



18 October 2017

ADMINISTRATIVE DIRECTIVE

AD/PER/42/Rev.1

PROHIBITION OF HARASSMENT, SEXUAL HARASSMENT, ABUSE OF AUTHORITY AND DISCRIMINATION

Purpose

1. The purpose of this Administrative Directive (hereinafter referred to as “Directive”) is to ensure that all staff members and personnel of the Organisation for the Prohibition of Chemical Weapons (hereinafter “OPCW”) are treated with dignity and respect, and are aware of their role and responsibilities in maintaining a workplace free of any form of harassment, sexual harassment, abuse of authority and discrimination (hereinafter “prohibited conduct”).
2. It reiterates the Secretariat policy of zero tolerance towards prohibited conduct, raises awareness among staff members and personnel of the need to avoid such conduct and sets out procedures for the reporting and management of alleged infringements. This Directive is issued pursuant to Staff Regulation 1.5 and to Interim Staff Rule 1.5.02.
3. Staff Regulation 1.5 provides that:

“Staff members of the Secretariat shall conduct themselves at all times in a manner befitting their status as International Civil Servants”
4. The Standards of Conduct for the International Civil Service stipulates that:

“Freedom from discrimination is a basic human right. International civil servants are expected to respect the dignity, worth and equality of all people without any distinction whatsoever. Assumptions based on stereotypes must be assiduously avoided. One of the main tenets of the Charter is the equality of men and women, and organizations should therefore do their utmost to promote gender equality

Harassment in any shape or form is an affront to human dignity and international civil servants must not engage in any form of harassment. International civil servants have the right to a workplace environment free of harassment or abuse. All organizations must prohibit any kind of harassment. Organizations have a duty to establish rules and provide guidance on what constitutes harassment and abuse of authority and how unacceptable behaviour will be addressed.

International civil servants must not abuse their authority or use their power or position in a manner that is offensive, humiliating, embarrassing or intimidating to another person.”¹

5. The present Directive should be read in conjunction with the Administrative Directive on the Code of Conduct for Staff Members of the Secretariat (AD/PER/01, and any revisions thereto) and the Administrative Directive on Disciplinary Measures and Procedures (AD/PER/25, and any revisions thereto).

Scope

6. The Directive applies to all OPCW personnel as defined hereunder.
7. This Directive extends to prohibited conduct occurring in the workplace or in other settings in which OPCW personnel may find themselves in connection with their employment with the OPCW including work-related social functions.

Definitions

8. For the purposes of this Directive, the following definitions apply:
 - (a) “**Harassment**” is any unwelcome and improper behaviour or conduct by an individual or group of individuals that may reasonably have the effect of violating someone else’s dignity or creating an intimidating, degrading, hostile, humiliating, or offensive work environment. Harassment may take the form of words, gestures or actions which tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another person. While typically involving a pattern of behaviour, it can take the form of a single incident.
 - (b) “**Sexual Harassment**” is any unwelcome sexual advance, request for sexual favour or other verbal, non-verbal or physical conduct of a sexual nature, which interferes with work, alters or is made a condition of employment, or creates an intimidating, degrading, hostile, humiliating, or offensive work environment. Both male and female persons can be either the victims or the offenders. Sexual harassment may occur between persons of the opposite or same sex. While typically involving a pattern of behaviour, it can take the form of a single incident.

¹ International Civil Service Commission, Standards of Conduct for the International Civil Service, United Nations New York, 2013, para. 21.

- (c) “**Abuse of Authority**” is the improper use of a position of influence, power or authority against another person, especially when a person uses his or her influence, power or authority to improperly influence the career or employment conditions of another, including but not limited to appointment, assignment, contract renewal, performance evaluation or promotion. Abuse of authority may also include conduct that creates a hostile or offensive work environment which includes, but is not limited to the use of intimidation, threats, blackmail or coercion. Discrimination and harassment, including sexual harassment are particularly serious when accompanied by abuse of authority.
- (d) “**Discrimination**” is any unfair treatment or arbitrary distinction based on a person’s physical appearance, race, gender, gender identity, marital status, pregnancy or potential pregnancy, religion, nationality, ethnicity, colour, sexual orientation, disability, age, language, social origin, status, political belief or responsibilities as a caregiver. Discrimination may be an isolated event affecting one person or a group of persons similarly situated, and may manifest itself through harassment or abuse of authority.
- (e) “**Prohibited Conduct**” shall refer to any or all of the above defined forms of harassment, sexual harassment, abuse of authority and discrimination at the OPCW.
- (f) “**Retaliation**” is any action taken directly or indirectly against any other OPCW personnel as a result of a good faith report of prohibited conduct or co-operation in good faith with an investigation into, or a disciplinary procedure for, an allegation of prohibited conduct or participation in good faith in any other investigative or disciplinary proceedings initiated in accordance with the OPCW Staff Regulations and Interim Staff Rules.
- (g) “**OPCW Personnel**” refers to staff members and other individuals engaged by the Organisation. It includes *inter alia* all staff members, whether on fixed-term or short-term appointments, as well as all non-staff personnel such as consultants, contractors, interns and any other individual engaged for services to the Organisation.
- (h) “**Aggrieved Person**” refers to a staff member or other individual engaged by the Organisation (OPCW personnel) who feels the subject of, or has been subjected to, an act or acts of prohibited conduct.
- (i) “**Complainant**” refers to an aggrieved person who has submitted a formal complaint in accordance with this Directive.
- (j) “**Offender**” refers to the member of OPCW personnel found to have committed an act(s) of prohibited conduct under this Directive.

Policy

9. Prohibited conduct on any basis, and in no particular order, including but not limited to physical appearance, race, gender, gender identity, marital status, pregnancy or potential pregnancy, religion, nationality, ethnicity, colour, sexual orientation, disability, age, language, social origin, status, political belief or responsibilities as a caregiver, is unacceptable and shall result in appropriate action being taken against the offender.
10. Prohibited conduct may take many forms, including but not limited to:
 - (a) Verbal conduct, such as epithets, derogatory comments, slurs, unwelcome advances or invitations, harassing phone calls, requests for sexual or other favours, mobbing or bullying;
 - (b) Visual conduct, such as derogatory, offensive or inappropriate posters, cartoons, bulletins, drawings, or e-mails;
 - (c) Physical conduct, such as unwanted physical contact, assault, leering, lewd gestures or physical interference.
11. It is not the intention of an alleged offender that defines whether a particular type of behaviour is considered as prohibited conduct.
12. Prohibited conduct may be an isolated occurrence or may occur repeatedly. It need not be habitual in order for the offender to be subject to disciplinary or other appropriate action.
13. Individuals are encouraged to communicate clearly to their colleagues about behaviour which they find offensive and to listen to and respond to comments or requests about their own behaviour.
14. Conduct prohibited by the present Directive shall be unacceptable in the workplace and in any work-related setting, as well as during work-related social functions, and shall result in appropriate action being taken against the offender.
15. Special care shall be taken on travel on official business, where individuals may be brought together in situations resulting in closer personal contact. OPCW Personnel who feel subjected to prohibited conduct on official business travel are encouraged to follow the grievance procedures outlined below.
16. Any individual who believes that he or she has been or is subjected to an act or acts of prohibited conduct is encouraged to keep a written record of relevant events as soon as possible after the incident or incidents have occurred, noting dates, places, a short description of what happened and the names of any witnesses and of anyone to whom the incident might have been mentioned.
17. Complaints under this Directive may be filed by all OPCW personnel.

18. A complaint alleging prohibited conduct should be submitted as soon as possible after the date of the initial or most recent incident of alleged prohibited conduct and should normally be made within six months.
19. All parties involved with any process in relation to the current Directive shall take all necessary action to maintain the confidentiality of the process. Disciplinary or other appropriate action shall be taken following any breach in confidentiality.
20. Any retaliation or threat of retaliation against a person making a complaint under this Directive or against a person assisting a complainant in filing a complaint is unacceptable and if confirmed, the offender shall be subject to disciplinary action.
21. The assessment of an individual's work performance, made as part of the regular evaluation and feedback procedure, such as the Performance Management and Appraisal System (PMAS), should not be confused with prohibited conduct. Nor should legitimate managerial or supervisory action such as work-related requests for the fulfilment of tasks assigned by the supervisor to an individual lead to an allegation of prohibited conduct. However, such feedback shall not be used as a means to demean an individual or as a form of retaliation for reporting prohibited conduct.

Responsibilities

22. *All OPCW personnel:*

- (a) have the obligation to ensure that they maintain the highest standards of conduct and do not engage in, condone or tolerate prohibited conduct;
- (b) shall familiarise themselves with the provisions of this Directive and be aware of the options available for addressing prohibited conduct;
- (c) must respect confidentiality and fully cooperate with any investigation or disciplinary procedure.

23. *Managers and supervisors:*

- (a) are expected to act, at all times, as role models by upholding the highest standards of conduct;
- (b) have the duty to take all appropriate measures to promote a harmonious working environment, free of any form of prohibited conduct;
- (c) have the obligation to ensure that reports of prohibited conduct are promptly addressed in a fair and impartial manner while upholding the confidentiality of the matter as required under this Directive. This includes explaining to an individual alleging such conduct the options available for addressing prohibited conduct.

Failure on the part of managers and supervisors to fulfil their obligations, in particular respecting the necessity for confidentiality, under the present Directive shall be

considered a breach of their responsibilities and, if established, will be reflected in their annual performance evaluation and may be grounds for disciplinary or other appropriate action.

24. ***Branch Heads / Division Directors:***

Are responsible for the implementation of the present Directive in their respective office or division and for holding all managers and other supervisory staff accountable for compliance with its terms.

Preventive Measures

25. Prevention of prohibited conduct constitutes an essential component of the responsibilities of the Organisation and of all OPCW personnel. The OPCW will take appropriate measures towards ensuring a harmonious work environment and to protect all OPCW personnel from any form of prohibited conduct.
26. The OPCW will conduct training programmes for all OPCW personnel to raise awareness of its zero tolerance of prohibited conduct, to provide guidance on the relevant policy and procedures and to foster the creation of a harmonious working environment. Branch Heads / Division Directors are responsible for ensuring that their personnel undertake the required training.
27. In particular, all staff members are required to complete the relevant mandatory training programme on the prevention of harassment in the workplace. All OPCW personnel are responsible for familiarising themselves with the present Directive and with the various options, internal channels and recourse mechanisms available to them for addressing prohibited conduct.
28. In order to resolve problems which could potentially give rise to instances of prohibited conduct, managers and supervisors will maintain open channels of communication and ensure that OPCW personnel who wish to raise their concerns in good faith can do so freely and without fear of adverse consequences.
29. If there is a need for confidential guidance or advice on matters which could give rise to instances of prohibited conduct, OPCW personnel may consult the Staff Welfare Officer.

Corrective Measures

30. Aggrieved persons are encouraged to address the issue as early as possible after it has occurred. This may be done through an informal or formal process, as explained below. Attempts may be made, in the first instance, to resolve the situation informally or it may be decided to submit a formal complaint directly. The processes described below are not mandatory, nor are they listed in priority order. They outline the options available to the individual concerned, who may decide which option is the most appropriate for the given situation.

31. Regardless of the approach (formal or informal), all reports of prohibited conduct will be handled with sensitivity and confidentiality by all parties involved to protect the privacy of all of the individuals concerned.

The informal process

32. In many cases concerning prohibited conduct or the perception of it, the situation can be resolved informally. An informal approach offers the opportunity to resolve a complaint or grievance in an open, honest, non-threatening and non-contentious manner. The informal options available to OPCW personnel include:

- (a) Approaching the person (“the alleged offender”) whose actions give rise to the situation;
- (b) Involvement of a third party to facilitate a discussion with the alleged offender;
- (c) Involvement of the Staff Welfare Officer;
- (d) Having recourse to the Independent Mediation mechanism in order to attempt resolution of the situation through mediation.

33. Approaching the alleged offender: The aggrieved person should give serious consideration to bringing the concern directly to the alleged offender. The alleged offender may not be aware that his/her behaviour is offensive and, having had this pointed out, may change his/her behaviour in a positive manner. There are situations where a person who feels he/she has been the victim of prohibited conduct will be reluctant to approach the alleged offender, including situations of disparity in power or status, and there is no requirement to take this particular step.

34. Involvement of a third party: The aggrieved person or, once the matter has been brought to his/her attention, the alleged offender, may choose to involve a third party in trying to resolve the situation. This third party should be a neutral individual, without close connections to either party, and is expected to help facilitate a calm and respectful discussion between the parties and to offer suggestions for a way forward. The third party may be the aggrieved individual’s manager or another supervisor; a human resources professional; a staff member; or a staff representative.

It is vital that the third party ensures that confidentiality is respected at all times. The third party should ensure that they are fully familiar with the present directive and be aware that sometimes the best form of assistance is a referral to a more appropriate resource within the OPCW. The third party should always act with complete neutrality towards both the aggrieved person and the alleged offender. If a third party is uncertain about what suggestions to make to the parties he/she should withdraw from the matter and recommend that the parties consult the Staff Welfare Officer, consider having recourse to an independent mediator or consider the initiation of formal procedures as described in this Directive.

35. Involvement of the Staff Welfare Officer: OPCW personnel can consult with the Staff Welfare Officer when they feel they have been the subject of, or have witnessed an incident of prohibited conduct. The Staff Welfare Officer may offer to provide reconciliation services in regard to tension/conflict between a supervisor and a team member or between staff members and will advise on the various options available, provide support within the informal process and inform on the procedures foreseen in the formal process. All discussions with the Staff Welfare Officer are confidential and such confidentiality will also be maintained on the part of those seeking such assistance. The Staff Welfare Officer will not take any action without the express permission of the person approaching them.
36. Having recourse to the Independent Mediation mechanism: Pursuant to Staff Rule 12.0.05, OPCW personnel may request assistance in the prevention, or informal resolution, of work-related disputes through Independent Mediation.
37. An unsuccessful attempt to resolve the matter informally does not preclude it from being formally pursued under the following provisions.

The formal process

38. In circumstances where informal resolution is not desired or appropriate, or has been unsuccessful, the aggrieved individual may submit a written complaint to the Director-General.
39. Any current or former OPCW personnel may file a complaint given reasonable grounds.
40. The complaint should be addressed and submitted to the Director-General, copied to the Director, Administration, and should include:
- (a) the name of the alleged offender;
 - (b) the date(s), location(s) and details of the alleged incident(s) of prohibited conduct;
 - (c) the name of witnesses and any physical and/or documentary proof in support of the allegation; and
 - (d) any other relevant information.
41. The complaint must be signed and dated – no anonymous complaints will be considered. The complaint must be as detailed and substantiated as possible. A formal complaint should normally be submitted within six months from either the date of the incident or, in the case of repeated incidents, the date of the most recent incident of alleged prohibited conduct.
42. The complainant must be aware that, for reasons of due process, his/her complaint and/or information from the complaint will be shared with the alleged offender to allow the latter to provide countervailing arguments and evidence.

43. The filing of a complaint does not have the effect of suspending the implementation of any administrative decisions such as extension or expiration of a contract or reassignment.
44. The complainant will be protected against any retaliation from the point the complaint is made, during the entire formal process and once the case is closed. Any perceived retaliation or retaliatory actions should be immediately reported to the Director, Administration who will investigate such claims and, if substantiated, shall provide advice for corrective action which may include disciplinary proceedings as indicated in Article X of the Staff Regulations and Interim Staff Rules.

Preliminary assessment of a complaint

45. Upon receipt of a formal complaint, the Director-General will conduct a preliminary review of the complaint and shall determine whether:
 - (a) The allegations should be investigated;
 - (b) The allegations are *prima facie* unsubstantiated; or
 - (c) The allegations fall outside the scope of application of the present Directive.

The complainant and the alleged offender will be advised accordingly.

46. If the Director-General concludes that the complaint in question is credible and merits a comprehensive investigation, the Director, Administration, shall be instructed to promptly appoint an investigative team consisting of at least two suitably qualified and experienced investigators. In general, the members of the investigative team will be sourced from an external United Nations Common System Organisation, and will, in any event, be experienced in the provision of such services (i.e. trained and certified in investigating allegations of prohibited conduct). On their appointment, these external investigators shall constitute the investigative team.
47. In any case of a perceived or actual conflict of interest, the Director, Administration, may delegate the responsibilities under this Directive to a suitable alternate, given the written consent of the Director-General. In such cases, the provisions of the following paragraphs shall refer to the appointed delegate.
48. The Director, Administration, will notify the alleged offender and will provide him/her with the details of the complaint. The alleged offender will be invited to respond and will be given fifteen (15) days to provide a written response, including any explanations, relevant materials and/or the names of witnesses who might be able to assist in a possible investigation. In order to preserve the integrity of the process, information that may undermine the conduct of the investigation or result in retaliation or intimidation shall not be disclosed to the alleged offender at that point. This may include the name of the complainant, the names of witnesses or particular details of incidents.

49. Unless the investigative team concludes – on the basis of the complaint, the response of the alleged offender, and the material submitted by both parties – that the complaint is unfounded, they will proceed to promptly investigate the complaint.

Interim measures:

50. When necessary the Director, Administration, may decide that interim measures be taken, for example measures to physically or hierarchically separate the alleged offender and the complainant on a temporary basis. This may include, but is not limited to transfers, the identification of alternative duties or the consideration of the suspension, under the provisions of Interim Staff Rule 10.3.02, of the alleged offender, pending investigation.

Investigation Process

51. The investigation should begin as soon as possible once the investigative team has been appointed in accordance with paragraph 46 above, but not later than one month after the alleged offender has provided his/her reply, referred to in paragraph 48 above.
52. The investigation shall include interviews with the complainant, the alleged offender and any other individuals who may have relevant information about the alleged incident(s).
53. The investigative team will conduct the investigation in accordance with the Investigation Process described herein and the Uniform Guidelines for Investigations (AD/ADM/26, and any revisions thereto). The investigation will continue until the investigative team reaches a conclusion about the complaint.
54. The investigative team shall prepare a detailed report, giving a full account of the findings, conclusions and recommendations that they have ascertained in the process and attaching documentary evidence, such as written statements by witnesses or any other documents or records relevant to the alleged prohibited conduct. This report shall be submitted to the Director-General, through the Director, Administration, normally no later than three months from the date of submission of the formal complaint or report.

Procedures following the investigation

55. On the basis of the report, the Director-General will take one of the following courses of action:
 - (a) If the investigation report indicates that no prohibited conduct took place, the Director-General will close the case and inform the alleged offender and the complainant, giving a summary of the findings and conclusions of the investigation;
 - (b) If the report indicates that there was a factual basis for the allegations but that, while not sufficient to justify the institution of disciplinary measures and

procedures, the facts would warrant managerial action, the Director-General will decide on the type of managerial action to be taken, inform the individual concerned, and make arrangements for the implementation of any follow-up measures that may be necessary. Managerial action may include mandatory training, reprimand, a change of functions or responsibilities, counselling or other appropriate corrective measures. The Director-General will inform the complainant of the outcome of the investigation and of the action taken or to be implemented;

- (c) If the report indicates that the allegations were well-founded and that the conduct in question amounts to prohibited conduct, the Director-General will:
 - (i) In the case of staff members: initiate disciplinary measures and procedures against the offender pursuant to Article X of the OPCW Staff Regulations and Interim Staff Rules. In such cases, the relevant provisions of the Administrative Directive on Disciplinary Measures and Procedures (AD/PER/25, and any revisions thereto) shall be followed. The Director-General will inform the complainant of the outcome of the investigation and of the action taken or to be implemented;
 - (ii) In the case of all other OPCW personnel: take appropriate action in accordance with the contractual conditions and status of the offender. The Director-General will inform the complainant of the outcome of the investigation and of the action taken or to be implemented.
56. If at any stage of the process it is determined that the allegations of prohibited conduct were unfounded and based on malicious intent, the Director-General may decide to initiate disciplinary procedures or other appropriate action against the complainant.
57. Where a complainant or alleged offender has grounds to believe that the procedure followed in respect of the allegations of prohibited conduct was improper, he or she may appeal, pursuant to Rule 11.2.02 of the OPCW Interim Staff Rules, any administrative decisions taken as a direct result.
58. In all cases, the final decision of the Director-General shall be communicated to both the complainant and the alleged offender.

Special circumstances

59. Separation of the alleged offender: It may happen that the alleged offender separates from the OPCW pending investigation. Wherever possible, ongoing investigations should be concluded in accordance with the provisions indicated above, however, the Director, Administration, may, in exceptional circumstances, determine that the investigation will not be pursued following the separation of the alleged offender. In such an event, the OPCW will document in the Official Status File of this person a record of the alleged incident, disclosing that he/she separated while under investigation for allegations of prohibited conduct. Such an individual will be prohibited from employment with the OPCW under any contract modalities unless

he/she is fully cleared of the allegations of misconduct raised against him/her. The complainant will be advised by the Director, Administration, accordingly.

60. Withdrawal of a formal complaint: If a complainant wishes to withdraw a formal complaint at any stage, a written request must be made to the Director-General, copying the Director, Administration. After considering the reasons for withdrawal, the Director-General may accept the withdrawal of the complaint, or if the matter is so serious, may nonetheless instruct the Director, Administration, to pursue the matter.

Monitoring

61. The Director, Administration, in collaboration with the Staff Welfare Officer, will provide annual reports to the Director-General, which will include an overview of all preventive measures taken with a view to ensuring a harmonious work environment and protecting staff from prohibited conduct. Such reports shall also detail any corrective measures taken, as indicated above, as well as any evaluations or assessments relating to such measures and/or activities.

Monitoring during the investigation

62. Where an investigation is initiated following receipt of a formal complaint of prohibited conduct, appropriate measures shall be taken by the Director, Administration, to monitor the status of the complainant, the alleged offender and the work unit(s) concerned until such time as the investigation report has been submitted. The purpose of such monitoring shall be to ensure that all parties comply with their duty to cooperate with the investigation and that no party is subjected to retaliation. Where retaliation is detected, the Director-General shall be promptly notified.

Post-investigation review

63. Once the investigation has been completed and a decision taken on the outcome, appropriate measures shall be taken by the Director, Administration, to keep the situation under review. These measures may include, but are not limited to, the following:
- (a) Monitoring the status of the complainant, the alleged offender and the work unit(s) concerned at regular intervals in order to ensure that no party is subjected to retaliation as a consequence of the investigation, its findings or its outcome. Where retaliation is detected, the Director-General shall be promptly notified;
 - (b) Ensuring that the final decisions on any administrative or disciplinary measures to be applied as a result of the process have been duly implemented;
 - (c) Identifying other appropriate action, in particular preventive action to be taken, in order to ensure that the objectives of the present Directive are fulfilled.

Final provisions

64. This Directive was approved, and comes into effect, on 18 October 2017, and supersedes AD/PER/42, dated 12 December 2006.



Ahmet Üzümcü
Director-General

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