

EXECUTIVE DIRECTIVE

CF/EXD/2012-007

30 November 2012

Prohibition of discrimination, harassment, sexual harassment and abuse of authority

This directive seeks to ensure that all individuals working at UNICEF are treated with dignity and respect and are aware of their role and responsibilities in maintaining a workplace free of any form of discrimination, harassment, sexual harassment or abuse of authority.

Section 1 Definitions

1.1 For the purpose of this directive, the following definitions apply:

(a) Discrimination is any unfair treatment or arbitrary distinction based on a person's race, sex, religion, nationality, ethnic origin, sexual orientation, disability, age, language, social origin or other status. Discrimination may be an isolated event affecting one person or a group of persons similarly situated, or may manifest itself through harassment or abuse of authority.

(b) Harassment is any improper and unwelcome conduct that has or might reasonably be expected or be perceived to cause offence or humiliation to another person. Harassment may take the form of words, gestures or actions which tend to abuse, demean, intimidate, belittle, humiliate or embarrass another person or which create an intimidating, hostile or offensive work environment. It includes harassment based on any grounds, such as race, religion, color, creed, ethnic origin, physical attributes, gender or sexual orientation. Harassment normally involves a series of incidents.

(c) Sexual harassment is any unwelcome sexual advance, request for sexual favor, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile, or offensive work environment. While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between persons of the opposite or same sex. Both males and females can be either victims or offenders.

(d) Abuse of authority is the improper use of a position of influence, power, or authority against another person. This is particularly serious when a person uses, or threatens to use, his/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, and such conduct can include (but is not limited to) the use of intimidation, threats, blackmail or coercion.

1.2 Disagreement between a staff member and supervisor on work performance or on other work-related issues is normally not considered harassment or abuse of authority and is not dealt with under the provisions of this directive but in the context of performance management.

Section 2

General principles

2.1 In accordance with the provisions of Article 101, paragraph 3 of the Charter of the United Nations, and the core values set out in UN Staff Regulation 1.2 (a) and UN Staff Rule 1.2 (e), every staff member has the right to be treated with dignity and respect, and to work in an environment free from harassment and abuse. Consequently, any form of discrimination, harassment, sexual harassment and abuse of authority is prohibited.

2.2 All staff members are expected to act with tolerance, sensitivity and respect for diversity. They have the obligation to ensure that they do not engage in, condone or tolerate behaviour which would constitute discrimination, harassment, sexual harassment or abuse of authority. Any form of discrimination, harassment, sexual harassment or abuse of authority in the workplace or in connection with work is a violation of these principles and may lead to disciplinary action, irrespective of whether the discrimination, harassment, sexual harassment or abuse of authority takes place at a UNICEF office, in the course of official travel or an official mission, or in other settings in which it may have an impact on the workplace.

2.3 Managers are expected to act, at all times, as role models by upholding the highest standards of conduct and by promoting a harmonious working environment, free of any form of discrimination, harassment, sexual harassment and abuse of authority. They have to ensure that complaints of discrimination, harassment, sexual harassment or abuse of authority 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 harassment the processes available under this directive. Failure on the part of managers to fulfill their obligations under this directive may be considered a breach of duty, and, if established, will be reflected in their annual performance evaluation and may be grounds for administrative or disciplinary action, as appropriate.

2.4 Heads of Office/Division are responsible for the implementation of this directive in their respective office/division and for holding all managers accountable for compliance with its terms.

Section 3

Applicability

3.1 This directive applies to all staff members of UNICEF. Complaints of discrimination, harassment, sexual harassment or abuse of authority may be made by any person, who may have been subject to discrimination, harassment, sexual harassment or abuse of authority by a UNICEF staff member. In cases where the complainant works for another organization UNICEF will conduct the investigation in consultation with the other organization.

3.2 This directive does not apply to cases where the complainant is a UNICEF staff member or other individual working for UNICEF, paid or unpaid, and files a complaint against another organization of the United Nations common system. However, UNICEF will ensure, to the extent possible, that the interests of its staff members and other individuals working for UNICEF are protected by the other organization.

Section 4

Preventive measures

4.1 UNICEF has the duty to take all appropriate measures towards ensuring a harmonious work environment, and to protect staff from exposure to any form of discrimination, harassment, sexual harassment or abuse of authority through preventive measures and the provision of effective remedies when prevention has failed.

4.2 UNICEF conducts mandatory awareness programmes for all staff to raise awareness of its zero tolerance of discrimination, harassment, sexual harassment and abuse of authority, to provide guidance on the relevant policy and procedures and to foster the creation of a harmonious working environment. Heads of office/division are responsible for ensuring that their staff undertake and complete the mandatory training programme on prevention of discrimination, harassment, sexual harassment and abuse of authority in the workplace.

4.3 Staff members are responsible for familiarizing themselves with this directive and the related provisions and resources, including CF/EXD/2007-005 Rev.1 on Protection against Retaliation for Reporting Misconduct or for Cooperating with an Authorized Fact-finding Activity (Whistleblower policy) which protects complainants against any retaliation; and ST/SGB/2007/11 on United Nations System-Wide Application of Ethics: Separately Administered Organs and Programmes.

4.4 In order to resolve problems which could potentially give rise to discrimination, harassment, sexual harassment or abuse of authority, managers will maintain open channels of communication and ensure that staff members who wish to raise their concerns in good faith can do so freely and without fear of adverse consequences.

4.5 If there is a need for confidential guidance or advice on matters which could give rise to instances of discrimination, harassment, sexual harassment or abuse of authority, staff members and other individuals working for UNICEF, paid or unpaid, may consult the Office of the UN Ombudsman and Mediation Services (UNOMS), UNICEF's Ethics Office, and/or the Staff Well-being Unit in the Division for Human Resources or local staff counselors, where available.

Section 5

Corrective measures

5.1 Individuals who believe they are victims of discrimination, harassment, sexual harassment and abuse of authority ("complainants") are encouraged to address the issue as early as possible after it has occurred. The complainant may do so through an informal or formal process, as explained below. The complainant may attempt, in the first instance, to resolve the situation informally or he/she may decide to submit a formal complaint directly. The processes described below are not mandatory, nor are they listed in priority order. They describe the options available to the complainant, who decides which option is the most appropriate for his/her situation. Individuals need not use the informal complaint process before electing to use the formal complaint process.

5.2 Regardless of the approach (formal or informal), all reports of discrimination, harassment, sexual harassment, or abuse of authority will be handled with sensitivity and confidentiality to protect the privacy of all individuals concerned.

Informal process

5.3 An informal approach offers the opportunity to resolve a complaint or grievance in an open, honest, non-threatening and non-contentious manner include¹:

5.4 **Approaching the alleged offender:** A person who feels he/she has been the victim of discrimination, harassment, sexual harassment or abuse of authority should give serious consideration to bringing that concern directly to the alleged offender. That person may not be aware that his/her behaviour is offensive and, having had this pointed out, may change behaviours in a positive manner. There are situations where a person who feels he/she has been the victim of discrimination, harassment, sexual harassment or abuse of authority will be reluctant

¹ See also 'Dealing with Harassment. A Complainant's Guide'.

to approach the alleged offender, including situations of disparity in power or status, and there is no requirement to take this particular step.

5.5 Involvement of a third party: Either the person who feels he/she is a victim of discrimination, harassment, sexual harassment or abuse of authority 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 can be, for example, the complainant's manager or another supervisor; a human resources professional at the duty station; a staff counselor; a peer support volunteer; or a staff representative of the office/division concerned.

5.6 It is vital that the third party ensures that confidentiality is respected at all times. The third party should be fully familiar with this directive. The third party should be aware that sometimes the best form of assistance is a referral to a more appropriate resource within UNICEF. The third party should always act with complete neutrality towards both the complainant and the alleged offender. If a third party is uncertain about what suggestions to make to the parties he/she should withdraw.

5.7 Consulting the UN Ombudsman and Mediation Services: The UN Ombudsman and Mediation Services (UNMOS) play an important role when it comes to workplace related problems. UNOMS will advise on the various options in the dispute resolution processes, provide support within the informal process and inform on the procedures foreseen in the formal process. All discussions with the Ombudsman are confidential and such confidentiality will also be maintained on the part of those seeking assistance from the Ombudsman. The Ombudsman will not reveal the source of information nor will any action be taken without the expressed permission of the person approaching the Ombudsman.

5.8 An unsuccessful attempt to resolve the matter informally does not preclude it from being formally pursued under the following provisions.

Formal process

5.9 The formal process follows the general provisions on investigation and disciplinary process of the Executive Directive on Disciplinary Process and Measures (see CF/EXD/2012-005), unless stated otherwise in this directive.

Filing a complaint

5.10 Any person may file a complaint. No anonymous complaints will be accepted.

5.11 The complaint should be submitted in writing, be signed and dated, to the Director, Office of Internal Audit and Investigations, with a copy to the Director, Division of Human Resources, within six months from the most recent alleged incident. The complaint should state:

- (a) the name of the alleged offender;
- (b) the date(s) and location(s) of the alleged incident(s) of discrimination, harassment, sexual harassment, or abuse of authority;
- (c) the names of witnesses and any physical and/or documentary proof in support of the allegation (e.g., e-mails, message recordings, photos, letters, medical exams); and
- (d) any other relevant information.

5.12 The filing of a complaint only upon notification of an administrative decision that the complainant wants to challenge may cast doubt on the credibility of the allegations of discrimination, harassment, sexual harassment or abuse of authority, if no documented informal resolution or formal reporting of harassment-related incidents was made prior to the decision.

Preliminary assessment

5.13 Upon receipt of a formal complaint, the Director, Office of Internal Audit and Investigations will do a preliminary assessment of the complaint and discuss with the complainant the benefits of considering an informal resolution.

5.14 The complainant will be interviewed by the Office of Internal Audit and Investigations or another person designated by the Director, Office of Internal Audit and Investigations in order to:

- (a) clarify the allegation(s);
- (b) ensure that the complaint pertains to allegations of discrimination, harassment, sexual harassment or abuse of authority;
- (c) ensure that all available evidence is submitted; and
- (d) consider the possibility of informal resolution.

5.15 If the Director, Office of Internal Audit and Investigations concludes that the complaint in question is credible and merits a comprehensive review, he/she will notify the alleged offender and will provide that person with the details of the complaint and the name of the complainant. The alleged offender will be invited to respond and will be given fifteen (15) calendar 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.

5.16 Unless the Director, Office of Internal Audit and Investigations, 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, the Office of Internal Audit and Investigations will proceed to investigate the complaint.

Interim measures

5.17 When necessary, the Director, Office of Internal Audit and Investigations may suggest to the Director, Division of Human Resources, as applicable, that interim measures be taken on a temporary basis, for example measures to physically or hierarchically separate the alleged offender and the complainant on a temporary basis. This may include the identification of alternative duties, the consideration of special leave for either the alleged offender or the complainant, or administrative leave for the alleged offender.”

Investigation

5.18 The Office of Internal Audit and Investigations will conduct the investigation in accordance with established procedures as outlined in CF/EXD/2012-005 on the Executive Directive on Disciplinary Process and Measures.

5.19 On the basis of the outcome of the investigation, the Director, Office of Internal Audit and Investigations, shall take either of the following actions:

(a) where the Director, Office of Internal Audit and Investigations deems that there is insufficient evidence to support the allegation of discrimination, harassment, sexual harassment or abuse of authority, he/she shall close the case with a closure memo and inform the alleged offender and complainant that the case is closed and share with them a summary of the findings and conclusions of the investigation, as appropriate;

(b) where the Director, Office of Internal Audit and Investigations deems that there is evidence that discrimination, harassment, sexual harassment or abuse of authority has occurred, he/she shall forward the investigation dossier and the relevant evidence to the Director, Division of Human Resources, for further action.

Procedures following the investigation

5.20 On the basis of the report, the Director, Division of Human Resources will take either of the following actions:

(a) If the report indicates that there was a factual basis for the allegations but that, while not sufficient to justify the institution of disciplinary proceedings, the facts would warrant managerial action, the Director, Division of Human Resources will decide on the type of managerial action to be taken, inform the staff member 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 including re-assignment, counseling or other appropriate corrective measures. The Director, Division of Human Resources will inform the complainant of the outcome of the investigation and of the action taken;

(b) If the report indicates that the allegations were well-founded and that the conduct in question amounts to possible misconduct, the Director, Division of Human Resources will initiate disciplinary action pursuant to the UN Staff Regulations and Rules and CF/EXD/2012-005 on Disciplinary Process and Measures. The Director, Division of Human Resources, will inform the complainant of the outcome of the investigation and of the action taken.

5.21 If at any stage of the process it is determined that the allegations of discrimination, harassment, sexual harassment and abuse of authority were unfounded and based on malicious intent, the Director, Division of Human Resources may decide to forward the matter to the Director, Office of Internal Audit and Investigations or to initiate disciplinary or other appropriate action against the complainant.

5.22 Where a complainant or alleged offender has grounds to believe that the procedure followed in respect of the allegations of discrimination, harassment, sexual harassment or abuse of authority was improper, he/she may appeal pursuant to chapter XI of the UN Staff Rules, even if there was no administrative decision.

Section 6 Miscellaneous

6.1 **Resignation of the alleged offender:** If the alleged offender opts to resign from UNICEF pending investigation, UNICEF cannot force him/her to remain employed if he/she wishes to resign. In such an event, a note for the record will be placed in the Official Status File of the staff member, disclosing that he/she resigned while under investigation for allegations of discrimination, harassment, sexual harassment or abuse of authority. Such an individual will be banned to work with UNICEF under any contractual modality unless he/she is fully cleared from the allegations of misconduct raised against him/her. If a staff member resigns during investigation,

the Office of Internal Audit and Investigations, in consultation with the Division of Human Resources, will determine whether or not the investigation will be pursued despite the resignation of the alleged offender.

6.2 **Investigation without formal complaint:** The Director, Office of Internal Audit and Investigations has the authority to initiate an investigation into allegations of discrimination, harassment, sexual harassment or abuse of authority at his/her own initiative, including without reference to a written and signed complaint.

6.3 **Referral to UNICEF Legal Adviser:** The Office of the UNICEF Legal Adviser (within the Office of the Executive Director) will be kept advised of the progress of the investigation and of the matter generally, and will at relevant times determine whether a referral to criminal authorities is appropriate, including whether a referral is required in accordance with General Assembly resolution 62/63. Any such referral will be made in accordance with standard procedures for such referrals.

Section 7 Monitoring

7.1 The Director, Division of Human Resources, in collaboration with Heads of Office/Division, will provide annual reports to the Executive Director, 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, and corrective measures taken under section 4, as well as any evaluations or assessments relating to such measures and/or activities.

7.2 In the interest of transparency, the Executive Director may inform the UNICEF Executive Board of disciplinary decisions taken, including those in relation to discrimination, harassment, sexual harassment and abuse of authority, in the course of the preceding year. He/she may from time to time publish a circular of cases of discrimination, harassment, sexual harassment and abuse of authority that have been investigated and have led to the imposition of a disciplinary measure.

Section 8 Final provisions

8.1 This executive directive enters into force on the date of its issuance.

8.2 CF/EXD2008-0014 on Prohibition of Harassment, Sexual Harassment and Abuse of Authority is hereby abolished.

*(signed)*Anthony Lake
Executive Director