

EXECUTIVE DIRECTIVE

CF/EXD/2008- 004
10 October 2008

Prohibition of harassment, sexual harassment and abuse of authority

This directive seeks to ensure that all UNICEF staff members 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 and abuse of authority.

Section 1 Definitions

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

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

(b) 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 the victims or the offenders.

(c) 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.

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 United Nations Staff Regulation 1.2 (a) and United Nations Staff Rules 101.2 (d), 201.2 (d), 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 harassment, sexual harassment and abuse of authority is prohibited.

2.2 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 harassment, sexual harassment or abuse of authority through preventive measures and the provision of effective remedies when prevention has failed.

2.3 In their interactions with others, all staff members are expected to act with tolerance, sensitivity and respect for diversity. Any form of 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 harassment, sexual harassment or abuse of authority takes place in the workplace, in the course of official travel or an official mission, or in other settings in which it may have an impact on the workplace.

2.4 The present directive applies to all staff members of UNICEF. Complaints of harassment, sexual harassment or abuse of authority may be made by any staff member or other individual working for UNICEF, paid or unpaid, who may have been subject to harassment, sexual harassment or abuse of authority on the part of a UNICEF staff member in a work-related situation.

Section 3

Duties of staff members, managers, supervisors and Heads of Office/Division

3.1 All staff members have the obligation to ensure that they do not engage in, condone or tolerate behaviour which would constitute harassment, sexual harassment or abuse of authority with respect to their peers, supervisors, supervisees and other persons working for UNICEF, paid or unpaid.

3.2 Managers and supervisors are expected to act, at all times, as role models by upholding the highest standards of conduct. They have the duty to take all appropriate measures to promote a harmonious working environment, free of any form of harassment, sexual harassment and abuse of authority. Managers and supervisors have the obligation to ensure that complaints of 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 and supervisors to fulfil their obligations under the present directive may be considered a breach of duty, and, if established, will be reflected in their annual performance evaluation and will be grounds for administrative or disciplinary action, as appropriate.

3.3 Heads of Office/Division are responsible for the implementation of present directive in their respective office or division and for holding all managers and other supervisory staff accountable for compliance with its terms.

Section 4

Preventive Measures

4.1 Prevention of harassment, sexual harassment and abuse of authority is an essential component of the action to be taken by UNICEF. UNICEF will take appropriate measures towards ensuring a harmonious work environment and to protect staff from any form of harassment, sexual harassment and abuse of authority.

4.2 UNICEF will conduct mandatory awareness programmes for all staff to raise awareness of its zero tolerance of 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 the required training.

4.3 In particular, all staff members are required to complete the mandatory training programme on prevention of harassment, sexual harassment and abuse of authority in the workplace. Staff members are also

responsible for familiarizing themselves with present directive and with the various options, internal channels and recourse mechanisms available to them for addressing harassment, sexual harassment and abuse of authority.

4.4 Furthermore, staff members are reminded of UNICEF's Whistleblower Protection Policy (CF/EXD/2007-005 Rev.1), as well as the Secretary-General's Bulletin on United Nations system-wide application of ethics (ST/SGB/2007/11), and the role of UNICEF's Ethics Office as stipulated therein.

4.5 In order to resolve problems which could potentially give rise to instances of harassment, sexual harassment or abuse of authority, managers and supervisors 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.

4.6 If there is a need for confidential guidance or advice on matters which could give rise to instances of harassment, sexual harassment or abuse of authority, staff members and other individuals working for UNICEF, paid or unpaid, may consult the Office of the Joint Ombudsperson, 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 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 to 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 harassment, sexual harassment, or abuse of authority will be handled with sensitivity and confidentiality to protect the privacy of all the individuals concerned.

The informal process

5.3 In many cases 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 a complainant include:

- (a) approaching the person ("the alleged offender") whose actions give rise to the complaint;
- (b) involvement of a third party to facilitate a discussion with the alleged offender; *or*
- (c) involvement of the Office of the Joint Ombudsperson.

5.4 **Approaching the alleged offender**: A person who feels he/she has been the victim of 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 harassment, sexual harassment or abuse of authority 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.

5.5 **Involvement of a third party**: Either the person who feels he/she is a victim of 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 the complainant's manager or another supervisor; a human resources professional at the duty station; a staff counselor; a peer support volunteer; a staff representative of the Office/Division concerned; or a member of the executive committee of the staff association at the duty station.

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 the present 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 from the matter and recommend that the parties initiate the formal procedures described in this directive.

5.7 **Consulting the Office of the Joint Ombudsperson**: The Office of the Joint Ombudsperson plays an important role when it comes to workplace related problems. Staff members and other individuals working for UNICEF, paid or unpaid, can consult the Office of the Joint Ombudsperson in case they feel harassed and/or have witnessed an incident of harassment. The Office of the Joint Ombudsperson 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.

5.8 All discussions with the Ombudsperson are confidential and such confidentiality will also be maintained on the part of those seeking assistance from the Ombudsperson. The Ombudsperson will not reveal the source of information nor will any action be taken without the expressed permission of the person approaching the Ombudsperson.

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

The formal process

5.10 **Filing a Complaint**: Any current or former staff member or other individual working or having worked for UNICEF, paid or unpaid, may file a complaint, regardless of the nature, length and type of contract or arrangement he/she holds/held with UNICEF.

5.11 The complaint should be addressed and submitted to the Executive Director or Director, Office of Internal Audit, with a copy to the Director, Division of Human Resources. The complaint should state:

- (a) the name of the alleged offender;
- (b) the date(s) and location(s) of the alleged incident(s) of harassment, sexual harassment, or abuse of authority;
- (c) the name 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 complaint must be signed and dated; no anonymous complaints will be accepted. The complaint must be as detailed and documented as possible. A formal complaint must be submitted within six months from either the date of the incident of the alleged harassment, sexual harassment or abuse of authority or the most recent alleged incident, if the complaint is about a persistent pattern of harassment, sexual harassment or abuse of authority.

5.13 The filing of a complaint does not have the effect of suspending regular administrative measures such as extension or expiration of a contract or reassignment.

5.14 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 harassment if no documented informal resolution or formal reporting of harassment-related incidents was made prior to the decision.

5.15 The complainant will be protected against any retaliation, in accordance with UNICEF's Whistleblower Protection Policy (CF/EXD/2007-005 Rev.1) during the entire formal process and once the case is closed. It is the responsibility of management to ensure that a complainant does not suffer from any retaliation.

5.16 **Preliminary assessment of a complaint:** Upon receipt of a formal complaint, the Director, Office of Internal Audit will do a preliminary assessment of the complaint.

5.17 The complainant will be interviewed by the Office of Internal Audit (in person or by phone) in order to:

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

5.18 If the Director, Office of Internal Audit 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) 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.

5.19 Unless the Director, Office of Internal Audit, 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 will proceed to investigate the complaint.

5.20 **Interim measures:** When necessary, the Director, Office of Internal Audit may suggest to the Director, Division of Human Resources and the Head of Office/Division, 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, but is not limited to, the identification of alternative duties or the consideration of special leave for either the alleged offender or the complainant.

5.21 **Investigation:** The investigation should begin as soon possible, but not later than one month after the alleged offender has provided his/her reply, referred to in paragraph 5.18 above.

5.22 The Office of Internal Audit will conduct the investigation in accordance with established procedures. The investigation will continue until the Director, Office of Internal Audit, reaches a conclusion about the complaint or determines that he/she will not be able to reach a conclusion about the complaint within a reasonable time and that the interests of UNICEF and all parties concerned are best served by discontinuing the investigation.

Procedures following the investigation

5.23 The Director, Office of Internal Audit will review all facts and evidence surrounding the complaint and will prepare a written report containing the findings, conclusions and recommendations of the investigation. This report will be submitted to the Director, Division of Human Resources.

5.24 On the basis of the report, the Director, Division of Human Resources will take one of the following courses of actions:

(a) If the investigation report indicates that no harassment, sexual harassment or abuse of authority took place, the Director, Division of Human Resources 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 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, counselling 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;

(c) 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 United Nations Staff Regulations and Rules. The Director, Division of Human Resources will inform the complainant of the outcome of the investigation and of the action taken.

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

5.26 Where a complainant or alleged offender has grounds to believe that the procedure followed in respect of the allegations of harassment, sexual harassment or abuse of authority was improper, he or she may appeal pursuant to chapter XI of the United Nations Staff Rules.

Section 6

Special circumstances

6.1 **Resignation of the alleged offender:** It may happen that the alleged offender opts to resign from UNICEF pending investigation. UNICEF cannot force an individual to remain employed if he/she wishes to resign. However, in such an event, UNICEF will leave a note in the Official Status File of this person, disclosing that he/she resigned while under investigation for allegations of harassment, sexual harassment or abuse of authority. Such an individual will be banned to work with UNICEF under any contract modalities unless he/she is fully cleared from the allegations of misconduct raised against him/her. The Office of Internal

Audit, 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. The complainant will be advised by the Director, Division of Human Resources accordingly.

6.2 **Investigation without formal complaint**: While generally, a complaint of harassment, sexual harassment or abuse of authority is receivable only on the basis of a written and signed statement of complaint, the Director, Office of Internal Audit, in consultation with the Director, Division of Human Resources, reserves the right to initiate an investigation into allegations of harassment, sexual harassment or abuse of authority at his/her own initiative, including without reference to a written and signed complaint.

6.3 **Complainant works for another UN entity**: The present directive also applies to cases where the complainant works for another United Nations agency, fund, programme or subsidiary organ and files a complaint against a UNICEF staff member. In such cases UNICEF will conduct the investigation in consultation with the other United Nations organization.

6.4 **Alleged offender does not work for UNICEF**: The present 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 a staff member of another United Nations agency, fund, programme or subsidiary organ. However, UNICEF will ensure that the interests of its staff members and other individuals working for it are protected by the other organization.

6.5 **Referral to local authorities**: Should it become apparent that the alleged act of harassment, sexual harassment, or abuse of authority may constitute a criminal offence under local law, senior management may, after consultations with the Legal Adviser in the Office of the Executive Director, refer the matter to the appropriate local authorities, in accordance with established procedures.

Section 7 Monitoring

7.1 The Director, Division of Human Resources, in collaboration with Heads of Office/Division and the Director, Office of Internal Audit, 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 5 above, as well as any evaluations or assessments relating to such measures and/or activities.

7.2 The annual circular informing staff of UNICEF's practice in disciplinary matters will include information on cases where harassment, sexual harassment and abuse of authority have been found and led to disciplinary measures. The information circular will also inform staff of the most common examples of prohibited conduct and their consequences, including any disciplinary or legal action taken, with due regard to the privacy of the staff members concerned.

Section 8 Final provisions

8.1 The present directive will enter into force on the date of its issuance.

8.2 CF/AI/2005-017 on Preventing Harassment, Sexual Harassment and Abuse of Authority is hereby abolished.