



GUIDELINES FOR INVESTIGATIONS

A guide for humanitarian organisations on receiving and investigating allegations of abuse, exploitation, fraud or corruption by their own staff

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Credits

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All contributions were gratefully received and greatly appreciated.

We value your comments on this document and any improvements that can be made in future editions.
Please send your feedback to info@chsalliance.org.

Introduction

The Building Safer Organisations Guidelines on Receiving and Investigating Allegations of Abuse and Exploitation by Humanitarian Workers were originally developed by the ICVA in 2006. In 2007, the Building Safer Organisations (BSO) project relocated from ICVA to the Humanitarian Accountability Partnership (HAP) International. In 2015, HAP merged with the organisation People In Aid to form the [CHS Alliance](#). The CHS Alliance puts a high priority on the protection of affected populations from sexual exploitation and abuse, fraud and corruption and abuse of power by aid workers in its work with humanitarian and development organisations.

This revision of the Guidelines has been produced by the CHS Alliance as part of its global efforts towards making humanitarian action more accountable to people affected by crisis. Funding support for this has kindly been provided by the US Department of State Bureau of Population, Refugees and Migration.

The CHS Alliance is a partnership of humanitarian and development organisations dedicated to ensuring greater accountability to people affected by crises. It seeks to promote and achieve the highest principles of accountability through self-regulation by humanitarian and development organisations, linked by common respect for the rights and dignity of the people they seek to assist.

Complaints present organisations with significant opportunities to improve services and strengthen relationships with stakeholders, as well as to test assumptions about community needs. Good complaints handling systems also allow beneficiaries to enforce agencies' claims about quality and accountability. On the other hand, mishandled complaints can undermine community confidence in agencies and even compromise security.

1. Who are these Guidelines for, and are they for you?

These Guidelines are designed to assist our colleagues in humanitarian and development contexts who conduct or manage investigations into serious allegations, including sexual exploitation and abuse (SEA) as well as allegations of fraud and corruption committed by humanitarian and development staff.

These guidelines have been written for use in a wide variety of organisations, regardless of size, nationality and area of expertise. However, it is recommended that potential users have experience within the field of investigations and a familiarity with the key international standards on preventing sexual exploitation, abuse, fraud and corruption as well as other protection policies.

2. What these Guidelines do, and what they do not do

These Guidelines provide an overview of the key steps and issues organisations should consider when responding to serious complaints including fraud, corruption and sexual exploitation and abuse. The principles of these guidelines can be equally used and adapted for handling all kinds of complaints received. They summarise the ‘who, what, when, why, where and how’ of establishing effective complaints mechanisms, managing and investigating complaints and reporting on findings. They also identify potential difficulties and offer practical responses and solutions.

Before planning and conducting investigations, agencies need to have a safe, confidential and effective complaints handling mechanism in place. These guidelines provide key minimum steps organisations should consider when setting up complaints handling mechanisms and responding to serious and sensitive complaints including exploitation, abuse, fraud and corruption. It is important to remember that these guidelines need to be contextualised according to organisational policies and national jurisdiction.

These Guidelines do *not* do the following:

- Discuss in detail why sexual exploitation, abuse, fraud and corruption are detrimental to the people we seek to assist, the organisation and the humanitarian community at large. A resource that covers these issues well is the AAP/PSEA Task Force video *To Serve with Pride*. This and other resources can be found on its website www.pseatastaskforce.org;
- Address every possible scenario which could arise during an actual investigation;
- Substitute for experience, training and adequate supervision;
- Provide guidance on investigating allegations of sexual harassment by one staff member of another staff member. Please note that most organisations have separate policies concerning this.

3. How to use these Guidelines

The Guidelines are divided into six chapters, each of which considers the special issues associated with different stages in the complaints handling process as well as a toolkit:

[Chapter 1 – Before the allegation: designing and implementing effective complaint mechanisms](#)

[Chapter 2 – From complaint to investigation: steps for ensuring an appropriate initial response](#)

[Chapter 3 – From investigation to report: conducting a thorough and effective investigation](#)

[Chapter 4 – From report to outcome: report writing and complaints follow-up](#)

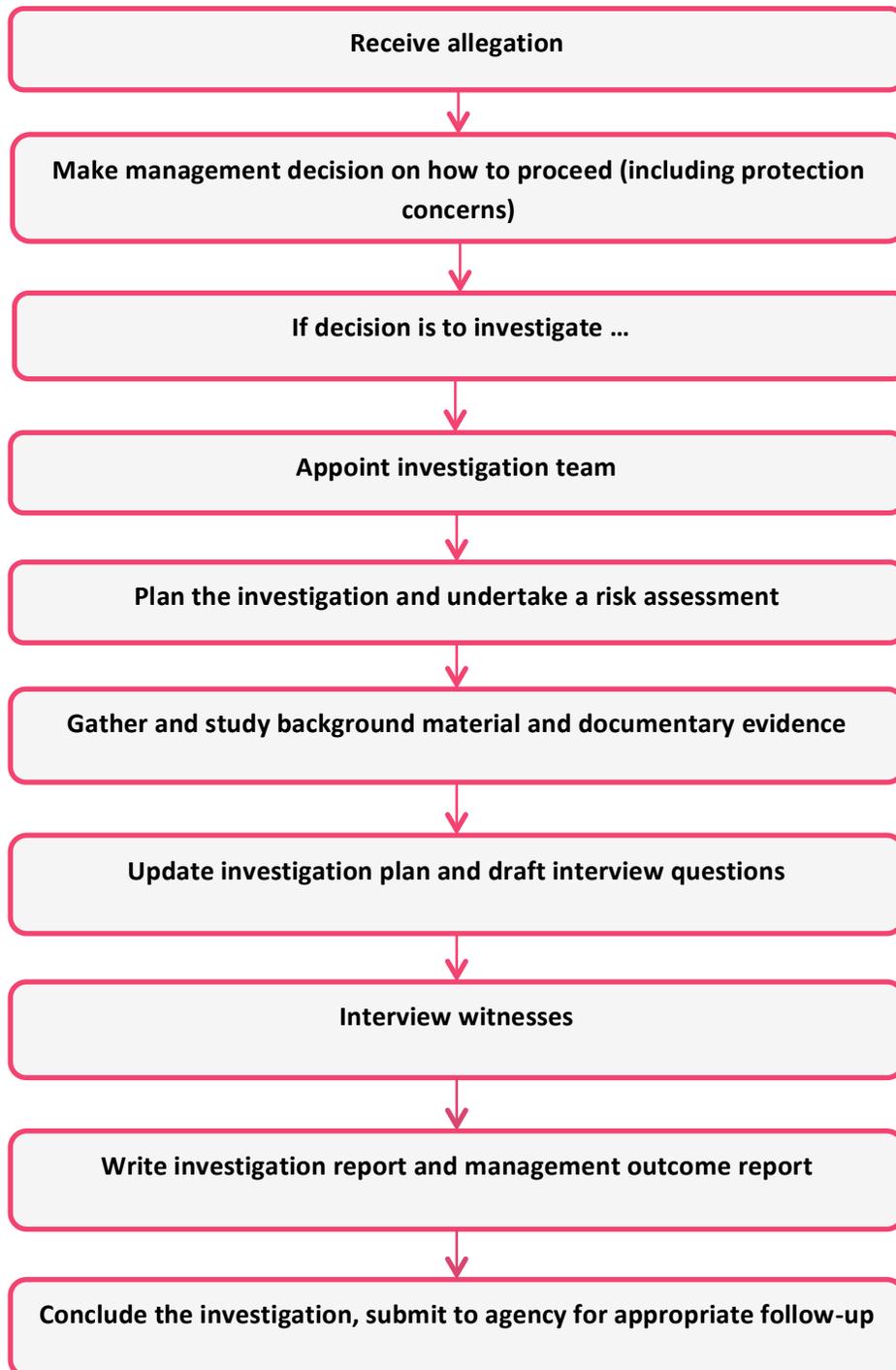
[Chapter 5 – Managing an investigation: process and responsibilities](#)

[Chapter 6 – Special considerations for investigating allegations of fraud and corruption](#)

Chapters 5 and 6 are additions to the updated Guidelines. Chapter 5 aims to provide guidance to those responsible for managing, rather than conducting investigations. Chapter 6 looks at the similarities and differences between SEA and fraud and corruption investigations. There will be overlap between these chapters as some basic principles and issues can arise in all stages of the investigation.

4. The key steps of an investigation

These Guidelines are based around the following key steps for undertaking an investigation:



CHAPTER 1

Putting systems in place: designing and implementing an effective complaint mechanism

This chapter will look at how to set up the systems that will enable organisations to receive and follow up complaints.

1. What is a complaint mechanism?

A complaints mechanism comprises ‘simple procedures and mechanisms that give users access to safe means of voicing complaints on areas relevant and within the control of the agency’¹. A complaints mechanism has two components – the means by which users can complain, and the procedures internal to the agency whereby the complaints are followed up.

Many organisations adopt a mechanism which enables users to submit both feedback and complaints. The difference between feedback and complaints is defined as follows:

Feedback: Feedback is any positive or negative statement of opinion about someone or something – an opinion shared for information. It may be expressed formally or informally and may or may not require a response.

Complaints: A complaint is an expression of dissatisfaction about the standards of service, actions or lack of action by the organisation or its staff, volunteers or anybody directly involved in the delivery of its work. It is a criticism that expects a reply and would like things to be changed.

Complaints could include the following (which is not an exhaustive list):

- Concern from someone we work with about the quality of programme delivery;
- Concern from a member of the public or supporter about a particular fundraising approach, campaign or statement made by the organisation;
- Concern about fraud, corruption or misuse of funds;
- Concern about the behaviour or staff, volunteers or contractors (including sexual exploitation and abuse).

A complaint has to be about an action for which the organisation is responsible or is within their sphere of influence.

All complaints need to be reviewed and addressed, but not all will require a formal investigation process.

¹ Danish Refugee Council’s Complaint Mechanism Handbook 2008

There is an important distinction between feedback and complaints that managers and practitioners should remember. People affected by crisis have the right to complain and to seek redress for any wrongdoing. Those receiving a complaint have a responsibility to effectively respond to the complaint and/or refer it to the correct entity for action, etc. At the planning stage of any project or programme, any potential risk to people affected by crisis should be adequately assessed and addressed, to effectively minimise grievances.

Organisations that meet the [Core Humanitarian Standard on Quality and Accountability](#) have procedures for handling all types of complaints including those related to sexual exploitation and abuse of people we seek to assist by staff.

Complaints mechanisms are most effective when implemented as part of an overall accountability framework – which addresses organisational policy, transparency and information sharing, community participation and staff competency. An analysis of complaints received should feed into an organisation’s strategy review and positively influence future management decisions.

2. Why is an effective complaint mechanism important?

Complaints present organisations with significant opportunities to improve services and strengthen relationships with stakeholders, as well as to test assumptions about community needs. Good complaints handling systems also allow beneficiaries to enforce agencies’ claims about quality and accountability. On the other hand, mishandled complaints can undermine community confidence in agencies and even compromise security.

3. Characteristics of an effective complaints mechanism

Characteristics of an effective complaints mechanism

Right to complain and duty to respond

All parties need to be informed that they have a right to complain and that the organisation has a duty to respond.

Safety

A safe complaints mechanism will assess potential dangers and risks to all parties and incorporate ways to prevent injury or harm. This will include ensuring confidentiality, offering physical protection when possible, and addressing the possibility of retaliation against all parties.

Confidentiality

Confidentiality is an ethical principle that restricts access to and dissemination of information. In investigations on sexual exploitation, abuse, fraud and corruption, it requires that information is available only to a limited number of authorised people for the purpose of concluding the investigation. Confidentiality helps create an environment in which witnesses are more willing to recount their versions of events and builds trust in the system and in the organisation.

Transparency

A mechanism is 'transparent' when all parties including members of the affected community have had input into its development, know it exists, possess sufficient information on how to access it, how it works and its limitations. The organisation needs to have transparent processes in place to ensure procedures are followed. For example, people we seek to assist should be able to speak to agency staff regularly about the operation of the complaint mechanism. Information about the complaint mechanism should be freely available and all communities should know who in the agency is responsible for handling complaints and communicating outcomes.

Accessibility

A mechanism is accessible when it is available to be used by as many people as possible from as many groups as possible in all places where an agency is operational. Communities must be told how to complain and be actively encouraged to make complaints when problems arise.

Timeliness

An effective mechanism will deal with complaints in a timely manner. The timeline for acknowledgment and response should be stated in the complaints policy.

Reporting and learning

The outcomes of an investigation should be reported to the relevant parties. Learning from complaints and investigations need to be integrated into adjusting programmes, policies and practices.

4. Steps for setting up a Complaints Mechanism²

1. Secure organisational commitment to seek and act on complaints.

If you do not get management commitment, you will not be able to follow up on the feedback and complaints you receive. Not doing so will let the community down, and probably affect your relationship with them, and the running of the project.

2. Consult with the community to decide the most appropriate method to channel feedback and complaints.

It is advisable to use more than one mechanism to ensure that different groups in the community are being reached, including people with specific needs. Don't be afraid to try different approaches – not all of them will be successful, it will be a learning process.

3. Design a process for handling feedback and complaints and identify who will carry out the role.

If you are implementing through partners, you will need to decide how they will be involved. Will they set up their own mechanism? Will you set one up together? If it is your organisation's mechanism, how will you process feedback about the partner?

4. Set up the infrastructure for handling feedback and complaints in the community and train staff.

There are many different types of mechanisms that programmes have used. These include telephone hotlines, SMS (short message systems), community meetings, appointing community focal points, providing help desks at distributions, having an office 'open door' day – and many more.

² Adapted from Save the Children's 'Ten Steps to Setting Up Complaints and Response Mechanisms'

5. Raise awareness in the community about how they can feed back and complain, and what about.

6. Receive and record feedback and complaints in a logbook or complaints database.

7. Acknowledge the feedback/complaint either verbally or in writing.

8. Resolve: feedback can be resolved informally, whereas serious misconduct will require management follow-up and possible investigation.

Serious misconduct includes (but is not limited to) the following:

- Fraud and corruption
- Bullying and harassment
- Safeguarding incidents
- Actual or potential harm or risk in programming

These will need to be dealt with by senior management, following the appropriate policy.

9. Respond to the person who complained.

With complaints, confidentiality may mean that you are not able to share certain information with the complainant. In this case, you will need to explain this and let them know that their complaint was followed up without providing any confidential details.

10. Record the response in your complaints database and share what you learnt.

It is important to analyse and share trends so you can learn as an organisation.

Complaints brought by someone other than the affected person

A complaint can be made by anyone who is concerned that a staff member has breached policies including engaged in sexual exploitation or abuse of a person of concern. The complaint does not have to be made by the affected person. Indeed, in some cases the affected person will not agree to provide testimony or may want the investigation to be discontinued. While these wishes should be considered, particularly when there is risk of physical, emotional or social harm, s/he does not 'own' the allegation. S/he is a witness just as others are witnesses.

Ultimately, it will be a question for the investigation management team whether and how to proceed, considering issues such as the wishes of the survivor, the potential for future abuse and harm, the reputation of the agency, the agencies' responsibility to protect and create a safe and abuse-free environment, national law and the ability of the investigators to reach a conclusion on the available evidence.

5. Points to consider specifically for staff

Staff members will also learn of exploitation, abuse, fraud and corruption when working with people we seek to assist. And they too experience barriers to reporting, such as lack of knowledge about policies, SEA, fear of criticism from colleagues and fear of damage to their careers.

i. Raise staff awareness of sexual exploitation, abuse, fraud and corruption and abuse of power

Organisations cannot assume that staff members are any more aware of sexual exploitation, abuse, fraud and corruption than other members of the community. Staff induction manuals should contain the agencies' policies, including specific policies covering sexual exploitation and abuse, fraud and corruption and abuse of power. Those policies should then be discussed in inductions sessions and be available in all duty stations. Staff should also be reminded of standards of conduct, complaint procedures and early-warning signs regularly during their service. Those issues should be included in their annual appraisal process, exit interviews and end of mission reports.

ii. Make reporting mandatory

Many organisations have a mandatory requirement for their staff to report concerns relating to SEA. It should be made clear to staff

- when to report
- to whom to report
- how to report
- what will happen if they do not report (including possible disciplinary measures)

iii. Institute policies to protect whistle-blowers (and disciplinary measures to deal with malicious or vexatious complainants)

Mandatory reporting mechanisms work best in conjunction with whistle-blowing policies which enable organisations to discipline staff members for retaliating against a colleague who reports concerns of sexual exploitation, abuse, fraud and corruption, or otherwise cooperates with an investigation. Effective whistle-blowing policies clearly identify the type of prohibited conduct and the consequences of engaging in conduct that breaches the policy. They also make clear that deliberately reporting false or misleading allegations is itself misconduct and grounds for dismissal.

6. Complaints mechanisms to address PSEA

Agencies can either create separate complaints mechanisms to pick up allegations of SEA, or adapt existing ones. Many practitioners now recommend that adapting your existing mechanisms as stand-alone systems is hard to maintain, and may discourage users. However if you wish to adapt your existing mechanism, you will need to take the following points into consideration:

- You will likely need additional entry points designed for picking up complaints of SEA. Complainants are unlikely to use 'visible' entry points such as community meetings or complaints boxes due to the sensitive nature of the complaint.
- You are most likely to pick up complaints of SEA if you proactively seek them out. Small focus group discussions separated by age and gender are more likely to elicit discussions on SEA. If you are

discussing SEA and gender-based violence (GBV) issues with communities, you will need a facilitator who specialises in this area.

- You could use existing activities to pick up concerns regarding SEA – such as work with women’s groups, or outreach work on GBV.
- If you open up the possibility of SEA complaints with the community, it is absolutely vital that you follow them up. Raising concerns of SEA can be distressing for the complainant, and we have a duty of care to take it seriously. Additionally, not following up such serious concerns will likely lead to a breakdown of trust between your organisation and the community raising the concerns.

7. Multi-agency complaints mechanisms

What is a multi-agency complaints mechanism?

A mechanism where two or more organisations have an agreement with the community on the way to receive and deal with complaints received from the community or other stakeholders in a specific location that they work.

Why develop a multi-agency complaints mechanism?

In humanitarian operations, many organisations with different mandates work in the same location, providing assistance to the crisis affected population. The community might be unable to distinguish between different organisations and this can create confusion. A joint mechanism will ensure that all stakeholders will be able to complain through the same channels and using a single mechanism. This contributes to a better use of resources and a better response. A joint mechanism will also help addressing complaints involving staff from more than one organisation. It helps to pool resources and set minimum standards for response on complaints handling.

Multi-agency complaints mechanisms require a great deal of commitment and input to develop and maintain. If organisations are considering it, they need to be sure that the management commitment of all organisations is clear, and that resources have been allocated from each organisation to put into the mechanism. Organisations also need to plan for staff turnover, to ensure that this commitment is sustainable. Finally, it is fundamental that before seeking to establish a multi-agency complaints mechanism, each agency must have an internal reporting and management system already in place that is established, accessible, consistent, and most importantly understood by all levels of staff.

Different models of multi-agency complaints mechanisms

Broadly speaking, multi-agency complaints mechanisms fall into one of two ‘models’ – referral and clearing house mechanisms³.

i. Referral mechanism

A referral model allows reports made to any participating agencies to reach the appropriate agency. Common entry points may be developed through which communities can lodge a complaint against any participating member – otherwise, agency specific complaints mechanisms can be used to capture complaints against other members. Once the complaint is lodged, it is referred to the relevant agency. Participating agencies agree a set of common protocols for receiving, handling and investigating complaints to ensure a consistent response.

³ Inter-Agency Standing Committee (IASC) Task Force on Protection from Sexual Exploitation and Abuse December 2011, PSEA Compendium of Practices on Community-based Complaints Mechanisms – Abridged version

ii. Clearing house mechanism

In this model, an independent clearing house entity, not affiliated with a single agency, is tasked with the responsibility of receiving and referring reports to appropriate agencies. This helps reduce the time and even subjectivity with which agencies may process incoming reports. It can reinforce the neutrality and the perception of independence or objectivity of the complaints mechanism.

CHAPTER 2

From complaint to investigation: Ensuring an appropriate initial response

Step 1: Receiving an allegation

The initial complaint to the organisation may be made in writing⁴, by phone (including SMS), social media or in person. In either case, it should give basic information about who the complainant is and what they allege, i.e. what happened (roughly), who did it, when, where, who else was there and how the complainant can be contacted again.

Sometimes, a concern regarding SEA does not come in the form of a complaint. Staff or community members may hear rumours, or witness behaviour that concerns them, but they are not sure if it relates to misconduct. In these instances, the staff or community member should be encouraged to voice their concerns confidentially to an appropriate staff member of the organisation. The appropriate staff member should then document the concerns in the form of a potential complaint. If an investigation is later conducted, the staff or community member who raised the concern will be considered the 'complainant', even if they are not the alleged victim in the case.

Step 2: Deciding whether to investigate

1. Is there sufficient information to form a complaint?

All complaints need to be reviewed and addressed, but not all will require a formal investigation process.

The organisation will need to determine:

- Does this concern constitute a potential breach of organisational policy?
- Is there an identified victim and Subject of Complaint⁵?
- Is further information required to determine either of the above?

In this case, the organisation may decide to look for further information to provide sufficient information to take forward the complaint. This needs to be done extremely carefully, following the same principles as an investigation. Information gathering should be done in a way that does not jeopardise a potential investigation (for example by making the potential Subject of Complaint, witnesses or other stakeholders aware that a complaint has been made), or present a protection risk to anyone concerned.

The organisation usually decides to undertake an investigation when:

⁴ An example is a complaint made via a complaints box, or a letter addressed to the office.

⁵ In SEA investigations, the term Subject of Complaint refers to the staff member(s) against which the complaint, allegation or concern has been raised – i.e. the alleged perpetrator of sexual exploitation or abuse.

- a) there is sufficient information to constitute a complaint and
- b) evidence is required to determine whether or not the complaint can be upheld.

Note that at this stage, immediate health and protection concerns regarding those involved should be assessed and dealt with. A more detailed protection risk analysis should also take place when the investigation team is in place (see '[Identifying and responding to immediate safety risks](#)').

Anonymous complaints

Anonymous complaints are complaints in which the victim/complainant is not known. It is good practice to investigate anonymous complaints, if there is sufficient background information and/or good leads to witnesses who can give strong testimony about the alleged abuse. It is important to treat anonymous complaints seriously because of the potential for future abuse and harm, and your organisation's responsibility to create a safe and abuse-free environment.

2. Does the complaint allege a criminal offence?

It is possible that the complaint alleges a criminal offence. In this case, the organisation will need to make a decision as to how to proceed.

When considering whether to refer an allegation to the authorities, the primary consideration should be the safety of all concerned – including the victim, witnesses and the Subject of Complaint. The organisation should undertake a risk assessment of the protection concerns before making a decision of this kind. In operating environments where rule of law has broken down, or where the authorities cannot be relied upon to protect those involved – or may even cause them harm, it may be necessary to decide not to refer the allegation.

If the organisation does decide to refer the allegation, it needs to decide whether to go ahead with its own internal administrative investigation. There are several points that could affect this decision:

- What is the law in the organisation's jurisdiction regarding carrying out administrative investigations where a criminal offence is suspected?
- What is the organisation's own internal policy?
- Would continuing to carry out an administrative investigation cause protection concerns for those involved? For example requiring the victim to be interviewed twice.
- Is the organisation's evidence gathering likely to jeopardise a criminal investigation? For example alerting the Subject of Complaint that s/he is under suspicion.

It is also possible that a criminal offence is identified in the course of the investigation, or upon its completion. In these instances, the same process applies in deciding both a) whether to refer the case, and b) if so, whether to continue with the administrative investigation once the case has been referred.

Step 3: Appointing the investigation team

If the organisation decides to investigate, the relevant senior management and decision makers will need to appoint an investigation team.

The investigation team generally comprises managers and investigators and, in some cases, observers, interpreters and outside experts. In choosing the individuals to undertake these tasks, a senior manager (usually the Country Director or International Director of Human Resources), will need to consider the size of the team, their qualifications, and Terms of Reference (ToR) and the budget for the investigation.

1. The investigation team

Managers

a. Number of managers

Every investigation team has at least one manager directly supervising the case. We will refer to him/her as the investigation manager. S/he will then report to other more senior managers on a 'need-to-know' basis. (It is not necessary for every manager in the hierarchy to know about the investigation.)

b. Responsibilities of investigation managers

The investigation manager's responsibilities are to oversee the investigation, take strategic decisions and create the conditions for investigators to do their work. This includes:

- making the key decisions about the direction of the investigation, such as whether to investigate or whether to suspend or redeploy the Subject of Complaint during the investigation
- producing the ToR for the investigation team
- ensuring that safety and confidentiality plans are implemented and that the investigation is conducted according to key principles and procedures
- ensuring that appropriate support and assistance is provided to the victim such as medical referral, psychosocial support etc.
- liaising with the managing office for the location of the investigation, if different (for example Country Programme Office)
- liaising with external institutional stakeholders, such as national authorities and other agencies
- appointing personnel to the investigation team and managing the relationship between the investigation team and the rest of the organisation
- receiving the final investigation report on behalf of the organisation and, if the complaint is substantiated, determining if disciplinary measures are appropriate
- ensuring that investigators are trained, supervised and referred for emotional/psychological support when necessary.

c. Qualifications of managers

Managers should be chosen on the basis of their integrity, understanding of sexual exploitation and abuse issues, knowledge of human resource practice and ability to negotiate conflicting interpersonal and institutional interests.

d. Responsibilities of Managing Office at the location of the investigation

Often the location of the investigation is different from that of the investigation managers. It is common that whilst that complaint might have been received by a field office, the investigation is commissioned and managed from global or regional headquarters. In this case, the Managing Office of the location of the investigation – for example the Country Programme office – has a role to play.

The Managing Office at the location of the investigation may not necessarily be informed that an investigation is taking place – this will be part of the decisions made regarding disclosure (see Step 4 - Intentional Disclosure). They could be given another reason for the presence of the investigation team. In any case, the responsibilities of the managing office are as follows:

- to keep confidentiality, and to maintain an environment where confidentiality is upheld
- to provide logistical support such as travel and accommodation
- managing the security of the investigation team
- to provide the investigation team access to any evidence they might wish to secure
- to facilitate the investigation team in interviewing witnesses, including providing an appropriate location if necessary
- to facilitate the provision of translators if appropriate.

Investigators and observers

a. Number of investigators

Ideally two investigators will work on every investigation. If only one investigator is available, the investigation manager should also appoint an independent observer to sit in on interviews and provide the investigator with feedback and support.

b. Responsibilities of investigators

Investigators are responsible for the day-to-day conduct of the investigation, as defined by the ToR (an example of ToR is provided in the annexes). Normally, their responsibilities include:

- developing the investigation plan
- assessing and making recommendations on safety and confidentiality in cooperation with the Investigation Manager as well as the Country Director⁶ if appropriate
- assessing protection risks, in cooperation with the Investigation Manager as well as the Country Director if appropriate

⁶ The Country Director may not always be informed that the investigation is taking place – see a. Number of managers

- making recommendations on the work status of the Subject of Complaint for the duration of the investigation in concordance with labour law
- gathering and securing evidence
- making a finding on the evidence
- preparing and submitting the report
- making recommendations/observations on the policies and practices that may have enabled the exploitation/abuse to occur.

If a member of the investigation team has any previous direct knowledge of the complaint, they should inform the Investigation Manager immediately, and a decision should be made as to whether this would compromise the investigation, and if so what action needs to be taken. In this event, the investigator is likely to be removed from the investigation.

c. Qualifications of investigators

i. Basic qualifications

At minimum, investigators must be:

- **professional** – exercise sound judgment and exhibit skill
- **responsible** – trustworthy, dependable and personally accountable for the decisions they take throughout the investigation
- **qualified** – experienced in interviewing and (at least) trained in investigations (if possible in investigations about sexual exploitation and abuse)
- **independent** – have no material, personal or professional interest in the outcome of the complaint and no personal or professional connection with any witnesses (especially the complainant and Subject of Complaint).

Investigators will be drawn from a variety of backgrounds both professional and academic. It is extremely important that they have extensive experience in conducting interviews – even in the course of other duties (for example, as legal advisors, human resource specialists, counsellors etc.). Moreover they should be extremely knowledgeable about the organisation's policies in relation to sexual exploitation and abuse, human resources and protection.

ii. Composition of the investigation team

It is always best to focus on the right skill set over witness preferences when composing the team as there is no rule that each member of the investigation team must meet the preferences of all witnesses involved. In addition, organisations rarely have the luxury of being able to choose from a pool of trained investigators. Nevertheless, there are factors that should be taken into account when deciding on the composition of the investigation team.

The investigators should try to make sure that the alleged victim and any vulnerable witnesses feel comfortable with whoever is interviewing them. One way to do this is to ensure that an investigation team includes both a man and a woman. Other considerations, when feasible, are ethnic background and

religion, though investigators should ask vulnerable witnesses if they have a preference rather than assume that they will prefer investigators who share some of his/her characteristics.

Additionally, investigators often find that it is useful if at least one member of the investigation team is from a similar cultural and geographic location to the location of the witnesses – their insights into the context of the investigation can be invaluable. However if the investigators come from the *same* community or location as the witnesses, an assessment should be made as to whether this might compromise them or the investigation.

Interpreters

Ideally, investigators will speak the language of most of the potential witnesses. If this is not possible, they should choose an interpreter who, like them, is competent, discreet, independent and appropriate. In addition, the interpreter must understand the nuances of witnesses' language, including local slang and veiled allusions to sex.

Moreover, interpreters must sign an oath of confidentiality and should be relied on to maintain that agreement.

Interpreters must be instructed to interpret directly what witnesses say without comment or inference.

Other experts

Sometimes, managers should consider taking expert advice or assistance from outsiders. Commonly, these will be computer specialists, lawyers with in-country legal expertise and specialists in interviewing children or people with disabilities.

Step 4: Planning the investigation and undertaking a risk assessment

1. Identifying and responding to immediate safety risks

a. Why is it important to identify risks?

At the receipt of the complaint, the investigator should find out whether the complainant or anyone else is immediately at risk. S/he should then prioritise those risks and refer any security concerns to a competent colleague, and inform the Investigation Manager. This will help to ensure the organisation takes the necessary and timely action depending on the type of risk.

b. Identifying the risks – who could be at risk and how?

Identifying risks means thinking broadly about what has happened and could happen to everyone involved in the investigation, including the alleged victim, the complainant, the witnesses, any local investigation team members and the Subject of Complaint. Some risks are physical and may be obvious (e.g. pregnancy, injuries from attack by the Subject of Complaint or relatives etc.). Other risks may not be

so obvious (e.g. sexual infections, psychological trauma and economic loss). All of these are harmful and reduce a person's quality of life and may inhibit her/his ability (or desire) to contribute to the investigation.

The Subject of Complaint might also be at risk during an investigation – if the allegations become known, s/he might be under threat of retaliation from the affected community.

c. Prioritise the risks – which are most urgent?

After the investigation team and manager have identified the risks, they need to rank them by person, type of danger and likelihood of those risks occurring i.e.: which risks are most pressing for each person and, between people, whose needs are most urgent? (Generally, the alleged victim's needs come first because s/he is likely to be most vulnerable).

d. Minimise risks – how to respond

Finally, the organisation has a responsibility to reduce the likelihood that anyone involved in the investigation will suffer harm. Mostly this means referring people at risk to specialists who have the expertise to help (e.g. doctors, trauma counsellors, housing organisations or security specialists). Those experts then need to take steps to minimise the risks under the supervision of the investigation manager. Exceptionally, when a person is in immediate physical danger, the investigation team may need to take a more active role, for example, by consulting with the person on the need for relocation, and if necessary helping him/her to relocate. Do not underestimate the complexities of ensuring people's safety. Covering the immediate safety needs of survivors, family members and in some cases the Subject of Complaint can be difficult and costly and may require working in partnership with other organisations. Once the organisation has formulated a response to all the risks, they should design a protection plan in cooperation and agreement with the investigation team.

2. Securing the evidence

How can evidence be preserved pending the investigation?

i. Witness testimony

The first step in preserving witness testimony is to review information about the case as soon as possible after receiving the allegation. This contributes to protecting witnesses from intimidation or interference by the Subject of Complaint or other parties. If there are particular security concerns for any of the parties involved, the organisation might need to consider relocation of the affected party or suspend/relocate the Subject of Complaint without prejudice pending the outcome of the investigation.

ii. Physical evidence

Physical evidence should be collected, photographed, photocopied and/or described in detail. We recommend investigators conduct a site visit soon after receiving the complaint as part of the investigation and photograph any relevant objects, locations or items.

To prevent tampering with documents or records, investigators should:

- secure the Subject of Complaint's office computer or laptop

- back up (completely) her/his computer hard drive
- remove, for the duration of the investigation, all data storage devices (flash drives etc.) that s/he has used and that belong to the organisation
- obtain office records such as financial records, payment vouchers, contracts and individual case files
- obtain all official telephone records, including mobile phone records
- obtain official records (car logbooks, visitor logbooks, warehouse records, etc.)
- place records in a secure environment such as a locked cabinet with access limited to the investigation team.

iii. Medical evidence

It is very rare to use medical evidence in workplace sexual exploitation and abuse investigations, given that in most cases it will not help establish whether exploitation or abuse occurred. It is more common for the initial contact person to note any obvious physical signs of abuse when s/he first meets a witness and to record these details in the file – although this too is not confirmation that the witness was physically abused by the Subject of Complaint.

3. Ensuring confidentiality

Once the participants in the investigation are safe and the evidence secure, the issue of confidentiality will become a primary focus for the investigation team.

a. What is ‘confidentiality’ and why is it important?

Confidentiality means that information about the complaint and investigation can only be disclosed to a limited number of specified people and in a narrow range of circumstances on a need-to-know basis. Confidentiality is important because it protects the privacy and safety of all the people involved in the complaint. All witnesses may fear retaliation from the Subject of Complaint, community or co-workers. Moreover, for survivors, the experience of abuse can be very intimate and a matter of shame for them, their family and/or community; it may even lead others to reject or harm them. Even the Subject of Complaint has an interest in confidentiality – her/his reputation will suffer if people know about the complaint and s/he may be targeted in revenge attacks. Therefore, breaches of confidentiality undermine everyone’s confidence and trust in the complaints mechanism, the organisation and investigation itself. It will also undermine investigators’ ability to find out what happened.

b. What should be kept confidential?

All aspects of a complaint are confidential, namely the fact and nature of the complaint, the identity of the key participants (the complainant, the victim, the Subject of Complaint and witnesses) and the investigation.

c. What is accidental and intentional disclosure and how can it be prevented?

Confidentiality is breached by unauthorised disclosure, accidental or intentional. The investigation team, together with the investigation manager should undertake a risk assessment of the impact of accidental and intentional disclosure, including measures to mitigate if a breach occurs. If the investigation team

become aware of a breach in the course of the investigation, they will then need to confer with the investigation manager as to the best course of action.

i. Accidental disclosure

Accidental disclosure occurs when key details about the complaint are inadvertently revealed, generally in casual conversation or by documents ‘falling into the wrong hands’. To minimise the risks of accidental disclosure, investigators should develop an action plan, which identifies the risks to confidentiality, defines who is responsible for addressing those risks in each stage of the investigation and identifies ways to prevent disclosure. Investigators should also require anyone in the organisation who knows about the complaint to sign a confidentiality oath⁷. More generally, investigation units should have separate document management systems including separate servers and printers.

ii. Intentional disclosure

Intentional disclosure is more difficult to prevent – by definition it involves someone who is trusted with information disregarding the rules and telling others. Organisations can reduce the risk by limiting the number of people who know about the complaint, choosing team members carefully and after extensive background checks, remaining alert to conflicts of interest and taking strong action against anyone who knowingly broadcasts confidential information about the case.

4. Making (limited) disclosure

Generally, disclosure is allowed when:

- it is required or permitted by law or an organisation’s policy or procedures
- it is required by management in the best interests of the organisation and the parties
- it is needed to obtain specialist help for the survivor or advice on the evidence.

Otherwise, most policies will require disclosure of confidential information to key internal stakeholders on a ‘need-to-know basis’. Who ‘needs to know’ about the complaint should be clearly defined in the policies. Generally, it will be the focal point⁸ (usually the most senior manager in duty station), the leader of the mission of the place affected by the allegation and manager of the office affected by the allegation.

Note: a survivor’s identity should only be disclosed when it is in her/his best interests, the complainant has been told of the disclosure and the CEO approves the disclosure.

What if someone who ‘needs to know’ is untrustworthy or is implicated in the allegation?

If someone who would normally ‘need to know’ is not trustworthy or may misuse information, the complaint mechanism should identify the alternative contact (commonly the director of human resources, global or local).

If the policy does not offer an alternative contact, then the response will depend on the size and structure of the organisation. In larger, international organisations, the international head of human resources or international

⁷ That oath prevents the person from discussing the complaint in any way with outsiders – including spouses and family members. Annex D is a sample Oath of Confidentiality.

⁸ The people named in your agencies’ mechanism as the first person to contact for SEA allegations.

head of protection may take on that role. In smaller organisations, it may be appropriate to approach the CEO. If the CEO is implicated or suspect, investigators may need to contact the Chairperson or any member of the Board of Directors, or someone in another organisation with 'influence' e.g. a partner organisation or donor. This of course, is a high risk strategy and something that should only be done after very careful consideration and discussions with a trusted advisor.

5. Giving the complainant a formal confirmation

Once the right people know about the complaint, the final step is to get back to the complainant with a formal confirmation.

a. What is confirmation?

Confirmation is generally a letter to the complainant telling her/him that the organisation has received the complaint and is taking action. It states:

- when and how the organisation received the complaint
- how the organisation has responded to the complaint so far
- what it will do next
- who is responsible for the complaint
- who the complainant should contact with questions or feedback.

b. Why do you need to confirm the complaint?

The confirmation is important for reasons of accountability and transparency. It shows the complainant that the allegation is taken seriously and it gives her/him the information they need to ensure that the organisation is responding properly. For the organisation conducting the investigation, it is a record that it has received the allegation and has handled it properly in the initial stage. This may be important if the investigation is audited.

c. How should you confirm receipt?

Your confirmation should be in writing, discreet and clear.

i. In writing

As the confirmation is part of the accountability 'paper trail' it should be in writing. If the complainant does not want a letter, or you believe that creating a written record will put the complainant or others at risk, it is possible to confirm receipt orally. However, investigators should keep a detailed file note of the conversation, including time, date, attendees, matters discussed, decisions taken and any steps identified for follow-up.

ii. Discreet

All confirmations – whether oral or written – should be made discreetly. Letters should be delivered in ways that do not alert others to the complaint e.g. given directly to the complainant or sent in an unmarked envelope. Oral confirmation should be given in a private location which is not automatically

associated with complaints. If the investigator or local focal point are themselves associated with complaints, specifically about sexual exploitation and abuse, it may be necessary to ask someone 'neutral' but trustworthy to deliver the confirmation instead.

iii. Clear

Finally, in communicating confirmation of receipt, investigators should use language that the complainant will understand i.e. that is simple and non-technical and appropriate to the complainant's age, level of development and education. They should use short words and sentences when possible. Diagrams (e.g. of where the complaint will go) may also be useful.

d. Who should give confirmation and when?

The confirmation letter should be signed by the most senior person on the investigation management team. It should not be signed by an investigator or members of the investigation team. The complainant should receive the letter of confirmation no more than five working days after the organisation receives her/his complaint.

6. Preliminary considerations for the investigation: goals, constraints and questions

The stage between appointing the team and starting the investigation is dedicated to planning. It is an opportunity to refocus on the purpose of the investigation, its constraints and the questions under investigation.

7. What are the goals of the investigation?

The main goal of the investigation is to gather information that proves or disproves the allegation. Investigators are not prosecutors. Their job is not to look solely for information that will 'convict' the Subject of Complaint but to gather all relevant evidence so as to determine objectively whether the exploitation or abuse occurred, which will then be handed to the investigation manager for decision making.

In addition to this, their goal is to conduct an investigation which abides by the following key principles:

Confidentiality – confidentiality is an ethical principle that restricts access to and dissemination of information. In investigations, it requires that information is available only to a limited number of authorised people for the purpose of conducting the investigation (i.e. disclosure of information only on a need-to-know basis).

Health and welfare – the health needs of survivors are paramount. Agency staff assigned to conduct investigations should not undertake to address these concerns themselves, but have an obligation to ensure that these matters are referred to the manager of the investigation who can attend to these needs in a confidential manner throughout the investigation process. This includes medical care, psychosocial support, counselling, etc.

Safety – in some situations, witnesses will fear reprisals, including physical attacks. While an organisation may not be in a position to guarantee the safety of a witness, it is essential that a plan is developed and

reviewed throughout the investigation for how best to keep witnesses safe. Witnesses must be honestly apprised of the limits of the organisation's capacity to protect them.

Legality – investigations should be initiated, conducted, and reported in accordance with all applicable rules, regulations, and guidelines including due respect for the rights and privacy of those involved. Consideration should be given to local law, as it relates to gathering evidence outside the organisation's premises and when interviewing non-staff witnesses. If a crime appears to have been committed, consideration must be given to informing national authorities. Organisations should have a policy on how and when to involve national authorities. Given the risks and benefits of informing national authorities, the victim's view should be sought before taking a decision.

Professionalism – staff undertaking investigations must have adequate skills, training and knowledge. The methodology and techniques used in the investigation must be appropriate for the objectives and circumstances of each investigation.

Thoroughness – investigations must be conducted in a diligent, complete and focused manner to ensure that relevant evidence is obtained to **establish or not establish** the allegation(s).

Independence – investigations must be conducted in a fair and equitable fashion. Evidence must be gathered and reported in an unbiased and independent manner to determine the validity of an allegation. Investigators must be free, both in fact and in appearance, from any influence that could impair their judgment. Investigators should make their manager aware of any potential conflicts or influence in order to take action to resolve these issues before commencing the investigation.⁹

Planning and reviewing – investigations must be planned, systematic and completed as soon as possible. Investigation reports and conclusions must be supported by adequate, accurate records and documentation.

Respect (for all concerned) – investigators must be seen to be respectful of all parties to an investigation.

An investigation is into an allegation, not a person – the Subject of Complaint must be treated with respect and afforded the right of response. Investigators must not pass judgment on the behaviour of the victims, witnesses or Subject of Complaint throughout the investigation. Investigations should be conducted with due consideration and sensitivity to the culture and customs of the local population when interacting with local members.

Timeliness – subject to the resources available, investigations must be conducted and reported in a timely manner. Organisations should implement a policy on length of time an investigation can reasonably take, for example 28 days.

Working in partnership (with all interested parties) – in some cases organisations may receive complaints against staff working for a different agency. Organisations must have a policy on how they will deal with such complaints. In addition, when allegations are made against staff of separate organisations there should be plan for joint investigations to avoid repeated interviews.

⁹ Independence and impartiality can be compromised by professional, personal or financial relationships that may affect or weaken the investigation. Pre-conceived opinions on individuals or groups and previous involvement in a management capacity can affect the operations of the person/entity or programme under investigation. External impediments can also adversely affect the work of

8. What are the constraints on the investigation?

a. Organisational constraints – authority

Organisations should give investigators a mandate to initiate and conduct investigations on the organisation's behalf. Usually, Terms of Reference empower investigators to collect evidence without hindrance or prior clearance, to access staff promptly and to require the full cooperation of anyone working for the organisation. However before commencing an investigation, investigators should review their Terms of Reference to identify the extent of their authority to investigate in this case.

b. Legal constraints – procedural rules

Provisions in national employment laws, the organisation's policies and the Subject of Complaint's contract will at least influence (possibly determine) how the investigation is conducted. For example, employment law might determine that a Subject of Complaint has the right to know that an investigation is taking place, from the outset of the investigation. It is therefore important for the investigation team to assess the legal context to decide on when to inform the Subject of Complaint.

i. National employment laws

National employment laws commonly include rules about dismissal that, if not followed, may lead to the reinstatement of the dismissed employee or an award of damages. Potentially relevant employment laws are those from the place where the person was hired, the place s/he works or the place where s/he and/or the organisation are nationals. It is good practice for organisations to find out, when developing complaint mechanisms, which laws would apply to their local and international staff (as different laws may apply to each).

ii. National criminal law

In some countries there is a legal obligation to report allegations of child abuse or sexual assault to the national police. In other places, reporting will be voluntary. If so and it seems that a crime may have been committed, management should consider whether, how and when to inform national authorities. The survivor's view should be sought, as people who report abuse may be at risk from the police in some places. If the organisation refers the case to national authorities for criminal prosecution, it will need to consider whether or not it is appropriate to continue its internal workplace investigation.

iii. Organisational policies and procedures

Procedural rules are also found in many organisations' policies and procedures on dismissal for misconduct and sexual exploitation and abuse. In organisations with no such procedures or policies, we suggest using the IASC *Draft Model Complaints and Investigation Procedures and Guidance Related to Sexual Exploitation and abuse*¹⁰ as a guide to best practice for NGOs in the humanitarian sector.

iv. Contracts between the organisation and the Subject of Complaint

¹⁰ Inter-Agency Standing Committee (IASC) Task Force on Protection from Sexual Exploitation and Abuse. March 2004. *Draft Model Complaints and Investigation Procedures and Guidance Related to Sexual Exploitation and abuse*.

Finally, the employment contract between the Subject of Complaint and the organisation will usually regulate the termination of employment. Most contracts say that employees can be summarily dismissed for misconduct or in other situations with notice. Contracts also may deem human resources policies (as they exist from time to time) as terms of the employment contract, giving legal force to many relevant policies, procedures and standards e.g. Codes of Conduct.

c. Practical constraints – team capacity

Investigators and investigation managers need to consider together the resources available for this investigation. Resources do not determine whether they should investigate, but will shape the investigation priorities. Key questions include:

- how much time and money can they spend on the investigation?
- who (from the organisation) will be contributing to the investigation?
- what are their skills? Is the team able to access outside experts to supplement their skills?
- what facilities are available for ensuring the participants' safety (e.g. safe houses, security etc.)?

9. What are the substantive questions for the investigation?

To conduct the investigation itself, investigators need to be absolutely clear about the substantive rules which have been allegedly breached and the composite elements of those rules. They then need to identify the evidence that is relevant to the elements and to consider how they can gather that evidence safely and efficiently.

a. What substantive rules have allegedly been breached?

Substantive rules are rules that tell staff what they may (and may not) do as employees of your organisation. They are standards of conduct and are found in national employment laws, the Subject of Complaint's employment contract and the agency's Code of Conduct. If the agency is an implementing partner of the UN, those codes will generally incorporate all or part of the Secretary General's Bulletin¹¹. For example, if an organisation applies the Secretary General's Bulletin as its Code of Conduct, and a complaint was made that one of the staff members engaged in sexual activity with a 17-year-old, the allegation is: the Subject of Complaint engaged in sexual activity with a child; a violation of the Secretary General's Bulletin, section 3.2(b).

b. What are the elements of each rule?

The elements of each rule are the individual facts that must be proved to show that there was a breach of a standard of conduct. If we continue with the example in point a. above, the elements of the Secretary General's Bulletin standard 3.2 (b) are:

- the Subject of Complaint is a staff member
- actual or threatened sexual activity occurred
- with a person under 18 years of age

¹¹ UN Secretariat, 9 October 2003, Paragraph 3.2 (f) in "Secretary General's Bulletin on Special Measures for Protection from Sexual Abuse and Sexual Exploitation, 2003/13 (ST/SGB/2003/13)"

c. What evidence is relevant to that breach?

Evidence is information that is relevant to deciding if an allegation is true or not i.e. information that makes an element more or less likely. It comes in a number of forms, the most common being:

- witness testimony (e.g. statement about what someone saw, heard, smelt, etc.)
- documentary evidence (e.g. forms, photographs, videotapes, computer files)
- physical evidence (e.g. examinations of the site of the alleged abuse)
- expert evidence (authoritative opinions about whether something is likely to have occurred).

To complete the investigation, it is necessary to gather evidence on each of the elements. We recommend that the investigators begin by making a checklist of the elements, the type of evidence that could be relevant to each element, where and from whom they may find it.

CHAPTER 3

From investigation to report: conducting a thorough and effective investigation

Administrative versus criminal investigations

An investigation undertaken by an organisation into an alleged breach of policy is an administrative investigation. As an internal procedure, an administrative investigation does not adhere to the same standards as a criminal investigation. Its purpose is to gather evidence in order to make a decision on how to proceed. Usually, internal administrative procedures do not require evidence to be 'beyond all reasonable doubt' - rather, they need to prove 'in the balance of probability' that the alleged incident did or did not occur. However, an administrative investigation still needs to be thorough and conducted with due diligence according to organisational procedure and local labour law, in the event that it is contested.

Step 5: Gathering background material and documentary evidence

Throughout the investigation, investigators will need to consult documents – in hard copy and electronic form – to identify documentary evidence.

1. What is documentary evidence?

Documentary evidence is all information that is relevant to the complaint and that is recorded in some way in physical form. It includes staff records, rosters, photographs, diagrams, handwritten notes and information stored electronically.

2. Why is documentary evidence important to investigations of complaints, specifically complaints on sexual exploitation and abuse?

Documentary evidence will vary in importance between investigations. Generally and particularly when investigating complaints about sexual exploitation and abuse, it does not prove that the Subject of Complaint sexually exploited or abused the victim. However, it may establish the age of the survivor or the role of the Subject of Complaint in the organisation (e.g. employee, contractor, employee of contractor etc.). Moreover, it can corroborate witness' accounts, provide leads for questioning, support witness testimony and/or give investigators a better understanding of the background to the complaint.

3. Who has relevant documentary evidence and who can access it?

The organisation and its related entities will hold most relevant documents on their premises. If investigators cannot find relevant materials there, they should check whether documents have been

moved, destroyed or archived. Otherwise, if they have good reason to believe documents are in the possession of a staff member, the investigators may ask for access to those materials. Note: staff may withhold documents that they created in their private capacity using their own equipment.

4. When to collect documentary evidence

You should begin collecting documentary evidence as soon as possible in the investigation as it can help guide you about whom to interview and what questions to ask.

5. Where to collect documentary evidence

Whenever possible, documents should be reviewed on site. If this is not possible, the manager should designate a trusted staff member to find, copy and send the documents to the investigator. Alternatively, if original materials are removed from the premises, the Head of the Office should be told of this and given a signed inventory and receipt for the materials. The receipt is a record that materials have been handed over to the investigation team as well as the investigators' record of the documents reviewed. It should include a description of the materials, the name of the person who supplied or accused them, the name of the office where they were kept, the date and time they were removed and the place they were removed from. A copy of the inventory receipt should be kept in the investigation file and another given to the relevant person at the office where they were found.

Special considerations for collecting electronic 'documents'

Computerised information (such as codes, saved files, digital photographs) may also be 'documents' relevant to the investigation. When handling electronic documents, investigators should:

- ensure that whoever obtains the electronic evidence has sufficient computer skills to completely and safely extract the data
- if seizing a computer to avoid the destruction of evidence, make a list of the computer's components, including the make, model and serial number of the monitor, computer, disk drives, cables and speakers
- store seized equipment in a safe and secure location
- only ever log onto or browse computer directories and files with another appropriate staff member present. This is to verify that investigators did not tamper with evidence. The staff member will be required to maintain confidentiality relating to the investigation
- record the 'chain of custody' including the names of those present when information is accessed, the time of log-on and file names and pathways.

6. How to review and manage documentary evidence

a. Managing documentary evidence

Managing documentary evidence means taking steps to ensure that documents are not lost, that all relevant documents have been reviewed and that all relevant documents can be accessed and shown to be reliable. For every document, it should be possible to establish:

- 1) who provided it (name and contact details)

- 2) where it was located (address and details of how it was kept)
- 3) when it was retrieved (date and time)
- 4) what it is called (title, identifying number and date created)

This information should be recorded on the receipt given to the owner or custodian of the document. A copy of the receipt should be kept on the investigation file.

b. Reviewing documentary evidence

Before reviewing documents, investigators should re-read and consider the relevant parts of these guidelines. They should also prepare a list of questions or a checklist of issues to be addressed.

Best practice tips for reviewing documents

Be systematic – before the review, investigators should devise a process for analysing documents and then apply that process to each document. They should include a system for making notes as this helps with concentration and saves time when preparing for interviews and writing the report.

Be analytical – the purpose of reviewing the documents is to determine whether they prove or disprove the allegation. It is helpful to write down the elements of the allegations and keep it in a prominent place while conducting the review.

Be suspicious – when reviewing the documents, investigators should be alert to internal inconsistencies and to references to other relevant evidence. It is particularly important to check dates, addressees, copies and attachments. Investigators should look for postdating and consistency with other dates in the investigation. If the document refers to attachments, investigators should make sure they are enclosed or can be located.

Be impartial – investigators should review documents with an open mind as to their significance so as to avoid missing important information.

7. Returning documents after the review

Investigators should return original documents to their owner/custodian as soon as possible to minimise interruptions to work at the agency.

8. Investigating the complaint – gathering physical evidence and conducting site visits

Site visits are inspections of the place/s where the alleged incident or its component parts occurred. Site visits are useful, especially at the beginning of the investigation, to determine whether the alleged exploitation or abuse was possible in the manner described and to gather physical evidence relevant to the witnesses' accounts.

Before conducting site visits or searching for evidence, investigators should review their Terms of Reference to ensure that they have the relevant authority. They should then arrange a time to visit each

site and conduct the search in the company of at least one other investigator or an independent observer. After the visit, they should write a file note recording who was present, in what condition they found the site, what objects (if any) they gathered there and the date and time of the visit. If possible, they should attach photographs or sketches of the site or relevant objects.

9. Validating evidence

As information is collected, it should be evaluated for consistency and reliability. Investigators determine consistency by comparing each new piece of evidence to each piece of existing evidence. If there are inconsistencies, the investigators seek further evidence or make a judgement as to which source is more reliable. There are no particular rules about reliability in workplace investigations. However, investigators should avoid relying solely on hearsay or testimony from people who are obviously biased.

Step 6: Updating the investigation plan and interviewing witnesses

The information gained from gathering and studying documentary evidence should then be used to update the investigation plan. The evidence may reveal new information that warrants a change in the plan – for example, a new witness for interview. It should provide information to feed into your interview plan.

Investigating the complaint – gathering evidence from witnesses

Witness testimony is information about a person's experience of an event as retold in an interview. Witness testimony is particularly important in sexual exploitation and abuse investigations as sexual exploitation and abuse are often only reported after corroborating physical evidence of the exploitation or abuse has disappeared. Moreover, if not conducted properly, witness interviews can compromise confidentiality and the welfare of the participants.

1. Who should be interviewed?

In almost every investigation¹², the complainant and the Subject of Complaint will be the key witnesses. In addition, investigators should speak to anyone with information relevant to the complainant's or Subject of Complaint's account. For example, if the complainant says s/he ran from the Subject of Complaint's house, was this seen by anyone else? Or if the Subject of Complaint says s/he was with a driver on the day of the alleged abuse, can this be confirmed by the driver?

Once investigators have identified the people to interview they should prepare a list of witnesses and experts, including their titles and notes on how their testimony might be relevant.

¹² The only exception would be if the complaint has been made anonymously.

Does a witness have a 'right' to bring a lawyer or support person to the interview?

The short answer to this question is no: no witness has a 'right' to bring a third party – lawyer or otherwise – to an interview in a workplace investigation. As this is not a criminal investigation and not a disciplinary hearing, a third party can only attend if your organisation gives consent. Moreover, consent should only be given if the third party is not themselves a witness, s/he agrees to remain silent during the interview and to sign an Oath of Confidentiality. (Note: you will only be able to enforce the Oath if the other person is also a contractor or employee of your organisation.) You will need to check your organisation's policy in this regard.

2. Who should interview the witnesses?

As said above, interviews are generally conducted by investigators. If there are two investigators on the team, they should decide before the interview, who will conduct the interview and who will take notes.

If there is only one investigator, s/he will have to do both tasks or ask the observer to take notes, if that is more effective. Interviews should always be conducted with two people present, either two investigators or an investigator and an observer.

3. When should witnesses be interviewed?

a. Order of the interviews

Once the investigators know whom to interview, they should consider the order of the interviews. The general principles are to interview the complainant first and the Subject of Complaint last. This means that the general order of witnesses is:

- 1) complainant or original survivor
- 2) other potential survivors
- 3) witnesses with indirect knowledge of the misconduct
- 4) witnesses with direct knowledge of the misconduct
- 5) Subject of Complaint

If the complainant and survivor of the alleged abuse are different, the complainant should be interviewed first. The order may change if the witnesses are leaving the organisation or place of the investigation. The Subject of Complaint is interviewed last so that as much information as possible can be gathered. This information can then inform the questions you put to the Subject of Complaint, and enables them to provide a more complete response.

It is strongly recommended that the Subject of Complaint is not informed of the interviews taking place until as near a time as possible to their own interview. As this is an information gathering exercise, the Subject of Complaint does not usually have a right to know what is taking place (organisations will need to check their own internal policies and national labour law in this regard). The reason for this is primarily to prevent the Subject of Complaint from tampering with evidence or intimidating witnesses - we have a duty of care to try and mitigate any protection threats to witnesses. The Subject of Complaint does

however have a right to know the allegations made against him/her should the investigation lead to a disciplinary hearing.

b. Re-interviewing

The general principle is to avoid re-interviewing witnesses whenever possible. However, if interviewees provide conflicting information or you find new information relevant to their testimony, it may be appropriate to seek a second interview, if this does not compromise the witness' health or wellbeing.

4. Where should witnesses be interviewed?

The location of the interview will depend on the organisation's protocols, facilities and how, in the circumstance, it can best ensure that the complaint remains confidential.

It is generally better to conduct interviews in person. If this is not possible (e.g. because the witness has left the location or the organisation), investigators may arrange an interview by telephone, video-conference or e-mail exchange. They should make sure to include a note in the record on how the interview was conducted and why.

5. How should witnesses be interviewed?

There is no recipe for conducting a successful interview. The questions and interview techniques always depend on the facts of the case and the interviewer's style. Even so, there are some basic techniques that can help elicit the relevant information.

'Do's' and 'don'ts' of good interviewing

DO:

- be courteous, objective and professional
- ask direct and simple questions
- regularly confirm information provided by the witness
- ask the witness to clarify ambiguous terms or information
- conduct the interview at the pace of the witness
- give the witness time to think and to answer questions without interruption
- record the time the interview begins and ends, any breaks in the interview and any absences of participants from the interview room.

DON'T:

- use vague language, jargon, acronyms or euphemisms
- use long, leading or compound questions
- give feedback on the witness' testimony, even unintentionally through face expressions and voice inflexions
- make moral or legal judgements
- make promises you cannot keep.

a. The four stages of interviewing

i. Introduction and establishing rapport

The purpose of the ‘rapport’ stage is for the interviewer to introduce her/himself and to tell the witness why s/he is being interviewed. The rapport stage is also important for gaining the witness’ trust and enabling the witness to feel like they can give a full and frank account.

To establish rapport, the interviewer should:

- introduce him/herself, the co-investigator and anyone else present at the interview
- give the witness a business card with contact details
- explain the roles of everyone at the interview
- clarify the purpose of the interview, without giving details of the allegations
- clarify the ground rules
- ensure the witness knows her/his rights and obligations
- offer the witness refreshments and inform her/him that s/he is entitled to reasonable breaks and refreshments during the interview
- make small talk on neutral subjects such as the journey to the interview location, the weather on the day of the interview, how long the interviewee has lived/worked in the area, etc.
- clarify the need for taking notes and seek his/her consent for this.

ii. Free narrative

The purpose of the ‘free narrative’ stage is to get a witness’ uninterrupted account of events. To stimulate free narrative, the interviewer should:

- ask very open questions e.g. “Can you tell me about your duties?”
- use neutral prompts that relate to the witness’ account (without referring to other witness’ testimony)
- e.g. “And then what happened?”
- repeat key phrases
- ask for further clarification
- adopt an “active and neutral listener” posture – without showing signs of agreeing or disagreeing with what is being said.

The interviewer should not interrupt or clarify ambiguities at this stage. If unsure of something, the interviewer should make a note to return to it in the ‘specific questions’ phase.

iii. Questioning

In the ‘specific questions’ phase, the interviewer clarifies the information the witness has already given and to help the witness give relevant information s/he was unable or unwilling to give during the free narrative.

Types of questions are:

- open-ended questions (e.g. “Tell me more about the health workers”)

- specific questions (e.g. “What happened after you went back to the clinic?”)
- closed questions (e.g. “What was he wearing when you went back to clinic?”).

Interviewers should avoid asking leading questions (e.g. “Was he wearing a red shirt?”) as these may distort the witness’ testimony.

Many interviewers find it helps them to write down the questions beforehand – particularly questions that are difficult to word, or risk giving away information traceable to other witnesses. Interviewers might want to brainstorm potential lines of questioning beforehand, to be prepared for various different responses – but this should not close the interviewer off to unexpected lines of enquiry.

Dealing with intentionally obstructive witnesses

Sometimes witnesses will resist or refuse to co-operate. The interviewer’s response will depend on how and why the witness is resisting and whether they are staff members of the organisation.

Staff witnesses (including staff of organisations contracted to the investigating agency) who are being intentionally and overtly obstructive, can be ‘reminded’ that they are contractually obliged to cooperate with the investigation, to tell the truth and to maintain confidentiality and that they may be disciplined for failing to do so (this is a matter for managers). Otherwise, any hostile behaviour should be recorded in the record of interview.

Non-staff witnesses are not legally obliged to answer questions or even attend the interview. That said, the interviewer can still stress the importance assisting the investigation, and of being truthful, accurate and discreet.

iv. Closure

To end, the interviewer should:

- check with the co-investigator if there are outstanding matters
- summarise what the witness has said
- ask if the witness has anything to add
- if the witness agrees to do so, ask them to review and sign the notes
- answer any questions s/he has
- explain what will happen next – that their testimony will be compiled with other information and handed confidentially to senior managers to decide on next steps
- remind the witness how to make contact with the interviewer
- note the time on the record of interview
- thank the witness for her/his time.

If the witness provides more relevant information after the summary, the investigator should clarify and confirm the new information and then summarise it to the witness.

b. Special considerations for dealing with vulnerable witnesses

i. Who is a vulnerable witness?

In general, many of the people we seek to assist are vulnerable, as situations of poverty, marginalisation or displacement have placed them in positions of relative powerlessness. Equally many adults and children living in those communities are resilient and have developed personal and community-based coping strategies. For the purpose of this section, reference to vulnerable witnesses is to children, youth and some people with disabilities or serious illnesses.

ii. What is the purpose and principle of interviews with vulnerable witnesses?

The primary consideration when interviewing children and other vulnerable witnesses is how to elicit relevant information without causing (more) harm.

iii. Interviewing children

Due to their specific vulnerability, it is not recommended to interview children as victims or witnesses unless it is strictly necessary for the investigation. It may be possible to gain sufficient evidence from other sources such as corroborated witness testimony that means it is not necessary to interview children as part of the process.

If it appears that it will be necessary to interview a young child as part of an investigation process, a risk assessment should be undertaken first. Do the needs of the investigation outweigh the potential protection concerns relating to the child? If the decision is made to go ahead, children should *only* be interviewed by someone with expertise in this area. The interview questions should be adapted to suit the maturity and circumstances of the child interviewed.

When interviewing a child, it is usual practice for them to be accompanied by an adult - often a parent or guardian. This should be someone they trust, who can provide a reassuring presence, and assist the child with anything they might need in the interview. However it can be the case that the person accompanying the child is implicated in the investigation, or will inhibit the child from disclosing personal or distressing information. A judgment will need to be made as to whether it is appropriate to go ahead with the interview if there are concerns regarding the accompanying adult.

iv. Where should vulnerable witnesses be interviewed?

A vulnerable witness should be interviewed in a place where s/he feels safe and that is confidential. When interviewing children, consider how to set up the room to make it child-friendly.

v. How to interview vulnerable witnesses

Often, vulnerable witnesses will feel more comfortable if a trusted adult (e.g. a parent or family member) is present during the interview as a supporter. The supporter's role is to enable the witness to feel safe and comfortable in speaking to people s/he does not know. (See above for specific issues regarding supporters and children).

The supporter should only attend if:

- the witness wants her/him to be present (i.e. the witness has given informed consent)
- the supporter will not retaliate against the witness if the witness reveals details of the alleged incident

- in the case of exploitation or abuse and the supporter is not involved in the alleged exploitation or abuse
- the supporter has been properly briefed on her/his role.

If the interviewers do not speak the witness' own language, they should ensure that the witness feels comfortable with the interpreter, as it is particularly important to interview a vulnerable witness in his/her own language.

The four stages of interviewing are a useful guide for interviewing vulnerable witnesses. However, investigators should incorporate additional stages into their interview plans:

As part of the preliminary conversation, interviewers should:

- explain to the witness, in a way the witness understands:
 - why s/he is being interviewed (though not the nature of the complaint)
 - the role of the interviewer/s and any observer, supporter or interpreter
 - what confidentiality means and why it is important.
- explore the witness' ability to participate in the interview, her/his general comprehension and understanding of truth versus lies (this is most relevant to children and people with developmental difficulties)
- tell the witness that s/he should say if:
 - s/he does not understand something the investigator has said
 - the investigator has said something that is not correct
 - s/he does not know the answer to a question.

When prompting the witness' free narrative or asking specific questions interviewers should:

- use short and simple questions and words that the witness knows
- stay focused (i.e. gather all the information on one topic before moving onto another)
- avoid repeating questions (this can give the children in particular the impression that the first answer was incorrect)
- avoid asking about things that the witness does not understand such as time, height, weight, age etc.
- avoid leading question unless it is absolutely necessary (e.g. if not asked the child's safety or the integrity of the investigation would be compromised)
- revert to open or specific questions where the child responds to a leading question with information not previously known or referred to

Finally, during closure, interviewers should ensure that the witness is safe and knows who s/he can speak to if s/he has any problems after the interview.

vi. How to assess evidence from a vulnerable witnesses

Vulnerable witnesses can behave in unexpected ways. Consequently, it is important that investigators do not rely solely on the child's or witness' behaviour as an indication of his/her reliability. Instead,

investigators should consider whether their account fits with the other information or evidence gathered. Then, s/he should determine if any action needs to be taken to ensure the witness' safety and double check her/his testimony.

c. Special considerations for interviewing the Subject of Complaint

i. Why interview the Subject of Complaint?

The Subject of Complaint, like all other participants in the investigation, is entitled to a fair and impartial process. This means that s/he should be able to respond to the allegations by hearing the evidence brought against him/her and by having the opportunity to refer the investigators to further evidence in his/her favour.

ii. Who should interview the Subject of Complaint?

The most experienced interviewer on the team should interview the Subject of Complaint in the presence of another investigator or observer (this helps avoid accusations of investigator misconduct and allows you to corroborate the Subject of Complaint's testimony). Generally, the Subject of Complaint should not be allowed to 'veto' interviewers according to his/her personal preferences.

iii. Where to interview the Subject of Complaint?

The venue for the interview should be confidential as well as safe for the Subject of Complaint and for the investigators.

iv. When to interview the Subject of Complaint?

As a rule, the investigators should only interview the Subject of Complaint **after** speaking to **all** other witnesses. This gives the investigators maximum opportunity to check the Subject of Complaint's evidence against the other accounts.

v. How to interview the Subject of Complaint?

The Subject of Complaint should be interviewed like all the other witnesses (see part 5(a) above). However, given the potential consequences of the investigation for the Subject of Complaint, it is particularly important to cover the following points at the beginning of the interview:

- the purpose of the interview
- the roles of the participants in the interview
- the process and potential consequences of the investigation
- any internal avenues of appeal
- his/her rights and duties in the interview

What are the Subject of Complaint's rights and obligations during the interview?

The Subject of Complaint's has the right to address, in her/his own words, every piece of evidence in support of the allegation and to raise new evidence in support of her/his account. The Subject of Complaint is not entitled to know the name of the complainant or the source of the evidence brought against him/her. The investigators have corresponding duties to follow-up on relevant evidence identified by the Subject of Complaint and to give the Subject of Complaint an opportunity to respond to the complaint. Until this is done, there can be no findings.

The Subject of Complaint's duties in the investigation are to maintain confidentiality, to tell the truth, cooperate with reasonable requests from the investigators and to refrain from talking to other witnesses about her/his evidence in the investigation.

6. How should you record the information given in the interview?

a. Taking notes during the interview

One of the two investigators should take notes for the entire interview. These notes should be detailed (almost verbatim) for the most relevant parts of the interview and in summary form for less relevant parts.

b. Records of Interview¹³

The information collected in note form should be recorded as soon as possible after the interview in a record of interview.

A record of interview is the formal document that contains the details of the interview (the 'who, what, when, where and how') and the information asked for and provided. It should:

- be clear and concise
- be presented in a question-and-answer format
- include documents referred to and/or shown to the witness during the interview
- include the facts obtained from the interviewee as well their relevant opinions and impressions (Note: the investigator's own opinions, conclusions or analyses should not be included).

The record of interview should be written by the interviewer in his/her language.

The witness should be given the record to review as soon as possible after the interview. S/he should be given sufficient time to read the record and suggest changes. S/he can make changes or corrections by marking the document and signing her/his amendments. Alternatively, the interviewer can immediately enter the corrections in an electronic version of the record, indicating changes suggested by the witness, and reprinting the record for signature.

¹³ [Annex D](#) is a sample record of interview form.

After the witness has reviewed the statement and made any changes, s/he should be asked to sign the record in the presence of both investigators. Staff witnesses are obliged to sign the record once they have been given the chance to make changes. Non-staff witnesses cannot be required to sign the record of interview, though it is preferable that they do. If they refuse to sign the records, the investigators can prepare a record of conversation instead – this document is the same as the record of interview in content but is signed by the investigators rather than the witness.

Disagreements between interviewers and witnesses regarding the witness' testimony

If, immediately after the interview, there is a disagreement about the witness' testimony, the second investigator/observer can usually clarify the point or the parties can note their different opinions on the record. However, it is more common that interviewees will disagree with the record some time after the interview took place (which is why it is important to obtain the witness' signature at the time of the interview if possible). If this occurs, the investigator should record the specifics of the dispute (what both parties believe what was said, when and to whom), before asking the observer for her/his recollection. The investigator should try to remain open minded, as it is always possible that one of the parties was mistaken or simply misunderstood.

It is best practice **not** to give a copy of the record of interview to the witness, as this increases the likelihood of disclosure. However, if a copy of the record is given to the interviewee this should be noted on the original (along with the reason for the giving her/him a copy) and signed by the interviewee. The interviewee should be informed that s/he is responsible for unauthorised disclosures.

If the record is sent to the witness by post, the investigators should enclose two copies with a cover letter asking the witness to review, sign and return one copy by registered mail. Electronic copies should be in a format that cannot be amended or that allow a reader to identify any changes to the text. If the record is returned by e-mail, the witness' covering e-mail should state that it is a "true and accurate record of the interview".

i. Audio and video records of interviews

Most investigators do not tape or video interviews. If the investigator does intend to tape the interview, s/he must tell the witness beforehand. Afterwards, a record should be prepared from the tape as for any other interview and steps taken to ensure the tape is secure and not disclosed to unauthorised recipients. It should be stored with a note from the investigator with details of the participants to the interview, the place, date and time of the interview, and any other relevant information about the circumstances in which the recording was made, such as why an electronic recording was thought necessary.

CHAPTER 4

From report to outcome: report writing and complaint follow-up

Step 8: Writing the investigation report and management outcomes report

1. What is the investigation report?

The investigation report is the document which contains the investigators' conclusions on whether, based on the available evidence, there has been a breach of the relevant standards of conduct. It sets out in narrative form how the alleged misconduct was discovered, to whom it was reported, the steps taken to gather the evidence, the investigators' conclusions and the evidence supporting those conclusions.

2. Who prepares and who reads the investigation report?

The investigators are jointly responsible for preparing the report. The investigation manager checks the finalised report to ensure that conclusions are logical and supported by reliable, consistent and relevant evidence. The investigation report is submitted to the organisation's disciplinary decision-maker/s.

3. How to write an investigation report

a. Separate reports for each Subject of Complaint

The investigators should prepare separate investigation reports for each Subject of Complaint as this will facilitate the initiation of disciplinary proceedings, if misconduct is established. Investigators should ensure that the reports are consistent.

b. Report structure

Report pages should be numbered consecutively, beginning with the title page.

The Report should be structured in the following way:

- Title page
- Table of contents
- Executive summary
- Introduction and preliminary remarks
- Methodology
- Investigative findings
- Conclusions and recommendations
- Annexes

i. Executive summary

The executive summary provides the reader with a concise overview of the investigation from the time the organisation received the allegation through to the writing of the report. It should not contain any information, which is not in the main body of the report.

ii. Introduction

The introduction contains:

- the name/s or case reference number of Subject of Complaint/s
- date of the report
- a confidentiality statement
- information about the nature of the complaint and references to the standards allegedly breached
- information about the scope of the investigation (number of complainants, witnesses, Subject of Complaints etc.)
- any constraints to the investigation (e.g. locations not visited due to insecurity etc.)
- brief contextual information (e.g. country, refugee camp etc.).

iii. Methodology

The methodology sets out:

- the process used during the investigation
- the evidence required
- the interviews conducted
- any impediments to the investigation (i.e. lack of cooperation or unwillingness by any witness to be interviewed).

iv. Investigative findings

The investigative findings summarise the evidence relevant to each alleged complaint; they will be used to draw conclusions. A table such as this could be used:

Complaint		
Clause of policy alleged to have been breached	Evidence to uphold alleged breach	Evidence to refute alleged breach
1.		
2.		
3. etc.		

v. Conclusions

The conclusions tell the reader whether or not the evidence supports each complaint as alleged. It is important that the conclusions are clearly stated for each alleged complaint.

The investigation will result in one of the following three conclusions:

- “established by reasonable inference”
- “not established due to insufficient or unclear evidence”
- “not established based on evidence to clear the Subject of Complaint or to establish a malicious complaint”

A table such as this could be used, using the alleged breaches of policy from the previous table:

Alleged breach of policy	Conclusion
1.	
2.	
3. etc.	

i. Management observation report

Finally, investigators may decide to make other recommendations regarding training, supervision, or organisational policies. The management observation report (sometimes called the management implications report) will be especially relevant if the investigation findings are that the organisation’s practices are sub-standard with respect to protecting people we seek to assist from misconduct including sexual exploitation and abuse.

The management observation report should also record any concerns about possible reprisals against witnesses or other participants.

It is recommended that the investigators agree with the Investigation Manager beforehand whether a management observation report can be submitted, and that this is reflected in the Terms of Reference.

c. Attachments or annexes

The report should attach documents that support the investigation’s conclusions and which are in the investigation file. If the Subject of Complaint allegedly violated national laws, a copy of those laws should be included.

General rules for writing investigation reports

Be clear – write in short, simple and direct sentences and paragraphs; avoid unnecessary, obscure and confusing terms.

Be concise – keep the report as short as possible without sacrificing clarity, completeness or accuracy.

Be logical – address each allegation, and each element within each allegation, in turn.

Be factual – base all your conclusions on facts not opinion; avoid theories, moral or psychological analysis and speculation.

Be impartial and fair – address facts and evidence supporting the Subject of Complaint’s position as well as the facts and evidence supporting the allegations.

Be thorough – answer all the questions raised in the investigation and the complaint and clearly record or reference all relevant interviews.

Step 9: Concluding the investigation

1. When to deliver the report

The time for delivering reports will differ between organisations – it is a management decision that should be set out in the organisation’s policies. However, most organisations require reports to be filed within 28 days of the time the complaint was brought, unless there are extenuating circumstances.

2. How to keep the report confidential

Investigation reports are sensitive internal documents. As such, their status, substance and recommendations are strictly confidential. They may only be disclosed by the organisation’s CEO on a ‘need-to-know’ basis or to an organisation which has legal authority to request them.

Best practice tips on keeping the investigation report confidential

Managers should:

- limit the number of printed copies
- number each copy and keep a log of which copy is given to whom
- not issue electronic copies unless there is no alternative. In this case, ensure the electronic copy is password protected
- choose the most secure and confidential way of transmitting investigation reports to the disciplinary decision-maker.

3. What happens next?

Once the report has been filed, it is usual for the investigator’s role in the process to end. It is the responsibility of the Investigation Manager to undertake the next steps – to share the report with the relevant stakeholders for decision making. For reasons of confidentiality, these next steps are generally not disclosed to the investigators.

CHAPTER 5

Managing investigations

The purpose of this chapter is to provide guidance to those responsible for managing investigations into allegations of sexual exploitation and abuse. If you are responsible for managing an investigation, **please read this in conjunction with the previous chapters**, so that you are familiar with the entire investigation process.

Receiving the complaint

If a complaint or information is received that alleges a breach of your organisation's policy, it is classed as a complaint and will require management action. The complaint is now the responsibility of the organisation – it will need to be acted on immediately.

The manager responsible will need to decide whether the complaint will require investigation. If an investigation is required, an investigation manager will be appointed. This chapter deals primarily with the responsibilities of the investigation manager. It is also the responsibility of the organisation concerned to ensure that the investigation manager is following due process, and is being provided the guidance and resources to do so.

Planning an investigation

a. Resources for the investigation

The organisation should equip the investigation manager with the resources required to undertake the investigation to the necessary standard. Costs might include visas, international and local travel, and accommodation for investigators. Additionally, if the Subject of Complaint, victim or other witnesses need to be relocated for safety reasons, a budget will be required for this. These costs do not have to be met by the affected office or programme – larger organisations often have a corporate Risk Management Strategy, which usually has a budget attached.

b. Putting together the investigation team

The organisation should appoint the investigation manager – usually line manager, or senior manager depending on nature of complaint. They should expect to have time to manage the investigation freed up from other duties.

The investigation team will then be appointed. The investigation manager, together with senior management stakeholders and the investigation team, should then develop the Terms of Reference. See [Chapter 2](#) for details of appointing teams and developing Terms of Reference. It is important at this stage for the timescale to be clarified. Some organisations have policies that determine the timescale by which a report should be produced. In general, the shorter the timescale the better.

c. Sharing information

It should also be agreed who will be informed of what with regards to the investigation – both whilst it is underway and on its completion. Different outcomes should be considered in case they warrant different levels of information sharing (for example a criminal referral might mean that other teams in the organisation will need to be informed, such as legal and media departments).

Different stakeholders might require different levels of information – for example for serious misconduct, relevant senior managers need not be informed of all the details of the case, but could receive an anonymised Executive Summary of the investigation. At all times, confidentiality must be the driving factor in deciding who sees what information.

d. Protection and risk analyses

The investigation manager should also ensure that protection and risk analyses take place (see [Chapter 2](#)).

e. Liaison

Once the Terms of Reference are agreed, it is the role of the investigation manager to undertake the liaison necessary for the team to do their job. This can include communicating with Head Office stakeholders regarding budgets and Terms of Reference, but also with managers at the site of the investigation – ensuring that the investigation team will have transport and accommodation, access to sites, equipment and paperwork, a location to conduct interviews, and will be facilitated in interviewing relevant staff.

Whilst the investigation is underway

The investigation manager should remain in contact with the investigation team whilst they are on site, to manage any issues arising and to provide a ‘sounding board’ if necessary. They should also ensure that the team are debriefed on their return and provided with any follow-up support and care required.

During the course of the investigation, the investigation manager should (in conjunction with the relevant management staff) make decisions on issues arising where necessary – for example if the safety of the team is compromised, or information is uncovered that may necessitate a criminal referral.

Receiving the report and making decisions

a. Immediate steps based on the report outcome

The investigation report should be handed in the first instance to the investigation manager. At this point, the role of the investigation team ends, unless they are required for further information, clarification of issues etc. It is the role of the investigation manager to ensure that the report is shared with the appropriate stakeholders for decision-making regarding next steps. The immediate next steps are likely to come under one of the following headings:

- Complaint not upheld, Subject of Complaint receives a letter of clearance and the report is securely filed as per the organisation's policy
- Complaint upheld, disciplinary hearing will be convened for the Subject of Complaint
- Unable to make a decision based on the report, further follow-up required.

Note that it is neither the investigation team nor the investigation manager's role to decide disciplinary measures – these will be determined by the organisation's disciplinary procedure.

b. Other potential disciplinary procedures

It may be the case that other staff members involved in the case may be subject to disciplinary procedures, for example if the complaint was found to be malicious. Additionally, staff may have been found to be negligent – this will be covered in the management observations report (see below).

c. Support to victims

Decisions will also need to be made regarding other people involved in the investigation. If the complaint is upheld, then the organisation has a duty of care to the victim(s). Some organisations including the UN have a Victim Assistance Policy to provide guidance on this. See attached document UN General Assembly resolution 62/214.

In addition, other witnesses may need support such as relocation due to on-going protection concerns.

Informing participants of the outcome of the complaint

Decisions as to who receives information, and what they will receive should be made prior to the investigation – see above.

a. The Subject of Complaint

The investigators' manager is also responsible for informing the Subject of Complaint of the outcome of the investigation in writing (usually by letter). If the complaint is not substantiated, the clearance letter must not disclose the name of any witness, informant or complainant.

The manager should not notify the Subject of Complaint if the allegation has been referred to the national authorities for criminal prosecution, as further action will be taken by the national prosecuting authority.

b. Complainant

The complainant does not 'own' the complaint so does not automatically have a right to know the outcome of the investigation. It will generally be sufficient to say that the complaint has been substantiated (and referred to management for a decision on discipline) or that the complaint is not substantiated. When giving this explanation, the identities or the evidence of other witnesses should never be disclosed.

c. Other staff and witnesses

Other staff who are aware of the investigation can be informed that the investigation has taken place and that a decision has been made. In order to uphold confidentiality, no further information is generally disclosed.

d. Head of Office

If the Subject of Complaint's supervisor is not involved in the investigation but is aware of allegations or that the investigation is taking place, s/he must be advised of the outcome in general terms; the name of any complainant or witness should not be disclosed.

e. External people and organisations

During an investigation, requests from external individuals or entities for information should be handled by the investigation manager. Generally, the manager should not disclose any information about the investigation, including whether an investigation is underway. However, if the allegations and investigation become a matter of public record, then management within your organisation may formulate a standard response to media and public inquiries. That response should be adhered to strictly.

Follow up on issues raised by the investigation

a. Following up on points in management observation report

It is the responsibility of the investigation manager to refer issues raised in the management observation report to the appropriate staff members or department. These may cover a number of areas such as improving induction and awareness raising on PSEA, dealing with poor management practices or addressing an endemic culture of bullying in an office.

b. Damage to Subject of Complaint's reputation

If the complaint against the Subject of Complaint is proven to be false, he/she may have concerns regarding damage to reputation. The organisation should work with the Subject of Complaint to ensure that their reputation is not affected.

c. Managing staff morale

A case of SEA can have a huge impact on staff morale. By the time a complaint is made, there might already have been months of rumours and concerns circulating in the affected office. Staff may then feel excluded by the investigation, as confidentiality requirements mean they can know nothing about it, and they may feel let down by the conclusion. The organisation may well have to invest time in restoring staff morale, by listening to their concerns and reassuring them that due process has been undertaken, whilst explaining why some aspects of the case need to remain confidential.

CHAPTER 6

Special considerations for investigations into allegations of fraud and corruption

Prevention

Stringent financial and logistical controls and effective risk management are important lines of defence for any agency trying to prevent cases of fraud and corruption. However, as with PSEA, awareness raising and good accountability mechanisms also contribute. If agencies create an environment where staff and members of the public feel they are able to make a complaint, this will help better identify and follow up on cases. As with any good accountability awareness raising, staff and communities should be informed what they can complain about, and where they should complain.

Financial transparency with communities can also help with reducing fraud and corruption. Some agencies share information with communities on the costs and logistics involved in delivering their programme. The following guidance on sharing financial information was developed by MANGO¹⁴:

Financial reports must provide information (a) that is useful for users, and (b) in a style that is easy for users to understand.

a. Language

Reports should be provided in a language that as many beneficiaries speak as possible, and ideally in their mother tongue. Short reports are normally easy to translate. The goal should be to help all beneficiaries understand the financial position, not just a handful of representatives.

b. Content

The aim of reporting to beneficiaries is to help people understand what has been spent on their behalf. So content should be relevant to local people, about the specific activities that NGOs have carried out on their behalf. Simple reports which show expenditure compared to the budget often work well.

Expenditure can be summarised by activity, or by geographical area, or by budget line – or by some combination of these. The total budget for each activity, area or budget line should also be presented alongside expenditure. Good practice suggests that full project costs should be made available. However, it may not be practical to publish sensitive salary information. A report setting out direct project costs is likely to be much better than nothing.

¹⁴ www.mango.org.uk/freeresources

This site contains many useful resources to help agencies become more financially transparent with the communities they seek to assist.

As a rule of thumb, each financial report should have no more than 15 lines of information: more lines make reports confusing.

Reports should be updated at least every month. They should be presented in local currency.

c. Presentation

Normally, NGOs should aim to make financial reports publicly available at the community level. Reports can be written up on whiteboards or flipcharts that are publicly displayed at NGOs' offices, health centres, on notice boards or at distribution points. Paper copies of reports can be made freely available at the same places. Some NGOs have published summary reports in newspapers and other local media.

Financial information can also be presented visually, using simple graphs or charts which people may find easier to understand than numbers.

Financial reports can be regularly presented to communities at community meetings, or to community leaders at project management meetings.

In general, the more open an NGO can be with its financial information, the better. After all, this is money that an NGO has collected on behalf of local communities and which it aims to spend on communities' behalf. Secrecy often gives rise to suspicion and can create fertile ground for inefficiency or even fraud.

d. Who provides reports?

Financial reports can be provided either by an NGO's finance staff or by its programme staff. Ideally finance and programme staff might collaborate together. For example, finance staff might be able to explain finance reports at community meetings. (This also has the advantage of encouraging finance staff to be more directly involved in fieldwork.)

How concerns regarding fraud and corruption usually arise

The term 'fraud and corruption' refers to a range of financial misconduct, including theft, bribery, nepotism and money laundering¹⁵. Precise definitions can differ between contexts. As with cases of SEA, concerns regarding fraud and corruption are usually brought to the attention of the agency via a complaint. However, they can also appear as a financial anomaly uncovered in the day-to-day running of the programme that needs further attention. It is quite common for an investigation to begin without a Subject of Complaint – the investigation is into the financial irregularity, rather than the actions of a perpetrator.

Financial misconduct can often be uncovered in conjunction with SEA, as well as bullying and harassment. These types of misconduct are often connected as they are related to misuse of power. Moreover, a perpetrator can feel a sense of impunity if they are not immediately discovered conducting an offence, and may feel they can continue to exploit their position in different ways.

¹⁵ Money laundering is a term used to describe the process of turning the proceeds of crime into property or money that can be accessed legitimately without causing suspicion.

Policies on fraud and corruption

Your organisation will have separate policies covering fraud and corruption and for SEA, so ensure that you are familiar with the relevant documentation.

It is recommended that investigation procedures for fraud and corruption and SEA are also developed separately. SEA involves extremely sensitive subject matter that can be distressing for all involved, and has the potential to cause further harm if not dealt with correctly.

There may also be specific protection concerns for those involved in cases of SEA. However it should be emphasised that fraud and corruption cases can involve potentially life-changing amounts of money so risks to witnesses can also be great and should be assessed as you would in an SEA case.

The investigation process

Fraud and corruption investigations follow the same principles and processes as an SEA investigation. The following is an example of a fraud and corruption investigation process.

a. Receiving a complaint or reporting a concern

A complaint is made to the organisation, or a financial irregularity is observed and reported to a senior manager. If the complaint or report indicates possible financial misconduct, the organisation should initiate an investigation.

b. Investigation planning

Fraud and corruption investigations usually proceed on the basis that is an administrative investigation, but should be robust enough that the evidence could be used in a criminal court if necessary.

As with an SEA investigation plan, the fraud and corruption plan outlines what evidence should be collected and how – including witness statements and physical evidence. It also includes a risk assessment.

c. Terms of Reference

The Terms of Reference should clearly detail the suspicions to be investigated. It should also include the value of assets, funds or stock estimated to be involved.

d. Decision log

The investigation team should keep a written record of what decisions are made during the investigation, their rationale, and the date they were made. This is annexed to the investigation report.

e. Physical evidence

Physical evidence used in fraud and corruption investigations is handled in the same way as SEA investigations. Examples of physical evidence might include the following:

- financial or logistical documents such as procurement orders
- log sheets such as vehicle logbooks or security sign-in sheets
- handwritten notes
- screen-grabs or print-offs from computer databases.

Decisions regarding the capture and handling of physical evidence are recorded in the log book.

f. Witness statements

Fraud and corruption investigations follow the same principles and processes for witness interviews as those of SEA. Witnesses are interviewed in the same order – i.e. Subject of Complaint is interviewed last. Fraud and corruption investigations will also (depending on the policy of the organisation) inform the Subject of Complaint of the investigation as close to the time of interview as possible – the concerns of evidence tampering and intimidation are the same as those for an SEA investigation.

g. Interview records

Most fraud and corruption investigations do not record witness testimony using recording devices. They are usually handwritten or typed. The same interview principles are used as those used in SEA interviews, although it may be less likely that vulnerable witnesses will be interviewed as part of a fraud and corruption investigation.

h. Unused material

Fraud and corruption investigations often collect much larger quantities of material than SEA investigations. Unused material is material collected by the investigators but which does not form evidence in the case e.g. testimony that is not used, investigator's notes etc.. This should be held within the investigation file in case it needs to be reviewed at a later time. At the conclusion of the investigation and any subsequent legal or disciplinary proceedings, it can be returned.

i. Final report(s)

As with SEA investigations, a final report should lay out the evidence collected by the investigation team. It should not make recommendations on disciplinary action - that will be decided by the managers receiving the report.

The report should identify the value of the confirmed loss, and include recovery figures where applicable. It should also state which projects were affected, and note any donor funds affected.

Where fraud and corruption investigations differ from those of SEA

Fraud and corruption investigations tend to differ from those of SEA not so much in terms of principles and processes, but rather the nature of the case. One of the key differences can be the number of people involved. As discussed above, fraud and corruption investigations can begin as an investigation into a financial irregularity rather than actions by a person – and even when a perpetrator is identified, it is possible that they are the only person of interest to the investigation. SEA cases on the other hand involve at least a Subject of Complaint and a victim. In addition, SEA investigations often rely on witness testimony as evidence, whereas fraud and corruption investigations are more heavily reliant on physical evidence such as documentation (in fact may rely solely on documentation) – this accounts for the emphasis on physical evidence in the investigation process outlined above.

Completion and follow up

As with an SEA investigation, the investigation team will present their evidence, but will not offer a judgement, as this would bias any subsequent disciplinary hearing.

Because fraud and corruption cases often represent a breakdown of financial controls, the investigation report will however usually state recommendations for the organisation to follow up on in terms of tightening those controls. It is the responsibility of the organisation's senior management to follow these up.

Some fraud and corruption cases will be referred to the relevant criminal justice system. However as with SEA investigations this is not always the case. Some financial misconduct is not always illegal – for example nepotism. It can be more common for fraud and corruption investigations to end with a disciplinary hearing.

ANNEX A: IASC Core Standards on PSEA

The Inter-Agency Standing Committee Core Standards on Protection from Sexual Exploitation and Abuse were ratified in December 2011 by 42 UN entities and 36 NGOs. The Standards represent a commitment by entities wishing to prevent sexual exploitation and abuse in their work. The signatories agreed they would undertake the following:

- 1. Develop organisation-specific strategies to prevent and respond to sexual exploitation and abuse.** These would include time-bound, measurable indicators of progress to enable our organisations and others to monitor our performance.
- 2. Incorporate our standards on sexual exploitation and abuse in induction materials and training courses for our personnel.**
- 3. Prevent perpetrators of sexual exploitation and abuse from being (re-)hired or (re-)deployed.** This could include use of background and criminal reference checks.
- 4. Ensure that complaint mechanisms for reporting sexual exploitation and abuse are accessible and that focal points for receiving complaints understand how to discharge their duties.**
- 5. Take appropriate action to the best of our abilities to protect persons from retaliation where allegations of sexual exploitation and abuse are reported involving our personnel.**
- 6. Investigate allegations of sexual exploitation and abuse in a timely and professional manner.** This includes the use of appropriate interviewing practice with complainants and witnesses, particularly with children.
- 7. Take swift and appropriate action against our personnel who commit sexual exploitation and abuse.** This may include administrative or disciplinary action, and/or referral to the relevant authorities for appropriate action, including criminal prosecution.
- 8. Provide basic emergency assistance to complainants of sexual exploitation and abuse.**
- 9. Regularly inform our personnel and communities on measures taken to prevent and respond to sexual exploitation and abuse.** Such information should be developed and disseminated in-country in cooperation with other relevant agencies and should include details on complaints mechanisms, the status and outcome of investigations in general terms, feedback on actions taken against perpetrators and follow-up measures taken as well as assistance available to complainants and victims.
- 10. Engage the support of communities and governments to prevent and respond to sexual exploitation and abuse by our personnel.**

ANNEX B: Checkpoints for managers¹

Mark the most appropriate answer for each statement:

- a. implemented
- b. partially implemented
- c. not implemented
- d. do not know

Checkpoint 1: Philosophy and principles

		a	b	c	d
1	The organisation's duty of care for all beneficiaries is explicitly written in recruitment and policy materials.				
2	The organisation's policies on protecting beneficiaries is well publicised to all staff.				
3	Statements that the welfare of all children must be a paramount consideration of the organisation are built into all policies.				
4	Statements that women have equal rights and should be treated with dignity and respect feature in all relevant policies.				
5	All beneficiaries, including women and children, are aware of their rights through publicised material and/or awareness-raising measures.				
6	Disrespectful, abusive, exploitative and discriminatory behaviour is actively discouraged and measures are taken to deal with such incidents.				
7	The organisation works in active partnership with the community of people we seek to assist and specifically takes measures to engage with women, children and young people.				
8	Managers and senior staff promote a culture of mutual respect between staff and beneficiaries, including women and youth. Senior staff model good practices.				

¹ The original 'Checkpoints' concept was developed by George Varnava with the former Forum on Children and Violence, National Children's Bureau, UK. It was adapted in consultation with the NSPCC for use at the Building Safer Organisations workshops.

Checkpoint 2: Conduct and good practice

		a	b	c	d
1	The organisation has a staff code of conduct that regulates staff behaviour towards people we seek to assist, with a process for dealing with complaints.				
2	The code is endorsed by senior management, and well publicised.				
3	Staff are fully aware of the code and are required to sign it.				
4	Discriminatory, violent, disrespectful or inappropriate behaviour by staff/volunteers towards people we seek to assist is actively discouraged and measures are taken to deal with such incidents. Beneficiaries, including young people, children and the elderly, are provided with information on where to go for help.				
5	There are specific guidelines relating to responding to children's reports of abuse or unacceptable behaviour.				
6	The code prohibits sexual abuse and exploitation of beneficiaries.				
7	The code prohibits sexual activity with children under the age of 19 regardless of local age of consent.				
8	There is training and awareness-raising for all staff and volunteers on the code.				
9	The consequences of breaching the code of conduct are clear and linked to organisational disciplinary and grievance procedures.				
10	There is guidance for staff and managers on managing prohibited behaviour.				
11	There are guidelines for care of children or young people and other vulnerable people, relating to appropriate versus inappropriate touching, specifically for teachers and medical staff.				
12	The organisation generally promotes high standards of personal behaviour, conduct and language.				

Checkpoint 3: Complaints and response mechanism

		a	b	c	d
1	The organisation has complaints procedures that are safe and accessible for staff, volunteers and beneficiaries and is endorsed by management.				
2	The organisation has a complaints mechanism and investigation procedures and staff and beneficiaries are aware of them.				
3	The policy and procedures are reviewed every three years, or whenever there is a major change in the organisation or in legislation.				
4	There is a designated person/focal point known to everyone in the organisation, who is responsible for receiving complaints.				
5	There are several avenues for raising a complaint in place, suited to various elements of the community.				
6	Complaints and investigation policies are widely available to staff and form part of an induction process for new staff.				
7	There is a disciplinary and grievance policy that staff are aware of.				
8	The organisation is aware of how its guidelines fit into international guidelines for child protection and responding to sexual abuse and sexual exploitation of women and children. Contact details for local services are readily available.				
9	Processes for dealing with complaints are fair and open to challenge through an appeals process.				

Checkpoint 4: Staff and volunteers

		a	b	c	d
1	The organisation has clear policies and procedures for all staff involved in the recruitment and selection of staff and volunteers. Human resource staff is trained in these policies and procedures.				
2	There is a staff/volunteer induction programme that includes awareness of the code of conduct, the complaints system and investigation procedures related to sexual abuse and sexual				

	exploitation and the consequences of non-compliance.				
3	Designated managers have access to specialist advice or training on investigations and handling staff misconduct.				
4	Staff, volunteers, coaches or leaders are easily identifiable as belonging to the organisation, and are known to beneficiaries including the children and young people.				
5	All staff and volunteers who have contact with vulnerable populations and children have had criminal records checks.				
6	There is a well-publicised 'whistle-blowing' policy to promote the disclosure by a staff member of confidential information relating to unacceptable behaviour by another member of staff or external contacts.				
7	There are complaints, disciplinary and grievance policies in place that all staff are aware of, and those responsible for dealing with them receive suitable training.				
8	There is a policy on providing support and supervision for staff or volunteers who encounter protection concerns within their work.				
9	Opportunity for ongoing training about sexual abuse and exploitation is available and resources are identified as part of a staff development programme.				

ANNEX C: Example Investigation Plan

What is/are the allegation/s? Is/are investigation/s needed?

Allegation	Is an investigation needed?	Priority
1. e.g. sex with a child	Yes	1
2. e.g. marital infidelity	No	
3. e.g. sexual harassment of other staff member	Yes but not using SEA complaints mechanisms	2
4.		
5.		

What are the elements of the alleged breach?

Alleged violation	Law	Specific elements to be proven
1. e.g. sex with a child	SG Bulletin Staff Code of Conduct	<ul style="list-style-type: none"> actual or threatened physical intrusion sexual nature by force or under unequal or coercive conditions victim under 18 years of age.

Who will have to be interviewed?

Name	Role in complaint	Age	Language	Interpreter needed	Health needs	Protection Needs	Location	Priority order
John Smith	Victim	12 years	English	No	✓	✓	School Nairobi	2

What information do you have? What information do you need?

Information about witness	Information known:	
	Yes	No
1. age		
2. preferred name		
3. race, culture, ethnicity, religion, and first language		
4. gender and sexuality		
5. disability and impairment, cognitive ability, linguistic ability		
6. health needs		
7. current emotional needs		

Circumstances

Additional information on the victim	Information known:	
	Yes	No
1. family members, care-takers and nature of relationships		
2. routines (attendance at school, work, care for children)		
3. aid provision (what they are receiving, who provides it, is it still accessible)		
4. recent changes in circumstances contributing to vulnerability and/or reliance on others		
5. previous allegations of abuse		
6. whether witness is currently safe		

Alleged incident

	Information known:	
	Yes	No
1. what type of and how many alleged incident(s)?		
2. what happened immediately before incident?		
3. what happened during incident?		
4. what happened immediately after incident?		
5. how did the Subject of Complaint come into contact with the victim?		
6. how did the complaint come to the attention of investigators?		

Details of exploitation/abuse

	Information known:	
	Yes	No
1. survivor's relationship with any protective adult and their reaction to complaint i.e. spouse, parent		
2. frequency and duration of abuse		
3. co-existence of different forms of abuse		
4. single or multiple subjects of complaint		
5. degree of violence and aggression used		
6. level of threat to life (e.g. withholding of food, water or essential items from victim or others on behalf of victim)		
7. form of coercion		
8. whom the victim has told		

Considerations

	Questions asked:	
	Yes	No
1. initial investigative findings (full record to be kept)		
2. need for support and/or intermediary/interpreter		
3. potential blocks to communication and methods for dealing with them		
4. willingness to talk to investigators		
5. the witness is currently in a safe environment		

Planning the interview

Set objectives for interview and decide:	Decision made:	
	Yes	No

1. has the objective of the interview been set?		
2. who will be present and who will lead the interview?		
3. where the interview will take place?		
4. when the interview will take place?		
5. how long will the interview last and the need for breaks?		
6. what is likely to happen after the interview?		

Identification of vulnerable and/or intimidated witnesses

	Questions to ask before:	
	Yes	No
1. does the witness have a physical/learning impairment?		
2. does the witness have an identified mental health difficulty?		
3. what is the witness's current emotional state?		
4. what is the relationship between the witness and the Subject of Complaint?		
5. how the nature of the offence, i.e. levels of violence and aggression may impact on witness accounts		
6. does the subject of complain have access to the witness?		
7. is there evidence of previous intimidation by the Subject of Complaint or any other party towards the witness?		
8. is the witness also a victim?		

ANNEX D: Example Terms of Reference/Consultant's Agreement

CONFIDENTIAL

Terms of Reference/Consultant's Agreement

Investigation into an allegation of sexual exploitation by [NGO] staff member in xxx programme

Objective: To follow up on allegation of sexual exploitation/abuse by [NGO] staff member. [Provide details of allegation here]

Reporting to: Investigation Manager

Timeframe: [Provide timeframe here]

Principles of the investigation:

- Confidentiality
- Health and welfare
- Safety
- Legality
- Professionalism
- Thoroughness
- Independence
- Planning and reviewing
- Respect (for all concerned)
- Timeliness
- Working in partnership (with all interested parties)

Investigation Team Leader's responsibilities:

- Conducting the investigation according to [NGO] policy and the CHS Alliance Investigation Guidelines
- Developing a written plan of the investigation (which includes what the tasks are, who will undertake them, when and how progress will be reviewed)
- Briefing co-investigator
- Reviewing documentation relevant to investigation (e.g. organigrams, personnel files, vehicle log-books, partner meeting minutes etc.)
- Interviewing complainant, alleged victim, and witnesses if any
- Advising on process for interviewing subject of allegation
- Compiling written report of information gathered to be submitted to Regional Management Centre for decision and follow-up

Co-investigator's responsibilities:

- To attend interviews with complainant, alleged victim, and witnesses if any
- To take notes from above interviews in order to verify what was said

Optional:

- To input into investigation plan
- To ask additional questions in interviews where they feel something might have been missed
- To co-write investigation report

[NGO] responsibilities:

- To keep confidentiality, and to maintain an environment where confidentiality is upheld
- To provide logistical support such as travel and accommodation
- Managing the security of the investigation team
- To provide the investigation team access to any evidence they might wish to secure
- To facilitate the investigation team in interviewing witnesses, including providing an appropriate location if necessary
- To facilitate the provision of translators if appropriate

Annexes:

- [NGO] PSEA Policy/SG's Bulletin
- [NGO] Policy on Conducting an Investigation

ANNEX E: Investigation Procedures: Chain of Custody/Exhibit Form¹

(a) The item(s) described below were obtained as evidence by the undersigned during an official investigation:		
(b) Description of Item:		
(c) Obtained from: (Name, title, office, location)		
Printed name of investigator:	(d) Signature of investigator:	(e) Date obtained:
Case Number:		
(f) Temporary disposition of item(s): (where stored)		
Released by: (printed name and signature)	(g) Released to: (printed name and signature)	(h) Date:
(i) Temporary disposition of item (s): (where stored)		
(j) Released by: (printed name and signature)	(k) Released to: (printed name and signature)	(l) Date:
(m) Temporary disposition of item (s): (where stored)		
(n) Released by:(printed name and signature)	(o) Released to: (printed name and signature)	(p) Date:

¹ From UNHCR, Guidelines on Conducting Investigations and Preparing Investigation Reports, September 2012

(q) Temporary disposition of item(s): (where stored)		
(r) Released by: (printed name and signature)	(s) Released to: (printed name and signature)	(t) Date:
(u) Temporary disposition of item(s): (where stored)		
(v) Released by: (printed name and signature)	(w) Released to: (printed name and signature)	(x) Date:
(y) Temporary disposition of item(s): (where stored)		
(z) Released by: (printed name and signature)	(aa) Released to: (printed name and signature)	(bb) Date:

ANNEX F: Investigation Procedures: Exhibit Receipt Form¹

Case Number:

Date of Receipt:

Time:

Details of Person:

Organisation (department, office, unit etc.):

Address / Telephone Number / Email:

Description of item(s):

Provide description of item seized; e.g. make, model, serial numbers, colour, condition, number of pages (if documents) and any other identifying marks. Each exhibit must be supplied with its own unique identification number. Complete a separate receipt for each exhibit.

Name of Investigator:

Witness (if applicable):

Signature(s): _____

Chain of Custody:

(Refers to the chronological documentation of each individual exhibit, showing the seizure, custody, control, transfer, analysis and disposition of evidence, physical or electronic. Every person who takes control of the item is to be recorded in the chain of custody.)

¹ From UNHCR, Guidelines on Conducting Investigations and Preparing Investigation Reports, September 2012.

Exhibit number	Date / time / location of transfer	Delivered by	Received by

ANNEX G: Example Record of Interview¹

This document is protected by the provisions of [name of organisation] concerning the confidentiality of the proceedings related to an investigation into an allegation of sexual exploitation and abuse.

Investigation Case Reference Number: INV/05/001

Investigation officers	
Investigation officer:	
Investigation officer:	
Observer (if present):	
Interpreter (if present):	

Person interviewed	
Name of the person:	
ID verified (yes/no):	
Nationality:	
Occupation/title:	
Interview details	
Date:	
Language of interview:	
Place of the interview:	
Explained to the interviewee:	<ul style="list-style-type: none"> • We are interviewing people in order to find out more regarding an incident we are concerned about². • Duty to cooperate and obligation to tell the truth (if staff). • Obligation to refrain from communicating with other persons interviewed in the framework of the same investigation case. • Purpose of note taking. • Acceptable to state when answer not known. • Right to ask for short break. • Consequences of lack of cooperation, fraud, malicious reports, concealment of fact/evidence (if staff). • Confidentiality of the investigation procedure. • What we will do with the information you give us³.

Transcript of the interview

Detailed record of questions asked and interviewee's responses

The interview starts at: (*time*)

Do you have any preliminary questions?

¹ Adapted from the United Nations High Commissioner for Refugees Interview Statement.

² The information given about why the interview is taking place will vary in detail depending on who is being interviewed – whether they are staff or members of the public, how much they already know about the case, what information can be given within the bounds of confidentiality etc.

³ As above – level of detail will depend on the person being interviewed.

Are you ready to start the interview?

Please formulate as many questions as you might need to gather sufficient information from this witness.

Add extra sheet if necessary.

1. _
2. _
3. _
4. _
5. _
6. _
7. _
8. _

The interview ends at: (*time*)

This is a true and accurate record of the interview.

1) For the interviewee: In accordance with the procedure outlined in (name of organisation) reporting procedures, I, the undersigned, declare to understand that my statement may be used in a disciplinary procedure and could be shared with staff under investigation, unless management advises that this would affect my security.

Date and signature:

2) For the witness/interpreter to the interview: I, the undersigned, undertake not to divulge any confidential information to which I have had access in the exercise of my capacity as witness/ interpreter to the present interview.

Date and signature:

3) Date and signature of the investigation officer(s):

ANNEX H: Example Oath of Confidentiality¹

I, the undersigned, shall exercise the utmost discretion with regard to my involvement in the investigation being conducted by _____ [name of organisation]. I shall hold secret all information known to me by reason of my activities on behalf of the investigation team. I shall not use such information for private gain, or to favour or prejudice any third party.

I understand that this declaration will remain in force after the completion of my assignment with the _____ [name of organisation] investigation team. I also understand that divulging confidential information to persons who are not authorised to receive it may amount to misconduct, and that the signed original of this declaration will be held in the relevant investigation file.

Name: _____
Title: _____
Role: _____
Signature: _____
Date and place: _____

To be filled out by an investigator before whom the oath is taken:

Case number: _____
Name: _____
Title: _____
Signature: _____
Date and place: _____

¹ Based on the Oath of Confidentiality prepared by the United Nations High Commissioner for Refugees.

ANNEX I: Secretary-General's Bulletin

United Nations

Secretariat

Secretary-General's Bulletin

ST/SGB/2003/13

9 October 2003

Special measures for protection from sexual exploitation and sexual abuse

The Secretary-General, for the purpose of preventing and addressing cases of sexual exploitation and sexual abuse, and taking into consideration General Assembly resolution 57/306 of 15 April 2003, "Investigation into sexual exploitation of refugees by aid workers in West Africa", promulgates the following in consultation with Executive Heads of separately administered organs and programmes of the United Nations:

Section 1

Definitions

For the purposes of the present bulletin, the term "sexual exploitation" means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, the term "sexual abuse" means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

Section 2

Scope of application

2.1 The present bulletin shall apply to all staff of the United Nations, including staff of separately administered organs and programmes of the United Nations.

2.2 United Nations forces conducting operations under United Nations command and control are prohibited from committing acts of sexual exploitation and sexual abuse, and have a particular duty of care towards women and children, pursuant to section 7 of Secretary-General's bulletin ST/SGB/1999/13, entitled "Observance by United Nations forces of international humanitarian law".

2.3 Secretary-General's bulletin ST/SGB/253, entitled "Promotion of equal treatment of men and women in the Secretariat and prevention of sexual harassment"¹, and the related administrative instruction set forth policies and procedures for handling cases of sexual harassment in the Secretariat of the United Nations. Separately administered organs and programmes of the United Nations have promulgated similar policies and procedures.

Section 3

Prohibition of sexual exploitation and sexual abuse

3.1 Sexual exploitation and sexual abuse violate universally recognised international legal norms and standards and have always been unacceptable behaviour and prohibited conduct for United Nations staff. Such conduct is prohibited by the United Nations Staff Regulations and Rules.

3.2 In order to further protect the most vulnerable populations, especially women and children, the following specific standards which reiterate existing general obligations under the United Nations Staff Regulations and Rules, are promulgated:

(a) Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal;

(b) Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age

¹ Currently ST/AI/379, entitled "Procedures for dealing with sexual harassment", 03-55040 (E) 101003, **ST/SGB/2003/13, 2.**

of consent locally. Mistaken belief in the age of a child is not a defence;

(c) Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited. This includes any exchange of assistance that is due to beneficiaries of assistance;

(d) Sexual relationships between United Nations staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the United Nations and are strongly discouraged;

(e) Where a United Nations staff member develops concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker, whether in the same agency or not and whether or not within the United Nations system, he or she must report such concerns via established reporting mechanisms;

(f) United Nations staff are obliged to create and maintain an environment that prevents sexual exploitation and sexual abuse. Managers at all levels have a particular responsibility to support and develop systems that maintain this environment.

3.3 The standards set out above are not intended to be an exhaustive list. Other types of sexually exploitive or sexually abusive behaviour may be grounds for administrative action or disciplinary measures, including summary dismissal, pursuant to the United Nations Staff Regulations and Rules.

Section 4

Duties of Heads of Departments, Offices and Missions

4.1 The Head of Department, Office or Mission, as appropriate, shall be responsible for creating and maintaining an environment that prevents sexual exploitation and sexual abuse, and shall take appropriate measures for this purpose. In particular, the Head of Department, Office or Mission shall inform his or her staff of the contents of the present bulletin and ascertain that each staff member receives a copy thereof.

4.2 The Head of Department, Office or Mission shall be responsible for taking appropriate action in cases where there is reason to believe that any of the standards listed in section 3.2 above have been violated or any behaviour referred to in section 3.3 above has occurred. This action shall be taken in accordance with established rules and procedures for dealing with cases of staff misconduct.

4.3 The Head of Department, Office or Mission shall appoint an official, at a sufficiently high level, to serve as a focal point for receiving reports on cases of sexual exploitation and sexual abuse. With respect to Missions, the staff of the Mission and the local population shall be properly informed of the existence and role of the focal point and of how to contact him or her. All reports of sexual exploitation and sexual abuse shall be handled in a confidential manner in order to protect the rights of all involved. However, such reports may be used, where necessary, for action taken pursuant to section 4.2 above.

4.4 The Head of Department, Office or Mission shall not apply the standard prescribed in section 3.2 (b), where a staff member is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship.

4.5 The Head of Department, Office or Mission may use his or her discretion in applying the standard prescribed in section 3.2 (d), where beneficiaries of assistance are over the age of 18 and the circumstances of the case justify an exception.

4.6 The Head of Department, Office or Mission shall promptly inform the Department of Management of its investigations into cases of sexual exploitation and sexual abuse, and the actions it has taken as a result of such investigations.

Section 5

Referral to national authorities

If, after proper investigation, there is evidence to support allegations of sexual exploitation or sexual abuse, these cases may, upon consultation with the Office of Legal Affairs, be referred to national authorities for criminal prosecution.

Section 6

Cooperative arrangements with non-United Nations entities or individuals

6.1 When entering into cooperative arrangements with non-United Nations entities or individuals, relevant United Nations officials shall inform those entities or individuals of the standards of conduct listed in section 3, and shall

receive a written undertaking from those entities or individuals that they accept these standards.

6.2 The failure of those entities or individuals to take preventive measures against sexual exploitation or sexual abuse, to investigate allegations thereof, or to take corrective action when sexual exploitation or sexual abuse has occurred, shall constitute grounds for termination of any cooperative arrangement with the United Nations.

Section 7

Entry into force

The present bulletin shall enter into force on 15 October 2003.

(Signed) Kofi A. Annan Secretary-General

ST/SGB/2003/13

3

ANNEX J: GA Resolution on Victim Assistance

United Nations General Assembly Sixty-second session

Agenda item 116

A/RES/62/214

Distr.: General 7 March 2008

07-47661

Resolution adopted by the General Assembly on 21 December 2007

[without reference to a Main Committee (A/62/595)]

62/214. United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations and international law, which are indispensable for a more peaceful, prosperous and just world, and for the promotion and protection of human rights and fundamental freedoms for all,

Deeply concerned by and strongly condemning all acts of sexual exploitation and abuse committed by United Nations staff and related personnel,

Reiterating its support to the Secretary-General's zero-tolerance policy on sexual exploitation and abuse, and recalling all relevant United Nations standards of conduct and regulations, including the Secretary-General's bulletin on the special measures for protection from sexual exploitation and sexual abuse,¹

Also reiterating its support for the implementation of a comprehensive approach throughout the United Nations system to assistance to victims of sexual exploitation and abuse by United Nations staff and related personnel, which should be provided in an appropriate and reliable manner,

Recalling the letter dated 24 March 2005 from the Secretary-General to the President of the General Assembly, which contains the report of the special adviser entitled "A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations",²

Recalling also that, in the 2005 World Summit Outcome,³ the Secretary-General was requested to submit proposals to the General Assembly leading to a comprehensive approach to victims' assistance,

Recalling further its resolutions 59/281 of 29 March 2005, 59/300 of 22 June 2005, 60/263 of 6 June 2006 and 61/291 of 24 July 2007,

Taking note with appreciation of the letter dated 25 May 2006 from the Secretary-General to the President of the General Assembly,⁴ which contains a draft United Nations policy statement and a draft United Nations comprehensive strategy on assistance and support to victims of sexual exploitation and abuse by United Nations staff and related personnel,

Mindful of the importance of assisting victims of sexual exploitation and abuse committed by United Nations staff and related personnel,

1. *Adopts* the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel ("the Strategy"), annexed to the present resolution;

2. *Calls upon* relevant organizations of the United Nations system, and invites specialized agencies, to engage in an active and coordinated manner in the implementation of the Strategy, with the support of civil society, as appropriate, working closely with Member States;

3. *Decides* to examine, in two years, progress made in the implementation of the Strategy under the agenda item entitled "Follow-up to the outcome of the Millennium Summit";

4. *Requests* the Secretary-General to implement the Strategy and to submit a detailed report in this regard to the General Assembly at its sixty-fourth session, including lessons learned, best practices and recommendations.

79th plenary meeting 21 December 2007

¹ ST/SGB/2003/13, A/RES/62/214, 2

² A/59/710, A/RES/62/214, 2

³ See resolution 60/1, para. 165, A/RES/62/214, 2

⁴ A/60/877.

Annex

United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel

Purpose

1. The purpose of the Strategy is to ensure that victims of sexual exploitation and abuse by United Nations staff and related personnel receive appropriate assistance and support in a timely manner. It is imperative that the Organization respond quickly and effectively when sexual exploitation and abuse occur.
2. The Strategy also enables the United Nations system to facilitate, coordinate and provide, as appropriate, assistance and support to victims of sexual exploitation and abuse by United Nations staff and related personnel.
3. The Strategy shall in no way diminish or replace the individual responsibility for acts of sexual exploitation and abuse, which rests with the perpetrators. The Strategy is not intended as means for compensation.

Scope of application

4. The Strategy should be implemented to assist and support complainants, victims and children born as a result of sexual exploitation and abuse by United Nations staff and related personnel in a manner appropriate to the relevant circumstances of each location with due respect to host country legislation.

Definitions

5. The following definitions are provided here to clarify the terms used in the Strategy:

- (a) Sexual abuse: The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions;
- (b) Sexual exploitation: The actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;
- (c) Complainants: Persons who allege, in accordance with established procedures, that they have been, or are alleged to have been, sexually exploited or abused by United Nations staff or related personnel, but whose claim has not yet been established through a United Nations administrative process or Member States' processes, as appropriate;
- (d) Victims: Persons whose claims that they have been sexually exploited or abused by United Nations staff or related personnel have been established through a United Nations administrative process or Member States' processes, as appropriate;
- (e) Children born as a result of sexual exploitation and abuse: Children who are found by a competent national authority to have been born as a result of acts of sexual exploitation and abuse by United Nations staff or related personnel;
- (f) United Nations staff and related personnel: United Nations staff members, consultants, individual contractors, United Nations Volunteers, experts on mission and contingent members;
- (g) Implementing partners: Entities or organizations that operate at country level, in accordance with established host country and United Nations procedures, to facilitate and provide the services outlined in the Strategy. Victim Support Facilitators are those selected implementing partners requested by the United Nations to facilitate the delivery of assistance and support to complainants, victims and children born as a result of sexual exploitation and abuse.

Assistance and support

6. Complainants should receive basic assistance and support in accordance with their individual needs directly arising from the alleged sexual exploitation and abuse. This assistance and support will comprise medical care, legal services, support to deal with the psychological and social effects of the experience and immediate material care, such as food, clothing, emergency and safe shelter, as necessary.
7. Further to basic assistance, victims should receive additional assistance and support in accordance with their individual needs directly arising from sexual exploitation and abuse. This assistance and support will comprise medical care, legal services, support to deal with the psychological and social effects of the experience and immediate material care, as necessary.
8. Children born as a result of sexual exploitation and abuse should receive, in accordance with their individual needs, assistance and support addressing the medical, legal, psychological and social consequences directly arising from sexual exploitation and abuse, in the best interests of the child. The United Nations should also work with Member States to facilitate, within their competence, the pursuit of claims related to paternity and child support.

Provision of assistance and support

9. All assistance and support should be provided in a manner that does not increase the trauma suffered by the complainants, victims and children born as a result of sexual exploitation and abuse, cause further stigmatization or exclude or discriminate against other victims of sexual exploitation and abuse.

10. Assistance and support should be provided through existing services, programmes and their networks. However, where necessary, the United Nations should consider supporting the development of new services, while not developing duplicative structures.
11. A United Nations focal point will be identified to coordinate and monitor the implementation of the Strategy to ensure that the process of referring complainants, victims and children born as a result of sexual exploitation and abuse is simple, safe and respects the need for confidentiality, dignity and non-discrimination.
12. The United Nations should identify implementing partners to provide the services outlined in the present Strategy, and to act as Victim Support Facilitators, as necessary.
13. The duration of the provision of assistance and support should be set in accordance with individual needs directly arising from sexual exploitation and abuse.
14. The provision of any assistance and support by the United Nations in every case of complainants, victims and children born as a result of sexual exploitation and abuse is not an acknowledgement of the validity of the claims or an indication of acceptance of responsibility by the alleged perpetrator.

GLOSSARY¹

Accountability – a situation in which people who are affected by decisions (e.g. staff or people we seek to assist) are able to influence the decisions and decision-makers through questions and complaints. Accountability implies one person’s right to ‘have a say’ and another person’s duty to consider and respond.

Allegation – an assertion of facts that one intends to prove at trial or during an inquiry.

Child – any individual under the age of 18, irrespective of local country definitions of when a child reaches adulthood.

Code of conduct – a set of standards about behaviour that staff of an organisation are obliged to adhere to.

Complaint – specific grievance of anyone who has been negatively affected by an organisation’s action or who believes that an organisation has failed to meet a stated commitment.

Complainant – the person making the complaint, including the alleged survivor of the sexual exploitation and abuse or another person who becomes aware of the wrongdoing.

Complaint mechanism or procedure – processes that allow individuals to report concerns such as breaches of organisational policies or codes of conduct. Elements of a complaints mechanism may include suggestion boxes, whistleblowing policies and designated focal points.

Confidentiality – an ethical principle that restricts access to and dissemination of information. In investigations on sexual exploitation, abuse, fraud and corruption, it requires that information is available only to a limited number of authorised people for the purpose of concluding the investigation. Confidentiality helps create an environment in which witnesses are more willing to recount their versions of events and builds trust in the system and in the organisation.

Evidence – information gathered during the investigation that proves or disproves an allegation.

Feedback – the information sent to an entity (individual or a group) about its prior behaviour so that the entity may adjust its current and future behaviour to achieve the desired result.

Focal point – a person designated to receive complaints of cases of sexual exploitation and abuse.

Fraud and corruption – financial abuse concerning (but not limited to) fraud, theft, bribery, nepotism or other misuse of funds or resources.

Gender – the social differences between men and women that are learned, changeable over time and have wide variations both within and between cultures. Gender affects roles, responsibilities, constraints, opportunities and needs of men and women in any context.

¹ This glossary has been modified from the IASC Protocol, 2004.

Incentive worker – an individual who receives non-monetary compensation for work or representation for an organisation. Incentive workers are usually drawn from the community.

Investigation procedures or protocol – a clear framework which assists organisations to conduct quality, confidential, safe and transparent investigations into allegations of staff misconduct.

Partner – an organisation implementing a programme or project which is funded by another organisation. The relationship is usually characterised by capacity building and the sharing of learning between the two organisations.

People we seek to assist – a person who receives assistance as part of either emergency relief or development aid through assistance programmes.

Physical abuse of a child – act/s or omission/s which result in actual or potential physical harm to a child from an interaction or lack of interaction, which is reasonably within the control of a parent or a person in a position of responsibility, power or trust. There may be single or repeated incidents².

Risk – the possibility of loss or harm and/or the probability of an adverse occurrence.

Sexual abuse – an actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions³.

Sexual abuse of children – the involvement of a child in sexual activity that s/he does not fully comprehend, give informed consent to, or for which s/he is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society. It is evidenced by an activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. It may include, but is not limited to, the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of a child in prostitution or other lawful sexual practices; the exploitative use of pornographic performances and materials⁴.

Sexual exploitation – any actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another⁵.

Sexual exploitation and abuse (SEA) prevention strategy – plans and actions designed and implemented by organisations to reduce the risk of sexual exploitation and abuse of people we seek to assist. Common measures include awareness-raising, staff training, improved recruitment policies, whistleblowing policies, complaint mechanisms, investigation procedures and codes of conduct.

Staff member – a person who works for or represents an organisation, whether or not s/he is compensated monetarily.

² World Health Organisation (WHO), 1999, *Report of the Consultation on Child Abuse Prevention (WHO/HSC/PVI/99.1)*, WHO, Geneva.

³ United Nations Secretariat, 9 October 2003, *Secretary General's Bulletin on Special Measures for Protection from Sexual Abuse and Sexual Exploitation, 2003/13 (ST/SGB/2003/13)*, United Nations.

⁴ World Health Organisation (WHO), 1999, *Report of the Consultation on Child Abuse Prevention (WHO/HSC/PVI/99.1)*. WHO, Geneva.

⁵ United Nations Secretariat, 9 October 2003, *Secretary General's Bulletin on Special Measures for Protection from Sexual Abuse and Sexual Exploitation, 2003/13 (ST/SGB/2003/13)*, United Nations.

Subject of the Complaint (SOC) – the person alleged to have perpetrated the misconduct in the complaint.

Survivor or victim – the person who is, or has been, sexually exploited or abused. The term ‘survivor’ implies strength, resilience and the capacity to survive. This document mostly uses the term ‘victim’, to mean the victim of the alleged perpetrator’s actions. However this is not intended to negate that person’s dignity and agency as an individual.

Whistle-blowing policy – an organisational policy which encourages staff members to report concerns or suspicions of misconduct by colleagues. The reports may concern people at other organisations and people at other levels in the organisation’s hierarchy.

Witness – a person who gives testimony or evidence in the investigation, including the survivor, the complainant, a person of concern, a staff member of a partner agency, the subject of the complaint or another staff member.