financial loss. The amount was recovered from the staff member's final entitlements.</p> <p><i>Sanction: Separation from service with compensation in lieu of notice and without termination indemnities</i></p>
8	<p>A staff member at the NO-B level was found to have engaged in fraud by inducing an implementing partner to pay for official travel that was not authorized and by manipulating an invoice to claim reimbursement. The staff member also improperly sought to favour a bidder in a procurement process. The seniority of the staff member's level and the fact that the staff member had been serving for more than 10 years were considered aggravating factors. As a result of the conduct, the Organization incurred a financial loss. The amount was recovered from the staff member's final entitlements.</p> <p><i>Sanction: Separation from service without termination indemnity</i></p>

	Conflict of Interest
9	<p>A staff member at the NO-B level was found to have engaged in conflict of interest in that the staff member had personal relationships with multiple UNDP vendors and nevertheless participated in procurement exercises in which those vendors were involved. The staff member also misused UNDP official resources by allowing UNDP vendors to use the staff member's official laptop to prepare invoices. The absence of remorse and the lack of recognition of the staff member's responsibility for the conduct were considered aggravating factors. There was no finding of direct financial loss in this case.</p> <p><i>Sanction: Separation from service with compensation in lieu of notice and without termination indemnities</i></p>
10	<p>A staff member at the P-4 level was found to have improperly used the official UNDP-issued laptop to access websites containing pornographic material. The staff member also engaged in multiple instances of unauthorized outside activities that constituted a conflict of interest by acting as Director and shareholder of private companies that engaged in commercial activities with the same focus as the staff member's official functions. The staff member also provided a false statement and documents to the investigators. The protracted nature of the misconduct over 10 years, the multiple types and incidents of misconduct and the staff member's relatively senior and supervisory status were all considered aggravating factors. There was no finding of direct financial loss in this case.</p> <p><i>Sanction: Separation from service with compensation in lieu of notice and without termination indemnities</i></p>
11	<p>A staff member at the P-5 level was found to have improperly used the staff member's personal social media account to make partisan political comments, casting doubts on the staff member's impartiality and independence. The staff member's remorse and acknowledgement of the impropriety of the conduct were considered mitigating factors. There was no finding of direct financial loss in this case.</p> <p><i>Sanction: Written censure and deferment of eligibility for promotion for one year</i></p>
12	<p>A staff member at the G-4 level failed to disclose a conflict of interest during two separate recruitment processes in that the staff member had family ties with candidates participating in the recruitments. The staff member also breached confidentiality obligations by sharing internal UN documentation without authorization with a third party. The staff member's</p>

	<p>expression of remorse and absence of any prior record of misconduct were considered mitigating factors. There was no finding of direct financial loss in this case.</p> <p><i>Sanction: Loss of four steps in grade and deferment for two years of eligibility for salary increment</i></p>
	<p>Sexual Harassment</p>
13.	<p>A staff member at the G-2 level was found to have physically assaulted and sexually harassed an employee of a UNDP vendor after inducing that individual to enter an isolated area in the office. The fact that the staff member expressed remorse and cooperated with the investigation were considered mitigating factors. There was no finding of direct financial loss in this case.</p> <p><i>Sanction: Separation from service with compensation in lieu of notice and without termination indemnities</i></p>

Annex B: Actions taken pursuant to Paragraphs 72(a) of the Legal Framework in 2022

Actions taken pursuant to Paragraph 72(a) of the Legal Framework	
	<p>Sexual Harassment</p>
1.	<p>A staff member at the G-7 level was informed that, had the staff member remained in the employ of the Organization, a recommendation would have been made to charge the staff member with sexual harassment for touching in a sexual manner to another staff member on two separate occasions. The staff member was placed on Clear Check. There was no finding of direct financial loss in this case.</p>
	<p>Fraud</p>
2.	<p>A staff member at the G-7 level was informed that, had the staff member remained in the employ of the Organization, a recommendation would have been made to charge the staff member with committing fraud by colluding with a vendor in the award of a procurement contract. The staff member would have also been charged with engaging in unauthorized outside activities by lending money to other staff members at interest. There was no finding of direct financial loss in this case.</p>

3.	A staff member at the G-7 level was informed that, had the staff member remained in the employ of the Organization, a recommendation would have been made to charge the staff member with committing procurement fraud by a) participating to a procurement process without disclosing that the selected vendor was owned by the staff member's spouse; and b) forging documents and signatures of other UNDP staff members and government officials to record a sham procurement in favour of a specific vendor. A recommendation would also have been made to charge the staff member with unauthorized outside activities for managing another company owned by the staff member's spouse. As a result of the conduct, the Organization incurred a financial loss. The amount was partially refunded by the staff member.
----	--

Annex C: Summary of cases involving Non-Staff Personnel in 2022

1.	<p>Fraud x4</p> <p>Four SC holders and one NPSA holder were found to have engaged in entitlement fraud. Their contracts were terminated.</p>
2.	<p>Misrepresentation, Forgery and False Certification x3</p> <p>Two SC holders and one NPSA were found to have falsely certified documents. One of the SC contractors and the NPSA resigned as a result of OAI's investigations. The other SC's contract expired before OAI concluded its investigation.</p>
3.	<p>Misuse of Official Resources</p> <p>One NPSA was found to have engaged in the misuse of official resources. The contractor resigned after OAI concluded its investigation.</p>
4.	<p>Improper Recruitment</p> <p>One NPSA was found to have engaged in improper recruitment activities. The contractor resigned after OAI concluded its investigation.</p>
5.	<p>Conflict of Interest</p> <p>One SC was found to have engaged in activities constituting a conflict of interest. The SC's contract expired before OAI concluded its investigation.</p>

