



Appendix to
PROTECTION AGAINST SEXUAL EXPLOITATION AND ABUSE
(PSEA) Policy (Annex 7)
Guidelines on Handling Allegations of Sexual Exploitation and Abuse

INTRODUCTION

These guidelines are intended to help managers and investigators do the best job possible when having to deal with allegations of Sexual Exploitation and Abuse (SEA). Following these guidelines will ensure that a comprehensive and objective investigation of an incident (or number of incidents) is carried out, and that any manager will be able to act in a way that deals correctly with the situation.

Please be reminded that an internal investigation in this case is not a legal proceeding nor a disciplinary proceeding as the one provided in UPP Staff Handbook at paragraph 4.7.1, and it does not have 'to prove beyond all reasonable doubt' that an allegation is true or false.

Instead, an internal investigation here, has to gather as much evidence as possible surrounding an allegation and to submit to the manager for them to come to a 'reasonable conclusion' (for withdrawal of the case or for proceeding under disciplinary provisions, whether with the additional reporting to relevant authorities for criminal offence or not). The collection of evidence is not complainant's responsibility.

In fact, this internal investigation is an administrative exercise carried out by UPP in order to be able to base management decision-making on as much evidence, appropriate advice and analysis as possible and activate further provided steps in UPP policies and procedures.

SCOPE

Applicable to all allegations of sexual exploitation or abuse (SEA) made against UPP staff or others (partners, contractors, sub-grantees) who carry out UPP services, regardless of the country of operations.

These guidelines do not cover: allegations of fraud or theft, allegations of bullying or harassment or allegations of abuse of power or misconduct or complaints which are regulated by other Policies.

These guidelines should be requested or provided to the line, senior or top manager (in case the complaint has a manager as subject, then the complaint is received by the upper manager of the complaint's subject) likely to be managing an investigation, on receipt of an allegation of SEA.



PRINCIPLES

Confidentiality: UPP believes in upholding the safety and dignity of all who come into contact with the organisation. If allegations of sexual misconduct are made known to an individual working for UPP, the individual is obliged to report the allegation and treat the information in a highly confidential manner.

This means that the information will only be passed on to another person if:

- they **need to know** for the purposes of protecting someone;
- or for dealing with the alleged subject of complaint and associated incident as per the internal investigation provisions in UPP Staff Handbook paragraph 4.7.1.

Information will only be passed further than what provided above, solely with the permission of the complainant.

Failure to respect the confidentiality of others is a breach of UPP standards of Conduct can result in disciplinary proceedings.

Experience showed us that in many contexts in which we work it is unlikely that we will hear important feedback and complaints unless we actively promote the fact that we welcome both. Managers in different parts of the organisation are responsible for ensuring that an adequate complaints mechanism is in place as per the UPP Complaints Policy. An adequate system ensures that complaints are solicited, heard, recorded, analysed, acted upon and an adequate response is given to whoever made the complaint. And ideally, the learning results.

All staff must always take complaints or allegations about sexual exploitation and abuse seriously. Managers are responsible for explaining the expectations of the organisation; staff and managers are equally responsible for upholding them. Not doing so represents a breach of the standards of Conduct and therefore it constitutes a disciplinary offence.

In addition, managers have the additional responsibility of evaluating complaints or allegations received to determine what the follow up should be.

PROCEDURES

Entry points of signals, warnings and “incidents”

‘Complaints’, or often more correctly, ‘feedback’ concerning UPP may come frequently to many staff in many ways.

Feedback and complaints can come from internal and external sources.

UPP defines a **complaint** as:

“An expression of dissatisfaction about the standards of service, actions or lack of action, by UPP or its staff. It is a criticism that expects a reply and would like things to be changed”.

Internal complaints are likely to come through staff following the Whistleblowing Policy or *Disciplinary* and *Grievance* Procedures in UPP Staff Handbook.

External complaints should come to UPP through use of our Complaints Policy.

Either way it is important that there is a written version of the complaint, at some point, in the intake process of the complaint or report.

The complainant, s/he can submit the complaint in writing with the support of anyone else.

In any case the complainant needs it, UPP will provide support for putting on paper in writing the complaint in Incident Report Sheet or the concerns in an email text to the relevant managers (2).



When the Complaint deals with SEA acts, then these Guidelines shall accompany the rolling out of the Investigation process provided in Staff Handbook paragraph 4.7.1

Evaluating Allegations

Once an allegation of sexual exploitation or abuse concerning personnel has been received the Commission constituted following the indications in Staff Handbook paragraph 4.7.1 must then decide what to do.

There are two likely options:

- i. Urgent need to investigate;
- ii. Need for further information;

90% of allegations will need further information collection before a decision can be made about what to do next.

Very few complaints/allegations are so clear, at first glance, that one knows, immediately, that there is need for a full investigation.

UPP expects **all allegations to be taken seriously**. However, this does not always mean that an investigation is warranted or possible. An investigation would be the right thing to do if the following criteria are met:

- The allegation relates to a breach of the PSEA Policy;
- The allegation is credible;
- There is enough information on which to base a full investigation process.

It is unlikely, as stated above, that all of this would be known the first time an allegation is heard or reported.

It is likely that managers in the Commission will need to carry out some fact-finding themselves. The fact-finding must not breach anybody's confidentiality and the manager must not confront the subject of the complaint or allegation.

In addition, managers at UPP or those in Commission handling SEA Allegations would do well to consider the following points:

- a) Complaints or allegations are not always brought officially to UPP. It could be that there is a persistent rumour or facts come to your attention.
- b) There does not necessarily need to be a 'victim'/'survivor', a 'complainant' or obvious 'witnesses'.
- c) We investigate 'incidents' and not people, so those concerned by an allegation do not necessarily have to still be with UPP.
- d) Once a complaint or allegation has come to our notice then it becomes 'ours' as does the responsibility to investigate it – disclose this to a victim/survivor or complainant at the outset.
- e) If confidentiality has been respected and the process thus far has been well managed, launching an investigation should not infer any form of guilt on the part of anybody involved.
- f) An investigation is used to gather facts about an incident (or a series of incidents) and not about a person.

Once a decision is made to investigate the Executive Director and Human Resources Manager shall be informed that the subject of complaint is under investigation.



However, details should not be shared and no information will go in the subject's personnel file until the end of the investigation.

If a decision is made not to investigate then all records are entered in the subject of complaint file and kept therein for one year. I

If no further PSEA issue arises in one year against the same person then all records are destroyed. Once a decision has been reached about what to do with an allegation/complaint the complainant or victim/survivor must be informed.

If the three criteria mentioned above are met then we have an obligation to investigate.

A Reminder: Local legislation must be taken into account but standard advice to the managers of an investigation is that the subject of complaint should not be approached or informed of any aspect of the allegation or investigation, until they are asked for a formal interview during the investigation process. In addition, the subject under investigation should only be suspended from work if there is a risk to anyone by their continuing to be at work (and if it doesn't contravene local legislation).

Commissioning the Internal Investigation

The investigation Commission can be assisted by experts and focal points.

The organisation has a number of trained focal points and will help to find the right people.

As per the standard investigation process in UPP, for SEA allegations, the investigation team consists of three people, but for SEA cases, one is the lead investigator and the other two are co-investigators, all are from outside the program/project of pertinence where the allegation has raised.

In order for an investigation the activating managers will need to draw up case profile, commit time and resources to supporting it and begin thinking about how outcomes will be managed.

Not having a local budget for investigations is no reason for an investigation not to happen.

UPP HQs will support the efforts.

Protecting those Involved in investigations

Sometimes people involved with making or investigating an allegation of SEA feel themselves to be vulnerable and afraid.

Therefore, discussions should be had, from the time that an allegation is made, about the well-being and security of all involved.

This includes the subject of complaint.

UPP has and will move victims/survivors, complainants, witnesses or subjects of complaint to safer locations, if necessary and feasibility.

Obviously, maintaining confidentiality is the best way to protect people and UPP demands that this is respected by all involved.

UPP protects complainants in good faith against retaliation as it is provided in Whistleblowing Policy.

If a victim/survivor is in need of medical, psycho-social or security assistance as a result of the alleged incident (or incidents) then this will be provided.

UPP SEA Policy states that victims/survivors will receive immediate support as necessary, in line with the wishes and needs of the victim/survivor and to levels appropriate locally (and to a level deemed acceptable to appropriate professional staff). The policy should be followed at all times.



Distribution of tasks and responsibilities

Lead Investigation Manager: commissions the investigation; generally the Head of Mission/Country Director in the location where the allegation has been made (except under exception circumstances, e.g. major risk to organisation or staff, in which case a more senior manager in HQs may wish to manage the investigation), is only recipient of the investigation report; is responsible for decision-making, follow-up and confidential reporting.

If the lead investigation manager feels the need for support and advisory on how to proceed on, this can be requested from HR Manager at HQs, or the Executive Director. Where advice is sought, confidentiality of those referred to in the allegation must be respected at all times.

Investigation Team: it is best practice to have at least two investigators in an investigation team. This ensures that information given is corroborated by at least two (2) people.

The team will comprise:

- (1) Lead Investigator who focuses on asking questions,
- (1) 2 Co-Investigators.

At least a remote advisory from a UPP staff member capable in conducting interviews related to SEA shall be offered and requested.

Once the investigation team has been appointed the lead investigation manager will discuss with them exactly what is expected. The investigation manager must provide the team with a **Case Profile** for the investigation. The Case Profile need to include:

- Details of the complaint, including background information;
- Suggested names of people to be interviewed and reasons for interviewing them;
- Draft of questions or aspects to clarify;
- Timeline for completing the investigation;
- Request for recommendations for future action;
- With whom the report should be shared.

If a member of the investigation team has any previous direct knowledge of the complaint the lead investigation manager should be informed from the beginning, mainly because the point of an investigation is to provide objectivity and avoid bias.

Principles for Internal Investigations on SEA allegations

There are six (6) principles and they are as follows:

- i. Confidentiality of all parties;
- ii. Investigate the allegation/incident, not the individual;
- iii. Burden of proof is not on the survivor;
- iv. Presumption of innocence;
- v. The investigator is not the decision-maker;
- vi. The investigator does not make moral judgements relating to any of the parties to the allegation.

Timescales for this kind of allegations become tight for all concerned and this has to be accommodated.



The need for speed does not take precedence over the need for a thorough and careful investigation.

If the investigators find that they need more time to prepare this should be discussed with the complainant.

In terms of availability, investigators will be expected to free themselves from other responsibilities as much as possible, in order to take on this duty.

The lead investigation manager and the complainant should be informed of any unforeseen delays that occur during the investigation.

If a complainant or a victim/survivor withdraws an allegation, UPP will continue to investigate the allegation, leaving the complainant or victim/survivor aside.

In fact, UPP holds an obligation to investigate the allegations against its staff.

Conducting Interviews

Investigation managers and the Case Profile must stipulate that interviews should be conducted in the following order:

1. Complainant;
2. Alleged victim/survivor (if different from above) according to their wishes through their explicit consent;
3. Witnesses with direct knowledge of alleged misconduct;
4. Subject of complaint/alleged perpetrator.
5. Furthermore, witnesses with indirect knowledge of alleged misconduct can be optionally summoned and interviewed if, and only if Case Profile requires it.

The subject of the complaint in case of SEA, shall not be approached at all or come to know of any aspect of the allegation or investigation before the investigators contact them to arrange the interview.

They shall only be contacted when the investigators have completed all other interviews in the list above and evidence gathering.

Whenever possible, contact the subject of complaint in writing (preferably by e-mail).

During interview(s) with the subject of complaint, information related to the specific case and the victim/survivor shall be limited to allowing plain right to defence of the subject of complaint, avoiding any exposure/identification of the victim/survivor.

The **notification** to the subject of the complaint shall outline that:

- the investigators are following up on a staff conduct issue;
- the process is at the information-gathering stage;
- the investigators would like to talk to the subject of complaint as part of this information gathering process;
- the subject is entitled to be accompanied by another staff member or a relevant (interpreter, lawyer, Union Representative, Staff Representative, etc.) third party, upon own wish.

During the interview, the subject of the complaint should be informed of the topic of the allegation, but it should not be disclosed who made the complaint nor details that would allow the identification of the victim/survivor.



At this stage and for these cases, none of the evidence, documentation or testimony from the investigation should be shared with the subject of complaint or any other interviewees as the investigators are not carrying out a disciplinary hearing – they are simply trying to establish the facts.

The complainant, victim/survivor or witnesses might not always be staff members.

They can be invited to an interview but are under no obligation to attend.

It is however possible to conduct an investigation even without the participation of the victim/survivor.

Recording Statements

During the course of each interview the Co-Investigators should take full notes detailing dates, names, places, what is actually said about what was heard and seen etc – i.e. Minutes.

After this has been done, the Minutes shall be closed and saved with a password if in soft copy, and they should be shown/sent to the interviewee(s) and they should be asked to make any appropriate amendments and then sign and date the minutes as a true version of events and return it to the Commission.

Commission shall store an electronic version of the Minutes closed and saved with a password and named in such a way to avoid identification of persons involved and the topic.

Non-staff are not obliged to sign but should be encouraged to do so, if possible.

If the interviewee is illiterate, the investigators should read the minutes to them.

It might not be appropriate to gain a signature in this case.

Final Report writing, storage and recommendations

The purpose of the report is to inform the decision-making of the Commission on the appropriate course of action.

Report shall be closed with a password and named in such a way so to avoid identification of involved parties and topic(s).

The report must contain:

- An executive summary that outlines
 - The original complaint topic and date
 - The name and job title of the subject of complaint (if known);
 - The profile of the complaint made – without personal identifying details of the complainant and victim/survivor;
 - The members of the Commission;
 - The date of inception of the Commission and setting up process;
- Body of the report:
 - Methodology used for the investigation and interviews
 - Investigation findings – with name initials – identifying case details
 - Analysis of the findings against CoC, relevant Policy and Internal Regulations
- Conclusions and recommendations:

for example:

- The allegation appears to have substance and a disciplinary hearing should be held



- The allegation appears to have some substance but is not completely upheld. Individual elements of the allegations may be upheld, with relevant disciplinary action recommended, while other elements are not upheld;
- The allegation appears to lack substance, it is not upheld and no further disciplinary action should be taken.
- The investigation team were unable to find enough evidence and/or make a decision as to whether the allegation was true or false. Manager to act accordingly and according to context.

Regardless of the outcome of the investigation there is always a real need for two essential actions:

- managerial action to deal with any negative fall-out from the investigation (eg damage to a staff member's reputation due to a false allegation) and
- the complainant/victim/survivor must be informed of the outcome (and support offered if necessary).

If an investigation discovers that a complaint has not been upheld and has, in fact, been made with malicious intent the staff members involved must be held to account and will face disciplinary action under the Disciplinary and Grievance Procedures.

Report Sharing

In order to reduce risk to all concerned parties the report should be highly confidential.

Report shall be shared with relevant Senior Managers with relevant disciplinary duties toward the subject of complaint (alleged person(s)) or the complainant (where the allegations are found malicious).

Report storage.

If an allegation is partially or fully upheld the full report should be kept in the subject of complaint's staff file alongside all details of disciplinary action taken against them.

If a complaint is not upheld one copy of it should be stored confidentially (for reference in the future should there be doubt over the quality of the investigation or decision-making) and one copy kept on the subject of complaint's staff file if they request it.

Approved by the Executive Director

Novella Mori

This Appendix was revised on 3 January 2022 by the Protection Desk Officer and Executive Director.