

UNDP LEGAL FRAMEWORK
FOR
ADDRESSING NON-COMPLIANCE
WITH
UN STANDARDS OF CONDUCT

March 2018

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INTRODUCTION

Section 1 - Purpose

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1. As international civil servants, UNDP staff members are required to adhere to the highest standards of efficiency, competence and integrity.
2. The present document serves multiple purposes:
 - (a) It serves as a reminder to all staff members of their duty to abide by the highest standards of conduct. It defines the mechanisms that currently exist within UNDP for reporting allegations of wrongdoing, as well as what constitutes misconduct (Chapter I);
 - (b) It clarifies the responsibilities of each individual involved in the investigation of allegations of wrongdoing (Chapter II);
 - (c) It explains the procedure following investigation (Chapter III); (d) It outlines the disciplinary procedure (Chapter IV).
3. The present document supersedes:
 - (a) The Prescriptive Content on Accountability, Disciplinary Procedures and Measures issued in 2004;
 - (b) Circular ADM/97/17 of 12 March 1997 entitled Accountability, Disciplinary Measures and Procedures;
 - (c) Circular ADM/87/98 of 8 October 1987 entitled Establishment of the UNDP/UNFPA Disciplinary Committee;
 - (d) Sections 10900 to 10903 and Section 10906 of the Personnel Manual for Locally Recruited Staff, and Sections 21100 to 21107 of the Personnel Manual for Internationally Recruited Staff;
 - (e) All previous versions of the UNDP Legal Framework for Addressing Non-compliance with UN Standards of Conduct (Legal Framework), of September 2007, November 2007, May 2008 and January 2010.

Section 2 - Definitions

4. For the purpose of the present document:
 - ***Allegation of wrongdoing*** is the reasonable belief based on factual information that misconduct has occurred.
 - ***Administrative leave*** is an exceptional status provided for by Staff Rule 10.4 in which a staff member may be suspended from performing his or her functions. A staff member may be placed on administrative leave, subject to conditions specified by the Administrator, at any time from the receipt of an allegation of misconduct and prior to the initiation of an investigation, through the course of an investigation until the completion of disciplinary proceedings as appropriate. Administrative leave can be with pay (ALWP), with partial pay or without pay (ALWOP).

- **BMS** is the Bureau for Management Services.
- **Clearance** from the allegations of wrongdoing refers to the closure of the staff member's case before disciplinary proceedings have been initiated.
- **Complainant** is any person making a communication that discloses or demonstrates an intention to disclose information that misconduct may have occurred.
- **Disciplinary action** is the procedure initiated against a staff member pursuant to Staff Regulation 10.1, Chapter X of the Staff Rules, and Chapter IV of the present document.
- **Duty of cooperation** is the obligation imposed on staff members under Staff Regulation 1.2 (r) and Staff Rule 1.2 (c) to assist in an investigation, when requested to do so, by providing information in any form, including testimony, as relevant.
- **Evidence** is any type of proof which 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.
- **Exoneration** from allegations of wrongdoing refers to the closure of the staff member's case after disciplinary proceedings have been initiated through the issuance of a charge letter to him or her.
- **Financial Regulations and Rules** refer to the UNDP Financial Regulations and Rules.
- **Investigation** is the process of planning and conducting appropriate lines of inquiry to determine the factual basis of allegations, and, if substantiated, assembling a dossier of evidence to permit a decision at a later stage as to whether formal charges of misconduct should be made against a staff member, or, whether the case should be closed.
- **Investigation participant** is any person who is not the investigation subject but who cooperates with an investigation, for instance by being interviewed or by providing information. Investigation participants may be staff members cooperating pursuant to Staff Regulation 1.2 (r) and Staff Rule 1.2 (c), or non-staff and third persons who provide relevant information.
- **Investigation subject or subject** is a person who is the focus of the investigation, either by virtue of an allegation made, or evidence gathered during the course of an investigation.
- **Investigator** is a member of the Office of Audit and Investigations (OAI) or a person authorised by OAI to conduct an investigation related to cases of allegations of wrongdoing.

An investigator may also be a person authorised directly by the Secretary-General or the Administrator in certain cases, to conduct an investigation into allegations of wrongdoing.¹

¹ In cases where the Secretary-General or the Administrator decides to designate directly a person or persons to conduct an investigation, such individual/s will establish the procedures drawing from UN and/or UNDP investigation procedures and/or international best practice.

- **LO/BMS** is the Legal Office in the Bureau for Management Services.
- **Manager** is a staff member with a supervisory role.
- **Misconduct** is the failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and the Staff Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant. Such a failure could be deliberate (intentional, or wilful act), or result from an extreme or aggravated failure to exercise the standard of care that a reasonable person would have exercised with respect to a reasonably foreseeable risk (gross negligence) or from a complete disregard of a risk which is likely to cause harm (recklessness) (see Chapter I, Section 3).
- **OAI** is the Office of Audit and Investigations.
- **Organization** –*is any entity of the UN system of Organizations with the authority to issue its own Letter of Appointment.*
- **OHR/BMS** is the Office of Human Resources in the Bureau for Management Services.
- **Assessment** is the process of collecting, preserving and securing basic evidence, and the evaluation of this evidence to determine whether an investigation into reported allegations of wrongdoing is warranted.
- **Staff members** refer to the persons listed in Section 3, Subsection 3.1 below.
- **Staff Regulations and Staff Rules** refer to the United Nations Staff Regulations and Staff Rules.

Section 3 - Scope of application

3.1 - To whom the present document applies

5. The present document applies to:
 - (a) All staff members holding UNDP letters of appointment, including Junior Professional Officers (JPOs), regardless of whether their assignment is with UNDP, or on a UNDP Letter of Appointment with service limited to another Organization, Department, Programme or Fund. Staff members with UNDP letters of appointment could have their service limited to, for instance, United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), United Nations Volunteers Programme (UNV)², United Nations Capital Development Fund (UNCDF), United Nations Department of Safety and Security (UNDSS), United Nations Office for the Coordination of Humanitarian Affairs (OCHA). However, the present document does not apply in certain circumstances during a period of secondment or an

² The present document applies to UNDP staff members assigned to UNV Bonn, but not to UNV Volunteers. See also footnote 7.

inter-organization movement governed by the receiving Organization's Rules (see paragraph 7 (a));

- (b) Staff members of other Organizations on secondment to UNDP³ or on an inter-organization movement with UNDP, for actions occurring during their secondment or inter-organization movement. In such a case, UNDP will inform the releasing Organization prior to charging a staff member with misconduct.
6. For holders of UNDP letters of appointment who are subject to an inter-organization movement pursuant to the Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations applying the UN Common System of Salaries and Allowances (Inter-Organization Agreement), the Inter-Organization Agreement and any memoranda pursuant to it, will determine the respective prerogatives of the releasing and the receiving Organization with regard to disciplinary action⁴.

3.2 - To whom the present document does not apply

7. The present document does not apply to:

- (a) UNDP staff members on an inter-organization movement to a UN Agency for acts that occurred during their inter-organization movement to that Agency. However, disciplinary action under the present document may be initiated upon the UNDP staff member's return;
- (b) Individuals who do not have a UNDP letter of appointment;
- (c) Independent contractors working with UNDP under an Individual Contractor modality (IC)⁵;

³ A staff member on secondment to UNDP from another Organization or entity has the same status as that of a UNDP staff member on fixed-term appointment for the duration of the secondment, and the staff member's contractual relationship with the releasing Organization is suspended.

⁴ As a general rule, the respective prerogatives should be defined as follows: the receiving Organization may initiate disciplinary proceedings against the UNDP staff member during the inter-organization movement for conduct occurring in the context of the inter-organization movement. However, any sanctions imposed by the receiving Organization are limited to the context of the inter-organization movement. UNDP may initiate disciplinary proceedings during the inter-organization movement if the allegations of wrongdoing relate to actions that occurred prior to the inter-organization movement or otherwise outside the authority of the receiving Organization. UNDP may initiate disciplinary proceedings after the inter-organization movement following the imposition of sanctions by the receiving Organization if the facts established by the receiving Organization's investigation that prompted the disciplinary sanction call into question the standards of conduct expected from UNDP staff members. UNDP may also initiate disciplinary proceedings if disciplinary proceedings initiated by the receiving Organization are incomplete at the conclusion of the inter-organization movement or if allegations of wrongdoing for actions occurring during the inter-organization movement are raised after the inter-organization movement has ended.

⁵ Allegations of wrongdoing raised against independent contractors working with UNDP under an Individual Contractor (IC) modality, are to be addressed by the concerned office in accordance with the terms of the IC contract. OAI is competent to investigate allegations of wrongdoing against IC holders.

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- (d) Persons employed under Service Contracts (SC)⁶;
- (e) UNV Volunteers (UNVs)⁷;
- (f) Interns.

Section 4 - Overall authority

4.1 - The Administrator

8. In accordance with the delegation of authority from the Secretary-General, the Administrator has the authority to take disciplinary action regarding staff holding UNDP letters of appointment. The Administrator will decide whether a staff member has committed misconduct, and, if so, which disciplinary measure(s) should be imposed on him or her.
9. The Administrator has retained decisional authority elaborated herein for staff at the rank of D-2 and above, as well as for all Resident Representatives and Resident Coordinators, irrespective of rank, the Heads of UNDP Liaison Offices, the Ombudsman, the Director of the Ethics Office, the Director of the Office of Audit and Investigations and the Director of the Independent Evaluation Office.

4.2 - The Associate Administrator

10. Pursuant to the delegation of authority from the Administrator to the Associate Administrator, the Associate Administrator will take disciplinary action in respect of all other staff not mentioned in paragraph 9 above. Therefore, hereinafter, all references to “the Administrator” in this document will mean “the Associate Administrator” when the matter refers to staff falling under the scope of the delegated authority of the Associate Administrator.

4.3 - The Assistant Administrator and Director, Bureau for Management Services (BMS)

11. The Administrator hereby delegates to the Assistant Administrator and Director, BMS, the authority to decide whether:
 - (a) To place a staff member on administrative leave, and at the end of the initial administrative leave period, whether to extend it;
 - (b) To charge a staff member with misconduct;
 - (c) To exonerate a staff member from allegations of wrongdoing;

⁶ In the case of allegations of wrongdoing raised against Service Contract holders, the concerned office will address them in accordance with the Service Contract and the Service Contract User Guide. OAI is competent to investigate allegations of wrongdoing against SC holders.

⁷ UNVs are governed by the UNV Conditions of Service. In the case of allegations of wrongdoing raised against a UNV Volunteer working in a UNDP office or project, the Resident Representative or the Head of Office should report the matter to UNV Bonn or directly to OAI.

- (d) To apply other means to conclude a case, including settlements, where the interests of the Organization would be served by such action.

4.4 - The Director, Legal Office, Bureau for Management Services (LO/BMS)

12. The Director, LO/BMS, is responsible for:

- (a) Reviewing final investigation reports received from or through OAI and the comments and evidence presented by the subject of the investigation thereon, and requesting clarification from OAI, or the subject of the investigation, as appropriate;
- (b) Recommending the placement of staff members on administrative leave and any subsequent extension of the administrative leave;
- (c) Recommending the initiation of disciplinary proceedings through presenting charges to the subject of the investigation, or recommending other appropriate resolution of the matter;
- (d) Recommending disciplinary action, exoneration from allegations of wrongdoing, or other courses of action as appropriate (see Chapter III);
- (e) Preparing submissions and representing the Administration before the United Nations Dispute Tribunal in cases of appeals by staff members regarding disciplinary measures imposed on them; and supporting the United Nations Office of Legal Affairs in its representation of UNDP before the United Nations Appeals Tribunal in the above-mentioned cases (see Chapter IV);
- (f) Assisting as appropriate in the recovery of the value of UNDP assets and property lost as the result of misconduct (see Chapter IV);
- (g) Advising the complainants of the outcome of cases relating to allegations of workplace harassment and abuse of authority, when OAI, based on its investigation, considers that the allegations of wrongdoing are substantiated and accordingly submits a final investigation report to LO/BMS.

4.5 - The Director, Office of Audit and Investigations (OAI)

13. The Director, OAI, is responsible for:

- (a) Receiving reports of allegations of wrongdoing, including allegations of fraud, workplace harassment, abuse of authority and allegations of sexual exploitation and abuse⁸, as well as managing the UNDP hotline established for such reports (see Chapter I);
- (b) Deciding, upon receipt and review of a formal complaint, whether the matter warrants an assessment, dismissal/closure, or handling through informal resolution, including referral to OHR/BMS or the Ombudsman;

⁸ Staff members are encouraged to refer to the Special Measures for Protection from Sexual Exploitation and Sexual Abuse (ST/SGB/2003/13), for more information on this subject.

- (c) Conducting assessments or requesting persons so authorised by OAI, such as the manager of the Office concerned, to conduct the assessment on behalf of OAI;
- (d) On the basis of the results of the assessment, determining the need for an investigation or the closure of the given case;
- (e) Conducting investigations into allegations of wrongdoing (see Chapter II), or designating persons to carry out such investigation;
- (f) Sharing the draft investigation report with the subject of the investigation for his or her comments on the factual findings and conclusions contained therein⁹;
- (g) Considering whether any evidence of facts or circumstances provided by the subject in his or her comments on the draft investigation report, necessitate amendment to that draft investigation report prior to the submission of the final investigation report to the Director, LO/BMS;
- (h) Submitting a final investigation report, along with the comments of the subject of the investigation on the draft investigation report and any evidence he or she may have presented, when applicable, to the Director, LO/BMS and responding to requests for clarification from the Director, LO/BMS (see Chapter III);
- (i) Carrying out investigations into allegations of retaliation after referral of the complaints by the Director, Ethics Office and providing the investigation report to the Director, Ethics Office (see the UNDP Policy for Protection against Retaliation);
- (j) Referring investigations and allegations, and providing guidance on how to conduct investigations, to persons authorised by OAI in the event that OAI requested them to conduct the assessment or the investigation, and vetting and endorsing the investigation as appropriate;
- (k) Advising the complainants of the outcome of the investigation if the matter has been closed.

4.6 - The Director, Office of Human Resources, Bureau for Management Services **(OHR/BMS)**

14. The Director, OHR/BMS, is responsible for providing guidance on addressing work performance related issues revealed by the assessment or the investigation (see paragraph 84).

The Director, OHR/BMS is also responsible for determining how relevant information arising from an assessment or investigation will be included in the performance appraisal under the Performance Management and Development (PMD) assessment policy.

15. Informal resolution of interpersonal conflicts in the workplace, which may include alleged instances of workplace harassment or abuse of authority, is strongly encouraged. The Human Resources Advisors, Business Advisory Services BAS/OHR/BMS, in all Bureaus or the Focal

⁹ If a staff member joins another UN entity while under investigation, the investigation report may be sent to that entity's investigative unit for their action.

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Point for Workplace Harassment, OHR/BMS, may be contacted by staff and managers to obtain support in respect of the informal resolution of such conflicts.

16. The Director, OHR/BMS is responsible for the placement of any decision concerning a finding of misconduct or a decision reflecting some other determination or outcome of the allegations in the official status file of the concerned staff member, and for the implementation of payments required by a Tribunal Order or Judgement.

4.7 - The Director, Ethics Office

17. Pursuant to the UNDP Policy for Protection against Retaliation, the Director, Ethics Office is responsible for:

- (a) Receiving complaints of retaliation relating to individuals who have reported allegations of wrongdoing, or cooperated with an audit or investigation;
- (b) Keeping a confidential record of such complaints;
- (c) Conducting a preliminary assessment of the allegations of retaliation;
- (d) Referring the case to OAI for investigation if, in his or her opinion, there is a credible case of retaliation or threat of retaliation;
- (e) Communicating with the complainants;
- (f) Making recommendations for appropriate measures to be taken to safeguard the interests of the complainants pending investigation, if needed, and/or for appropriate measures aimed to the extent possible at correcting negative consequences as a result of the retaliatory action, if retaliation is corroborated;
- (g) Determining whether the investigation corroborates the allegations of retaliation and requesting clarifications from OAI, as appropriate, and where the allegations are corroborated, referring the case to the Director, LO/BMS for disciplinary action as appropriate;
- (h) Advising the complainants of the outcome of the investigation and the subjects of the investigation in cases where retaliation has not been established.

4.8 - Staff members with a supervisory role (“managers”)

18. Managers, including the Resident Representatives in Country Offices and the Heads of Office/Unit/Section/Department/Bureau in Headquarters and other locations, in addition to the obligation to adhere to the highest standards of efficiency, competence and integrity, are responsible for:

- (a) Reporting allegations of wrongdoing to OAI as soon as they become aware of such allegations;

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- (b) If requested by OAI, conducting an assessment related to allegations of wrongdoing and reporting the results of the assessment to OAI, and if so requested by OAI, conducting an investigation and reporting the results of such investigation to OAI;
- (c) If so recommended by LO/BMS, issuing oral and written reprimands to staff members. However, the Resident Representatives and Heads of Office/Unit/Section/Department/Bureau do not have authority to take any disciplinary measures against staff members or to place staff members on administrative leave;
- (d) Addressing work performance related issues indicated by the circumstances of a case in the PMD assessment, in accordance with PMD procedures;
- (e) Taking appropriate measures to remedy management issues of the supervisors they oversee (see Chapter I, Section 2).

4.9 - Staff members

- 19. Staff members, in addition to the obligation to adhere to the highest standards of efficiency, competence and integrity, have a duty to report any breach of the UN Staff Regulations, Rules and applicable Policies to those whose responsibility it is to take appropriate action, including reports regarding sexual exploitation or sexual abuse, and for cooperating with any investigation pursuant to Staff Regulation 1.2 (r) and Staff Rule 1.2 (c).

CHAPTER I STANDARDS OF CONDUCT

Section 1 - Standards of conduct expected from UNDP staff members

- 20. Staff members will uphold the highest standards of efficiency, competence and integrity. The concept of integrity enshrined in the Charter of the United Nations includes all aspects of behaviour of an international civil servant, including such qualities as honesty, truthfulness, impartiality and incorruptibility. Integrity is the most important among the core values of the Organization, together with professionalism and respect for diversity.
- 21. Staff members must abide by the Standards of Conduct for the International Civil Service (referred to as the 'ICSC Standards of Conduct') as adopted by the International Civil Service Commission and most recently approved by the UN General Assembly in 2013, which updated the 1954 Code of Conduct of the United Nations staff members and by the standards defined in the Secretary-General's Bulletin on "Special Measures for Protection from Sexual Exploitation and Sexual Abuse", ST/SGB/2003/13. Staff members can also refer to the Secretary-General's Bulletin "Status, basic rights and duties of United Nations staff members", ST/SGB/2016/9. This document contains a commentary by the Secretary-General to assist staff members and management in better understanding the obligations applicable to staff conduct.

Section 2 - Management standards

- 22. In addition to complying with the above standards of conduct, managers will:

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- (a) Create and maintain a harmonious working environment, free of intimidation, hostility, offence and of any form of harassment and abuse of authority, and seek the informal resolution of interpersonal conflicts in the workplace, as appropriate, in accordance with the UNDP Policy on Harassment, Sexual Harassment, Discrimination, and Abuse of Authority;
 - (b) Communicate the policies protecting the rights of staff members, such as the UNDP Policy on Harassment, Sexual Harassment, Discrimination, and Abuse of Authority, as well as the present Legal Framework to all staff members, and ensure that staff members are aware of the contents of the Secretary-General's Bulletin on "Special measures for Protection from Sexual Exploitation and Sexual Abuse", ST/SGB/2003/13, and know where to turn in case they have concerns or want to make a report;
 - (c) Ensure that managers, themselves, do not engage in any wrongdoing and do not create an intimidating, belittling, harassing work environment and/or demonstrate partiality, unfairness or favouritism;
 - (d) Report allegations of wrongdoing to OAI as soon as they are aware of such allegations;
 - (e) Ensure that all discussion, communications and actions are handled with extreme sensitivity and utmost confidentiality; and
 - (f) Ensure that no staff member is retaliated against.
23. As UNDP is committed to providing a harmonious working environment free of harassment, intimidation and favouritism, managers are expected to exhibit exemplary behaviour in their supervision of others. While issues of management style may not constitute misconduct warranting disciplinary action, it is the responsibility of supervisors, overseeing those managers found to be deficient in their treatment or supervision of people,¹⁰ to take appropriate action. In particular, supervisors should:
- (a) Take measures to coach or train managers in appropriate people management skills;
 - (b) Reflect management issues in the annual PMD assessment;
 - (c) As appropriate, issue letters of reprimand or take other non-disciplinary measures; (d) Take other action as appropriate.

Supervisors will be held accountable for their failure to take appropriate action towards those managers whose management of others is found to be unsatisfactory.

Section 3 - Misconduct

24. Misconduct is defined in Staff Rule 10.1 as "failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant." Such a failure could be deliberate (intentional or wilful act), or

¹⁰ Advice of the Ombudsman or OHR/BMS should be sought in connection with such issues.

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result from an extreme or aggravated failure to exercise the standard of care that a reasonable person would have exercised with respect to a reasonably foreseeable risk (gross negligence) or from a complete disregard of a risk which is likely to cause harm (recklessness).

25. Misconduct may include, but is not limited to, the following categories whether wilful, reckless or grossly negligent:

- (a) Acts or omissions in conflict with the general obligations of staff members set forth in Article I of the Staff Regulations, Chapter I of the Staff Rules and other administrative issuances as applicable; failure to comply with the standards of conduct expected from international civil servants;
- (b) Unlawful acts (e.g. theft, fraud, smuggling, possession or sale of illegal substances or objects, etc.) wherever they occur, and whether or not the staff member was officially on duty at the time;
- (c) Assault, workplace harassment, including sexual harassment, or threats to other staff members or third parties (see the UNDP Policy on Harassment, Sexual Harassment, Discrimination, and Abuse of Authority);
- (d) Sexual exploitation and sexual abuse as defined in the Secretary-General's Bulletin "Special measures for Protection from Sexual Exploitation and Sexual Abuse", ST/SGB/2003/13;
- (e) Misrepresentation, forgery, or false certification, including but not limited to, in connection with any official claim or benefit, the failure to disclose a fact material to that claim or benefit, or engaging in a knowing misrepresentation which has adverse consequences for the Organization;
- (f) Misuse or mishandling of official property, assets, equipment or files, including electronic files or data;
- (g) Action or omission to avoid or deviate from Financial Regulations, Rules and Procedures, including inappropriate use of authorizing, approving, committing or verifying authority;
- (h) Mishandling of contract obligations and relations with third parties leading to loss of property or assets, or generating liabilities for the Organization;
- (i) Failure to disclose an interest or relationship with a third party who might benefit from a decision in which the staff member takes part; favouritism in the award of a contract to a third party;
- (j) Breach of fiduciary obligations vis-à-vis the Organization;
- (k) Misuse of office, abuse of authority; breach of confidentiality; abuse of United Nations privileges and immunities, including misuse of the United Nations Laissez-Passer;
- (l) Exaction or acceptance of funds, services or benefits from a colleague or a third party in return for a favour or benefit;

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- (m) Failure to disclose promptly the receipt of gifts, remuneration or other benefits received from an external source by the staff member in connection with his or her official duties;
 - (n) Retaliatory action against a complainant or an investigation participant, or other action in violation of the UNDP Policy for Protection against Retaliation;
 - (o) Making false accusations and disseminating false rumours;
 - (p) Direct or indirect use of, or attempt to use, official authority or influence of the staff member's position or office for the purpose of obstructing an individual from reporting allegations of wrongdoing, or cooperating with an audit or an investigation;
 - (q) Abetting, concealing or conspiring in any of the above actions, including any act or omission bringing the Organization into disrepute.
26. Unsatisfactory work performance, when it does not come to the level of gross negligence or recklessness, does not constitute misconduct and thus does not fall within the scope of the present document. Performance-related issues are to be addressed through the PMD assessment in accordance with the appropriate procedure (see the PMD policy and procedures).

Section 4 - Reporting allegations of wrongdoing

27. In reporting allegations of wrongdoing, staff members may make such a report either to OAI, or to their immediate supervisor or other appropriate supervisor within the operating unit. The staff member's supervisor will report the matter to OAI in accordance with Section 2 of Chapter I. In the event that a staff member reports wrongdoing to OAI, he or she may do so anonymously by sending an e-mail at the following link: reportmisconduct@undp.org.
28. In the event that the staff member believes that there is a conflict of interest on the part of the person to whom the allegations of wrongdoing are to be reported, he or she may report the allegations to the next higher level of authority.
29. In the event that the staff member fears retribution or retaliation after reporting allegations of wrongdoing, or cooperating with an audit or investigation, he or she may address his or her concern by filing a report to the Director, Ethics Office at the following email address: ethicsoffice@undp.org. The UNDP Policy for Protection against Retaliation applies in these cases. Other cases of retaliation that do not fall within the mandate of the Ethics Office as described in the UNDP Policy for Protection against Retaliation, may be reported to OAI.
30. If the allegations of wrongdoing relate to workplace harassment and abuse of authority, the Policy on Harassment, Sexual Harassment, Discrimination, and Abuse of Authority applies. Such allegations may be reported to OAI at the following link: reportmisconduct@undp.org.
31. Staff members who become aware of information related to the Organization that concerns internet-based fraud, or misuse of the Organization database or technology resources, whether such information relates to sources within the Organization or externally, should report the

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matter. In such an event, Staff members should report the matter to OAI at reportmisconduct@undp.org. Staff members can visit the following website for more information: <https://www.undp.org/content/undp/en/home/accountability/audit/office-ofaudit-and-investigation.html>. The website is public and external parties can also be directed to it.

32. Except when an allegation is made anonymously, the individual reporting the allegations will receive an acknowledgement from the office to which the allegations were reported.

CHAPTER II

INVESTIGATION

33. An investigation may involve the following parties:
- (a) The complainant(s);
 - (b) The investigation subject(s);
 - (c) The investigation participant(s); (d) The investigator(s).
34. The present Chapter II focuses on the rights and responsibilities of the investigation subjects in Section 1, the investigation participants in Section 2, the investigators in Section 3 and on the different phases of the investigation in Section 4.

Section 1 - Roles, rights and responsibilities of the investigation subjects

1.1 - Rights of the investigation subjects

35. Provided that they have been identified by the investigators, the investigation subjects will be informed in writing of the allegations at the earliest possible time provided such disclosure does not put at risk the documentary evidence, investigation participants and/or any other individuals. However, the staff member must be notified no later than the start of his or her interview that he or she is the subject of the investigation. If the staff member has been placed on administrative leave (see Chapter II, Section 1, Subsection 1.3), this notification may happen prior to the commencement of the investigation.
36. If, in the course of the investigation, additional allegations are raised against the investigation subjects, the investigators will inform the subjects of these new allegations in the same manner as the earlier allegation(s), that is no later than the start of the subject's interview on the matter of the additional allegation. However, the investigation subjects should be aware that LO/BMS, after analysing the findings contained in OAI's final investigation report, may decide that some facts as established by the investigation, though not initially raised as part of the original allegations of wrongdoing, may constitute misconduct. In such cases, the fact that OAI did not inform the subject of the alleged misconduct emerging from the investigation at the time of the investigation will not be considered a violation of procedure or due process rights, provided the investigation subjects are given the opportunity to comment on the charges levelled against them and the facts on which the charges are based (see Chapter III, Section 1, Subsection 1.1).
37. If, during the course of the investigation, OAI discovers new facts giving rise to allegations of wrongdoing on the part of an investigation participant, OAI will notify the investigation participant, as soon as practicable and no later than the start of his or her interview, that he or she has become a subject of the investigation. In the event that, in the course of the investigation, additional allegations are raised against the investigation subjects, the provisions of paragraph 36 above will apply.
38. The identity of the investigation subjects should remain confidential to the extent possible within the legitimate needs of the investigation. However, these identities may become known,

including to investigation participants in the context of the investigation. Investigation participants have a duty to keep the identities of investigation subjects confidential.

1.2 - Responsibilities of the investigation subjects

39. Pursuant to Staff Regulation 1.2 (r) and Staff Rule 1.2 (c), the investigation subjects must cooperate fully and in good faith with the investigators. They must not interfere with the investigation and must abstain from withholding, destroying or tampering with evidence, and from influencing, coaching or intimidating the complainant and/or investigation participants. The subject must respect the confidential nature of the investigation and the proceedings by exercising outmost discretion. A lack of cooperation and/or undue interference with the investigation may constitute misconduct and may result in disciplinary or other appropriate action.

1.3 - Administrative leave

40. Pursuant to Staff Rule 10.4, a staff member may be placed on administrative leave by the Assistant Administrator and Director, BMS at any time from the moment allegations of wrongdoing are reported or detected, pending or during an investigation and until the completion of the disciplinary process. Placement of a staff member on administrative leave is normally with pay, unless exceptional circumstances warrant administrative leave without pay or with partial pay. In either case, the administrative leave is without prejudice to the staff member's rights and it does not constitute a disciplinary measure.

41. As a general principle, administrative leave with pay may be contemplated in cases where:

- (a) The conduct in question and/or the continued presence of the staff member on UN premises poses or may pose a security or financial risk to the Organization and/or its personnel, including the staff member concerned, or otherwise prejudice the Organization's interests or reputation;
- (b) The staff member is unable to continue performing his or her functions effectively, in view of the ongoing investigation or proceedings, and the nature of his or her functions;
- (c) Continued service by the staff member would create a risk that he or she may destroy, conceal or otherwise tamper with potential evidence, or interfere in any way with the investigation or disciplinary process, including retaliation against individuals protected under the UNDP Policy for Protection against Retaliation or intimidation of a witness;
- (d) The staff member's continued presence at the office could negatively impact the preservation of a harmonious work environment;
- (e) There is a risk of a repetition or continuation of the alleged misconduct.

42. Administrative leave without pay may be contemplated in cases where:

- (a) On the basis of the information before him or her, there is preponderance of evidence that

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the staff member engaged in the alleged conduct and the alleged misconduct is of such gravity that it would, if established, warrant separation or dismissal under Staff Rule 10.2 (a) (viii) or (ix);

(b) There is *prima facie* evidence of allegations of sexual exploitation and abuse.

43. Requests for placement of a staff member on administrative leave at either the assessment stage or the investigation stage should be addressed to the Director, LO/BMS. On the basis of the evidence presented, the Director, LO/BMS may recommend to the Assistant Administrator and Director, BMS that an individual be placed on administrative leave. Resident Representatives in Country Offices, Heads of Office/Unit/Section/Department/Bureau in Headquarters and other locations and the Executive Director of the Organization to which the holder of a UNDP letter of appointment is assigned, **do not have the authority to place staff members on administrative leave.**

44. Exceptionally, if the Resident Representative or the Head of Office/Unit/Section/Department/Bureau considers that the circumstances require immediate action, he or she may decide to place the staff member on special leave with full pay (SLWFP); he or she cannot place the staff member on special leave without pay (SLWOP). If the Resident Representative or the Head of Office/Unit/Section/Department/Bureau places the staff member on SLWFP, he or she must inform the Director, LO/BMS **within 72 hours** of his or her decision to place the staff member on SLWFP and provide all the relevant evidence documenting why placement on SLWFP was urgently required and could not wait for formal authorization of administrative leave to be granted. After review of the case, the Director, LO/BMS will make a recommendation to the Assistant Administrator and Director, BMS concerning whether administrative leave is justified:

(a) If the Assistant Administrator and Director, BMS considers that administrative leave is warranted, the SLWFP will be converted into administrative leave and the decision to place the staff member on administrative leave will supersede the staff member's placement on SLWFP;

(b) If the administrative leave is not warranted, the Assistant Administrator and Director, BMS will revoke the decision to place the staff member on SLWFP.

45. The Resident Representative or the Head of Office/Unit/Section/Department/Bureau is accountable if he or she improperly places a staff member on administrative leave or SLWFP under the present Legal Framework, or does not report his or her action in this respect within the prescribed timeframe.

46. If the Assistant Administrator and Director, BMS authorizes the placement of a staff member on administrative leave, the staff member will:

(a) Be notified in writing of the reason(s) for being placed on administrative leave, of its probable duration and of its conditions;

(b) Immediately surrender his or her grounds pass and/or United Nations Laissez-Passer; and

- (c) Immediately surrender any UNDP property or assets he or she may have, when requested.
47. Placement of a staff member on administrative leave will not exceed three months at a time. Subject to the justification provided by the Director, LO/BMS to support an extension of the administrative leave, the Assistant Administrator and Director, BMS may extend the administrative leave for a further defined period not exceeding three months. There is no limit to the cumulative time a staff member may be on administrative leave, but the Assistant Administrator and Director, BMS will try to limit the time on administrative leave as much as possible and to this extent, alternatives to administrative leave such as a change in functions, reporting, training or a detail assignment, may be decided. The Assistant Administrator and Director, BMS may consult with the Director, OHR/BMS and/or Director, LO/BMS on the application of such measures.
48. A staff member placed on administrative leave must surrender his or her grounds pass and any United Nations Laissez-Passer and return any United Nations owned equipment which has been assigned to him or her. While on administrative leave, a staff member will not be allowed to enter the Organization's office premises without first obtaining written permission from the Resident Representative, or Head of the relevant office. Such entry will be under escort and in connection with the staff member's defence of the case or other valid reason justifying such entrance. Normally, the staff member placed on administrative leave is not be precluded from remaining at, or returning to, the duty station. Special consideration should be made for staff residing in the Organization's compound. A staff member placed on administrative leave must obtain the written approval of the Resident Representative or Head of the relevant office before leaving the duty station during the period of administrative leave. Should the staff member placed on administrative leave request or, under exceptional circumstances, be requested to leave the duty station, he or she must immediately provide his or her contact information, including telephone number(s), personal e-mail address(es) and current residential address so that he or she may be contacted during the investigation. Such information must be updated by the staff member if the contact details change. The staff member placed on administrative leave has a duty to remain available for the investigation.
49. The staff member placed on administrative leave may make a request to the Director, LO/BMS to be granted access to files, provided that he or she justifies that the files are relevant to his or her case, and provided that access will not be disruptive to UNDP operations or access otherwise needs to be restricted (such as where the staff member requests information that is confidential or privileged). The Assistant Administrator and Director, BMS will decide in each case whether the staff member placed on administrative leave will or will not be given access to e-mail.

Section 2 - Roles, rights and responsibilities of the investigation participants

2.1 - Responsibilities of the investigation participants

50. Pursuant to Staff Regulation 1.2 (r) and Staff Rule 1.2 (c), staff members, including investigation participants, must cooperate fully and in good faith with a duly authorized investigation.

51. The investigation participants must refrain from discussing or disclosing the investigation or their testimony to anyone except the investigators. In no case should an investigation participant discuss with the investigation subject and/or complainant and/or another investigation participant the nature of the evidence requested or provided, or testimony given to investigators.

2.2 - Investigation participant's identity

52. Requests for confidentiality by investigation participants will be honoured to the extent possible within the legitimate needs of the investigation. In certain cases (e.g. workplace harassment and abuse of authority), however, the identity of the complainant and/or other investigation participants may need to be shared with the investigation subject for purposes of due process. In addition, those identities may become known for reasons outside the control of the investigators.

2.3 - Protection against retaliation

53. Anyone who cooperates in good faith with an investigation is entitled to protection from retaliation in accordance with the UNDP Policy for Protection against Retaliation. However, cooperation with the investigation does not excuse the individual's own possible complicity in the underlying matter. Notwithstanding his or her cooperation, a staff member may face disciplinary proceedings for his or her part in the matter about which he or she is cooperating with the investigators, and such proceedings may result in the imposition of disciplinary sanctions. Neither the investigation, institution of disciplinary proceedings, nor the imposition of disciplinary sanctions for his or her complicity in the underlying matter about which the staff member is cooperating, constitute retaliatory action.

Section 3 - Roles, rights and responsibilities of the investigators

54. All investigators, or persons authorised to conduct an assessment or an investigation, will be independent. They have a duty of objectivity, thoroughness, ethical behaviour, and observance of legal and professional standards.
55. Investigations should be launched only after an assessment establishes that the allegation, if true, could constitute misconduct and is accompanied by information specific enough to be investigated, or has, or directly points to corroborating documentary or testimonial evidence that can be pursued.
56. In carrying out investigations, the OAI investigators or persons authorised by OAI to investigate are to be guided by the OAI Investigation Guidelines. However, such guidelines reflect practice and are not binding or mandatory on OAI, and the failure to observe the Guidelines does not necessarily constitute a due process violation.

Section 4 - Assessment and/or investigation

57. The investigative process may comprise two phases: an assessment and an investigation. In all instances, OAI retains the prerogative to determine when circumstances warrant an assessment and/or an investigation, and in conformity with the present document, the appropriate investigative process to be followed.

4.1 - Assessment

58. The purpose of an assessment is:

- (a) To record and establish the basic facts;
- (b) To preserve or secure basic evidence whether written or electronic (such as cheques, invoices, written statements, or other relevant documents, records or data) that might otherwise be lost and that may be necessary for the determination as to whether an investigation is justified;
- (c) To identify any inconsistencies or outstanding questions; and
- (d) To analyse the evidence to determine whether an investigation into reported allegations of wrongdoing is justified.

59. In country offices, the Resident Representative or his or her delegated authority should contact OAI as soon as possible when he or she has received sufficient information about the existence of wrongdoing by staff or other individuals whether in the form of specific allegations; facts or circumstances suggesting wrongdoing has occurred; or loss, damage to property or apparent impropriety. In Headquarters and other locations, the same provision applies to Heads of Office/Unit/Section/Department/Bureau.

60. At the request of OAI and under its guidance, the Resident Representative or delegated authority or Head of Office/Unit/Section/Department/Bureau may initiate an assessment into any suspected wrongdoing.

61. Where OAI has requested that an assessment be carried out, and the assessment indicates that wrongdoing may have occurred, those conducting the assessment will report this conclusion to the Director, OAI, giving a full account of the facts that are known and attaching documentary evidence if appropriate. Should placement of the staff member on administrative leave appear to be warranted, a recommendation to such effect may be made to the Director, LO/BMS (see Chapter II, Section 1, Subsection 1.3), so that a decision can be taken by the Assistant Administrator and Director, BMS, as soon as practicable. However, the Assistant Administrator and Director, BMS can decide on the placement on administrative leave on his or her own initiative where the circumstances warrant.

62. Where the assessment does not generate sufficient information to indicate that wrongdoing has occurred, OAI will close the case, and inform LO/BMS and the complainant accordingly.

4.2 - Investigation

63. On the basis of the evidence collected and any assessment, OAI will decide whether to proceed with a further investigation. The Director, OAI, may refer the matter to persons he or she designates, depending on the nature of the allegations and the complexity of the case.

64. The decision to conduct an investigation is not an accusation. The outcome of the investigation may or may not support a conclusion that misconduct was committed and, if so, by whom.

65. When OAI designates investigators outside OAI, they must seek and follow guidance from OAI as to the conduct of the investigation.
66. Investigation subjects must be interviewed in the course of the investigation. A recording of the interview will be made, and OAI will inform the staff member that the interview is being recorded. A transcript of the interview record will be included as an exhibit of the investigation report and will be shared with the subject as part of the investigation report. In addition, investigation subjects may choose to provide a signed statement containing any clarification on their statements during the interviews; however, they cannot change their statements as recorded by OAI's recording devices. The loss or corruption of the recording of the interview with the subject alone cannot serve as a basis to invalidate the investigation or the investigation report. Where a subject cannot be interviewed for reasons beyond the control of the investigators, the absence of such an interview will not be considered a violation of the subject's due process rights as long as reasonable efforts were made to interview the subject.
67. Investigation subjects, or complainants in cases relating to allegations of sexual exploitation or sexual harassment, can request to be accompanied to their interview by an observer who is either a UNDP staff member or an immediate family member, provided that the observer is readily available and not involved in the investigation, as determined by OAI. The observer must agree to respect the confidentiality of the investigation and sign a confidentiality statement. The observer may not interrupt, prevent or delay the interview, and is not allowed to speak during the interview. If the investigator considers the presence of the observer disruptive, the observer may be asked to leave and the interview will proceed without the observer. Considering the cultural context, gender, and other elements of the case, the investigator may also select an observer (e.g. field security officer, etc.) to attend the interview. Investigation subjects and participants have no right to the presence of counsel during interviews.

4.3 - Investigation report

68. The investigator(s) will prepare a draft investigation report giving a full account of the relevant facts that are known and attaching any documentary evidence. OAI will share the draft investigation report with the investigation subject, along with the transcript of the interview and other exhibits and request that the investigation subject provide his or her comments on the factual findings and conclusions of the report, and produce countervailing evidence, if any.¹¹ In individual cases where time is of the essence and the main facts are not disputed, following consultation with the Director, LO/BMS, the Director, OAI may decide to forward the draft investigation report directly to LO/BMS without obtaining the subject's comments. In such cases, the relevant provisions of the Introduction and Chapters II, III, IV and V will continue to apply mutatis mutandis.
69. OAI will request that the subject of the investigation respond within a reasonable period of time, normally ten (10) calendar days. If no response is submitted within the time limit, the matter will nevertheless proceed without the subject's comments.
70. Where OAI receives comments from the subject on the draft investigation report, OAI will consider the comments, including any additional evidence he or she provides in support of those

¹¹ The complainant is not entitled to receive a copy of the investigation report concerning allegations of wrongdoing against the investigation subject.

comments, and determine whether they merit any revision to the draft investigation report. OAI is not obligated to obtain comments on the draft investigation report from the investigation subject more than once, but may, at its discretion, revert to the investigation subject for clarification regarding the comments and evidence he or she presented in response to the draft investigation report.

71. Once the Director, OAI considers that no further revision to the draft investigation report is warranted, OAI will provide the final investigation report, together with the comments of the investigation subject and any evidence he or she may have provided, to the Director, LO/BMS.
72. If the investigation subject resigns or otherwise separates prior to the completion by OAI of an investigation report, at its discretion, OAI may decide to complete the investigation or finalize the investigation report notwithstanding the investigation subject's resignation or separation:
 - (a) Should the investigation report be finalised, OAI will send the draft investigation report to the former staff member providing the subject an opportunity to submit his or her comments. These comments will be reviewed in accordance with the present Legal Framework, and the Director, LO/BMS will place a letter in the former staff member's official status file indicating whether, if the subject had remained employed: (1) a recommendation would have been made for charges of misconduct to be initiated against him or her, or (2) whether or not he or she would have been cleared of the allegations of misconduct, or (3) whether the matter would have been dealt with from a work performance standpoint, and if so how (e.g. via a letter of reprimand). The letter will also indicate whether the former staff member resigned while under investigation, or whether his or her contract expired while under investigation. The former staff member will be invited to comment on the letter, and the letter and his or her comments will be placed in his or her official status file.
 - (b) Should the investigation report not be finalised, the Director, LO/BMS will place a letter in the former staff member's official status file, indicating that he or she: (1) resigned or, (2) his or her contract expired while under investigation. In both instances, the former staff member will be given an opportunity to present comments, and the letter and his or her comments will be placed in his or her official status file.
 - (c) If the subject transfers, or otherwise separates and accepts a position at the UN Secretariat or an Agency, Fund or Programme of the UN prior to the completion of the investigation report, the Director, OAI may decide to transfer the matter to that UN entity.
73. If the subject of an investigation resigns or otherwise separates from service after the issuance of an investigation report but prior to the initiation of disciplinary proceedings through the issuance of a charge letter, upon review of the investigation report and the comments of the subject thereon, the Director LO/BMS may decide to place a letter in the former staff member's official status file indicating whether, if he or she had remained employed: (1) a recommendation would have been made for charges of misconduct to be initiated against him or her, or (2) whether or not he or she would have been cleared of the allegations of misconduct, or (3) whether the matter would have been dealt with from a work performance standpoint, and if so how (e.g. via a letter of reprimand). The letter will also indicate whether the former staff member resigned or otherwise separated following an investigation. The former staff member will be invited to comment on the letter, and the letter and his or her comments will be placed

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in his or her official status file. If the subject transfers, or otherwise separates and accepts a position at the UN Secretariat or an Agency, Fund or Programme of the UN, the Director, LO/BMS may decide to transfer the matter to that UN entity.

74. The foregoing is without prejudice to the fact that in accordance with the UNDP Policy for Protection against Retaliation, OAI will forward the report of an investigation that was conducted based on a prima facie finding of the Director, Ethics Office, to the Director, Ethics Office, without obtaining prior comment on the report by the subject of the investigation. However, any staff members alleged to be responsible for retaliation will enjoy the same rights as other subjects of investigation, including, consistent with the procedures for investigation, the ability to comment on any draft investigation report concerning allegations against them as the investigation subject.

CHAPTER III

PROCEDURES FOLLOWING INVESTIGATION

Section 1 - Actions following receipt of the final investigation report by LO/BMS

75. Upon receipt and analysis by LO/BMS of the final investigation report and the comments of the subject of the investigation on the draft investigation report, including any additional evidence he or she may have provided, the Director, LO/BMS, may request that OAI or the subject of the investigation provide further clarification or verification prior to making a recommendation on the next course of action.
76. On the basis of a review of the final investigation report, and any comments and evidence presented by the investigation subject thereon, as well as any additional clarification or verification by OAI or the subject of the investigation, the Director, LO/BMS, may recommend the following actions to the Assistant Administrator and Director, BMS:

1.1 - Charges of misconduct

77. If the Director, LO/BMS considers that the facts indicate that misconduct occurred, he or she will recommend that the staff member be formally charged with misconduct.
78. The charge letter initiates the disciplinary proceedings. In that letter (which will attach the final investigation report and the comments of the subject of the investigation on the draft investigation report, including any additional evidence he or she may have provided) the staff member is notified in writing of the formal charges (which at his or her request may be translated into the working language of his or her duty station), and be given a specified period of time (normally at least ten (10) working days) to answer the charges and produce countervailing evidence, if any. The staff member will also be notified of his or her right to counsel to assist in his or her defence, and be informed as to how to obtain the assistance of the Office of Staff Legal Assistance (see Chapter IV, Section 4). The investigation subject may present a request to the Director, LO/BMS, that he or she be granted access to files, provided that he or she justifies that they are relevant to his or her response.

79. A copy of the charge letter signed by the Assistant Administrator and Director, BMS may be given for information to the Resident Representative, Head of Office/Unit/Section/Department/Bureau, or the Executive Director of the Organization to which the staff member is assigned.
80. The Director, LO/BMS, may, on an exceptional basis, grant an extension to the staff member to respond to the charges of misconduct. Any request by the staff member should be accompanied by specific reasons for such an extension.
81. If the investigation subject resigns or otherwise separates from service after the initiation of disciplinary proceedings but prior to the completion of the case and imposition of a disciplinary sanction, the Director, LO/BMS may nevertheless decide to proceed, and seek to obtain the comments of the subject or consider the comments already received as appropriate. Upon receipt of the comments of the subject or an indication that the subject does not wish to provide comments the Director, LO/BMS may conclude the matter as follows:
 - (a) Upon review of the comments from the subject in accordance with the present Legal Framework, the Director, LO/BMS may determine that, if the subject had remained a staff member, a recommendation would have been made to impose disciplinary sanctions on the subject. The Director LO/BMS may place a letter to this effect on the subject's official status file. The letter will also indicate that the subject resigned or otherwise separated from service following the issuance of a charge letter. The subject will be invited to comment on the letter, and his or her comments will be attached to the letter from the Director LO/BMS to be placed in his or her official status file; or
 - (b) The Director, LO/BMS may determine that, had the subject remained a staff member, a recommendation would have been made to exonerate the subject without further consequences, or to exonerate the subject and treat the matter 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. Should the Assistant Administrator and Director, BMS determine that the subject should not be exonerated, the matter will proceed as in (a); or
 - (c) If the subject transfers, or otherwise separates and accepts a position at the UN Secretariat or an Agency, Fund or Programme of the UN, the Director, LO/BMS may decide to transfer the matter to that UN entity.
 - (d) Otherwise close the matter without further action.

1.2 - Clearance from the allegations of wrongdoing

82. If the Director, LO/BMS considers that the allegations are not substantiated or the facts do not warrant disciplinary action, he or she will recommend to the Assistant Administrator and Director, BMS:
 - (a) That the staff member be notified in writing that they have been cleared of the allegations of wrongdoing, and that the matter be closed; OAI and the Resident Representative, Head of Office/Unit/Section/Department/Bureau, or the Executive Director of the Organization to which the staff member is assigned, will be informed of such notification;

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- (b) If the staff member was placed on administrative leave, that the administrative leave be discontinued and that the staff member be authorized to resume his or her duties; and
 - (c) That documents related to the investigation be expunged from the staff member's official status file, except those referred to in Chapter III, Section 1, Subsection 1.3.
83. The staff member will be notified in writing as soon as feasible of the decision of the Assistant Administrator and Director, BMS concerning his or her exoneration.

1.3 - Work performance related issues

84. While the Director, LO/BMS may recommend that the subject be cleared of the allegations of wrongdoing, he or she may determine that the conduct depicted in the final investigation report as received by LO/BMS and the circumstances of the case have shown unsatisfactory performance and/or poor judgement not amounting to misconduct on the part of the staff member. In such a case, the Director, LO/BMS may recommend that:
- (a) An oral reprimand or letter of reprimand¹² be issued by the Assistant Administrator and Director, Bureau for Management Services. In such an instance, further or additional comments on the basis of the reprimand do not need to be obtained provided the staff member has had the opportunity to comment on the facts and circumstances on which the reprimand is based (such as by being provided an opportunity to comment on the draft investigation report); and/or
 - (b) The final investigation report (or extracts thereof) with the staff member's comments thereon, be included in the annual Performance Management and Development (PMD) of the staff member; and/or
 - (c) An appropriate training course be undertaken by the staff member.

1.4 - Timeframe

85. To the extent possible, depending on the complexity of a case and the availability of investigative resources, the period between the date the allegations of wrongdoing are reported to OAI and the completion of the investigation should not normally exceed 270 working days. The timeframe from receipt of the final investigation report by LO/BMS to the finalization of the case should not normally exceed 180 working days.

CHAPTER IV

DISCIPLINARY PROCEEDINGS

¹² Pursuant to Staff Rule 10.2 (b), a reprimand does not constitute a disciplinary measure.

86. The dispatch of a letter outlining the legal charges of misconduct against the subject initiates disciplinary proceedings. Disciplinary proceedings cannot proceed until the subject has been provided with such a letter.
87. Upon receipt of the subject's comments to the charges, the Director, LO/BMS will consider whether the subject's conduct constitutes misconduct within the meaning of Staff Rule 10.1, or whether the subject has given a satisfactory account of his or her behaviour and should be exonerated of the charges of misconduct. In the latter case, the Director, LO/BMS may also consider whether the circumstances indicate the need to address the conduct of the subject as a performance issue. Should the Director, LO/BMS consider that the subject's conduct constitutes misconduct, he or she will make a recommendation to the Administrator with a copy to the Assistant Administrator and Director, BMS as to the appropriate measure or measures, taking into account, *inter alia*, relevant case law and precedents. Where the Director, LO/BMS considers that the subject has given a satisfactory account of his or her behaviour and the subject's conduct does not rise to the level of misconduct, the Director, LO/BMS makes a recommendation to this effect to the Assistant Administrator and Director, BMS, who has authority to decide on the exoneration of a subject of allegations of misconduct.

Section 1 - Disciplinary measures

88. In accordance with Staff Rule 10.2 (a), where the subject's conduct constitutes misconduct, the Administrator or Associate Administrator may impose one or more of the following disciplinary measures on the subject, depending on the nature and gravity of the misconduct in question:
- (a) Written censure;
 - (b) Loss of one or more steps in grade;
 - (c) Deferment, for a specified period, of eligibility for salary increment;
 - (d) Suspension without pay for a specified period;
 - (e) Fine;
 - (f) Deferment, for a specified period, of eligibility for consideration for promotion;
 - (g) Demotion with deferment, for a specified period, of eligibility for consideration for promotion;
 - (h) Separation from service, with notice or compensation in lieu of notice, notwithstanding Staff Rule 9.7, and with or without termination indemnity pursuant to paragraph (c) of Annex III to the Staff Regulations;
 - (i) Dismissal.
89. Annex I to the present document specifies the effects of each of the above-mentioned measures.
90. The Administrator or Associate Administrator will notify the subject of the decision to impose a disciplinary sanction in writing. The Director, OHR and the Resident

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Representative, Head of Office/Unit/Section/Department/Bureau, or the Executive Director of the Organization to which the subject is assigned, will also be informed of such notification. A copy of the decision will be placed on the subject's official status file.

Section 2 – Exoneration and Non-disciplinary measures

91. Where the conduct of the subject is not considered to rise to the level of misconduct, the subject is exonerated of the allegations of misconduct. The decision of the Assistant Administrator and Director, BMS to that effect will be provided in writing to the subject. The Director, OHR and the Resident Representative, Head of Office/Unit/Section/Department/Bureau, or the Executive Director of the Organization to which the subject is assigned, will also be informed of such a decision.
92. Notwithstanding the exoneration of the subject of allegations of misconduct, the conduct of the subject may require other administrative action and/or measures. These do not constitute disciplinary sanctions. Under Staff Rule 10.2 (b), the following measures are not considered to be disciplinary measures:
 - (a) Written or oral reprimand;
 - (b) Recovery of monies owed to the Organization;
 - (c) Administrative leave with or without pay pursuant to Staff Rule 10.4.
93. Other measures may be taken such as recovery of monies from the subject as a result of a failure to comply with his or her private legal obligations in accordance with the findings of a competent court, specific training to improve or further develop certain skills or the temporary reassignment to different, but equivalent-level, functions. Such measures do not constitute a disciplinary measure.
94. The recovery for any financial loss attributable to the staff member's conduct, including gross negligence or recklessness pursuant to Staff Rule 10.1 (b) may be pursued in addition to the imposition of disciplinary measures (see Chapter IV, Section 5, Subsection 5.3).

Section 3 - Appeal against a disciplinary measure to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal

95. Within ninety (90) calendar days of being informed of the decision taken in his or her case, a subject against whom a disciplinary or non-disciplinary measure has been imposed following the completion of the disciplinary proceedings, may submit an application to the United Nations Dispute Tribunal, in accordance with Chapter XI of the Staff Rules.
96. A staff member or the Organization may appeal against a decision or judgement of the United Nations Dispute Tribunal to the United Nations Appeals Tribunal within sixty (60) calendar days from the issuance of the judgement on grounds set out in Staff Rule 11.5.

Section 4 - Counsel to staff member

Effective Date: 3/28/2018

97. Representation by Counsel is permitted once the staff member is charged with misconduct and during disciplinary proceedings.

4.1 - Office of Staff Legal Assistance, United Nations

98. A staff member, who wishes to obtain the assistance of the Office of Staff Legal Assistance, may contact this Office at e-mail: osla@un.org, or telephone number: (+1) 212- 963-3957.

4.2 - External counsel

99. Alternatively, if a staff member chooses to secure Counsel from outside the Office of Staff Legal Assistance, it will be at his or her own expense (see Staff Rule 10.3 (a)).

Section 5 - Miscellaneous

5.1 - Publication of disciplinary decisions

100. In the interests of transparency, the Administrator will inform the UNDP/UNFPA/UNOPS Executive Board of disciplinary decisions taken in the course of the preceding year, and publish an annual report of cases of misconduct (without the individuals' names) that have resulted in the imposition of disciplinary measures. Such report will be circulated to all staff.

5.2 - Local authorities

101. It should be noted that the Organization is obligated to refer credible allegations of violations of national law to the country of nationality of the staff member. Referral may also be made to the national authorities in the country where the events in question took place. Such referral will usually occur following disciplinary proceedings, but may occur at any time that credible allegations are considered to arise.
102. Staff members may not report any matters to local authorities except in the case of compelling emergency or an imminent threat or danger, after which the matter will be immediately reported to LO/BMS. Otherwise, any such matters must first be reported to LO/BMS. Bringing a matter to the attention of local authorities requires the concurrence of the UN Office of Legal Affairs (UN/OLA) since it, *inter alia*, implicates the privileges and immunities of the Organization.

5.3 - Recovery for Loss of Property or Assets

103. Under Staff Rule 10.1 (b), "Where the staff member's failure to comply with his or her obligations or to observe the standards of conduct expected of an international civil servant is determined by the Secretary-General to constitute misconduct, such staff member may be required to reimburse the United Nations either partially or in full for any financial loss suffered by the United Nations as a result of his or her actions, if such actions are determined to be willful, reckless, or grossly negligent."

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104. Pursuant to that Rule, UNDP will pursue recovery for any financial loss attributable to the staff member's misconduct (fraud, theft), or gross negligence, or recklessness, in the management of funds.
105. Such recovery action does not constitute a disciplinary measure (see Staff Rule 10.2 (b)) and is distinct from any disciplinary action being considered or undertaken.

ANNEX I:

EFFECTS OF IMPLEMENTATION OF DISCIPLINARY MEASURES

The following disciplinary measures may be taken into account when assessing the staff member's performance.

1. Written censure

- A written censure is a letter indicating that the staff member has committed wrongdoing. The written censure is placed in the staff member's official status file and becomes part of his or her permanent record.¹³

2. Loss of one or more steps-in-grade

- Loss of steps-in-grade means that the staff member's level within grade is reduced by the number of steps specified in the decision. As a result, the staff member loses any accrued period of service within the year the decision is implemented. He or she will be eligible for subsequent in-grade increments on the anniversary date of the implementation of the disciplinary decision.
- In the event that the number of steps to be lost is greater than the staff member's current step, he or she is placed at the lowest step on the salary scale for his or her grade, and remains at that step for the number of years by which the decision exceeds the number of steps available before receiving the next increment on the scale.

3. Deferment, for a specified period, of eligibility for salary increment

- Deferment of eligibility for salary increment means that for the stated time period of the deferment, the staff member's step is frozen, and, for that period, he or she does not accrue any time to be credited towards eligibility for the next salary increment. In this instance, the anniversary date upon which the staff member would be eligible for the next salary increment is postponed for a period of time corresponding to the length of the deferment, and all future anniversary dates upon which the staff member becomes eligible for salary increments will change accordingly. Any period of service occurring between the date of the staff member's last salary increment and the implementation date of the deferment measure will be credited towards the staff member's next salary increment.

¹³ A written censure is distinguished from a letter of reprimand, which is issued by either a staff member's supervisor, Bureau Director or the Administrator. A letter of reprimand is not a disciplinary measure and may contain a specified period of time, after which it will no longer be considered part of the staff member's record. A written censure remains on the staff member's record without expiry.

4. Suspension without pay for a specified period

- Suspension without pay means that the staff member is not permitted to serve for a specified period of time, which normally does not exceed six months, during which his or her salary and allowances are withheld and any contribution which UNDP is paying in respect of medical insurance and pension is discontinued.

5. Fine

- The staff member is assessed a monetary penalty, the amount of which is determined in proportion to his or her annual remuneration. The fine is either paid directly by the staff member or deducted from his or her emoluments in a lump-sum or schedule of payments.

6. Deferment, for a specified period, of eligibility for consideration for promotion

- Deferment of eligibility for consideration for promotion means that for the stated time period of the deferment, the staff member cannot be considered for promotion to any posts.

7. Demotion with deferment, for a specified period, of eligibility for consideration for promotion

- Demotion means a reduction in grade, normally the staff member's immediate grade below, unless the decision provides for a demotion by more than one grade. Demotion is implemented as the opposite of a promotion. As a result, the staff member is placed at the equivalent step to his or her current step in the grade below his or her present grade. However, the Administrator or Associate Administrator as appropriate may vary the step level. If the demotion is effective in the month in which an increment at the higher step is due, such increment is implemented, and the above subtraction is effected on the basis of the new step.
- The demotion decision will specify the period of time during which the staff member will not be eligible and considered for promotion.
- The date of the next salary increment at the lower level becomes the anniversary date of the demotion.

8. Separation from service, with notice or compensation in lieu of notice, notwithstanding Staff Rule 9.7, and with or without termination indemnity pursuant to paragraph (c) of Annex III to the Staff Regulations

- The decision will specify whether the separation from service is: with notice or compensation in lieu thereof, and with or without termination indemnity.
- The termination notice or compensation in lieu thereof, will not be less than three months for permanent appointments and continuing appointments, not less than thirty (30) days for fixed-term appointments, and not less than fifteen (15) days for temporary appointments, or such period as may be stipulated in the letter of appointment.
- In lieu of the serving of the notice period, the UNDP Administrator may authorize payment of compensation on the basis of the salary and allowances which would have been payable if the date of termination had been at the end of the notice period. In such a case, all salaries, allowances and other benefits which the staff member would have received had he or she served the period of notice, are taken into account, including post adjustment, dependency allowances, special post allowances, education grant, etc. The period is counted in the calculation of terminal payments, but annual leave does not continue to accrue. The salary paid in lieu of notice is not pensionable and the period is not counted as contributory service. Unless the staff member requests that it be excluded, any contribution which UNDP is paying in respect of medical insurance is continued during the period of notice.
- If the staff member is granted termination indemnity, this indemnity does not exceed half of the amount calculated pursuant to Annex III to the Staff Regulations.
- Subject to the conditions of eligibility, a staff member separated from service is entitled to repatriation grant.
- A staff member separated from service for misconduct is banned from any future employment and contractual opportunities with the Organization.

9. Dismissal

- Dismissal means immediate separation from service.
- A staff member who is dismissed is neither entitled to termination notice or compensation in lieu thereof, nor to any termination indemnity pursuant to Annex III to the Staff Regulations, nor to repatriation grant pursuant to Staff Rule 3.18.
- A staff member who is dismissed is banned from any future employment and contractual opportunities with the Organization.

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Links to Documents

The relevant documents cited in the UNDP Legal Framework for Addressing Non-compliance with UN Standards of Conduct can be accessed through the following links:

- [Standards of Conduct for the International Civil Service](#)
- [Secretary-General’s Bulletin on “Status, basic rights and duties of UN Staff Members” \(ST/SGB/2016/9\)](#)
- [Secretary-General’s Bulletin on “Special Measures for Protection from Sexual Exploitation and Sexual Abuse” \(ST/SGB/2003/13\)](#)
- [UNDP Policy on Harassment, Sexual Harassment, Discrimination, and Abuse of Authority](#)
- [UNDP Policy for Protection against Retaliation](#)
- [Performance Management and Development \(PMD\) Policy](#)
- [OAI Investigation Guidelines](#)