



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

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Policy

on Discrimination, Harassment, Sexual Harassment and Abuse of Authority

Approved by: António Guterres, United Nations High Commissioner for Refugees

Signature: _____

Approval date: _____

29-8-2014

Contact: Ombudsman Office, Inspector General's Office, Ethics Office and Staff Welfare Section

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1. PURPOSE

This policy has the purpose of ensuring that all UNHCR staff members and affiliate workforce 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, including sexual harassment, and abuse of authority. It clarifies definitions and procedures for addressing grievances regarding prohibited behaviour through informal and formal means.

2. SCOPE

This policy applies to UNHCR staff members and Affiliate Workforce. Compliance is mandatory.

3. RATIONALE

3.1 At UNHCR, just as we work to protect refugees and resolve their plight, we also strive to build a more equitable world in which all viewpoints are accepted, where diversity is respected and which is free of discrimination, harassment, sexual harassment and abuse of authority.

3.2 Since UNHCR first released, in April 2005, its policy on Harassment, Sexual Harassment and Abuse of Authority, significant changes have taken place within the Organisation that necessitated a thorough review of the existing policy and required that it be updated.

3.3 This updated policy reflects important developments since 2005 including the conversion of the UNHCR Mediator title into the UNHCR Ombudsman Office and the establishment of UNHCR Ethics Office. New and revised UNHCR instructions, particularly IOM/009 – FOM/010/2012 on “The role, functions and *modus operandi* of the Inspector General’s Office” and IOM/034-FOM/034/2009 on “The new Administration of Justice System” also give cause for the relevant sections of the original version of the policy to be edited accordingly.

3.4 This policy revision includes UNHCR’s affiliate workforce, emphasizes the importance of diversity amongst UNHCR personnel, and reflects the role of the Respectful Workplace Advisers and Peer Support Personnel.

3.5 Furthermore, in line with the UN Secretary-General’s bulletin of 11 February 2008 “Prohibition of discrimination, harassment, including sexual harassment and abuse of authority” this policy specifically now includes discrimination amongst the forms of prohibited behaviour.

4. OVERALL POLICY

4.1 General Principles

4.1.1 In accordance with the provision of Article 101 (3) of the Charter of the United Nations, and the core values set out in Staff Regulation 1.2 (a) and (b)

as well as 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 discrimination, harassment and abuse. Consequently, any form of discrimination, harassment, including sexual harassment and abuse of authority is prohibited and may lead to administrative or disciplinary action.

4.1.2 The Organization has a duty to take all appropriate measures towards ensuring a harmonious work environment, and to protect its staff from exposure to any form of prohibitive conduct, through preventive measures and the provision of effective remedies when prevention has failed.

4.1.3 In implementing the present policy, the Organization shall act consistently and take the appropriate administrative, investigative, and disciplinary action required regardless of the function, title, length of service or contractual status of the Alleged Offender. Applicable standards on confidentiality will be respected. UNHCR's partners shall be informed of the policy.

4.1.4 The Organization will, on a periodic basis, provide mandatory training to personnel regarding prevention of discrimination, harassment, sexual harassment and abuse of authority. The Ombudsman Office, the Ethics Office and the Staff Welfare Section provide initial advice on incidents of discrimination, harassment, sexual harassment or abuse of authority and the various options available.

4.2 Duties of UNHCR Personnel

UNHCR Personnel, including Staff Members and Affiliate Workforce, are expected to:

- a) maintain a harmonious working environment for other colleagues by behaving in a manner which is free of disrespect, intimidation, hostility, offence and any form of discrimination, harassment, sexual harassment or abuse of authority;
- b) not to condone discrimination, harassment, sexual harassment and abuse of authority;
- c) familiarise themselves with this policy, the Code of Conduct and educate themselves through mandatory as well as optional training;
- d) be aware of the various options and internal channels available to them for addressing discrimination, harassment, sexual harassment or abuse of authority;

4.3 Additional Duties of Managers and Supervisors

Managers and supervisors are also expected to:

- a) act as role models by upholding the highest standards of conduct in order to achieve an environment free from discrimination, harassment, sexual harassment and abuse of authority, in which hurtful and destructive behaviour have no place;
- b) facilitate, inspire and help to create a harmonious working environment free of disrespect, intimidation, hostility, offence and any form of discrimination, harassment, sexual harassment and abuse of authority;
- c) ensure that incidents of discrimination, harassment, sexual harassment or abuse of authority are promptly addressed in a fair and impartial manner, regardless of the contractual status. Failure on the part of managers and supervisors to fulfil their obligations under this policy may be considered a breach of duty, which, if established, shall be reflected in their annual performance appraisal, and may lead to administrative or disciplinary action;
- d) disseminate UNHCR's *Policy on Discrimination, Harassment, Sexual Harassment and Abuse of Authority* to all personnel under their supervision as well as partners; and be available to provide guidance on prevention and dealing with such forms of behaviour.

4.4 Resolution Process

4.4.1 Individuals who believe they are the victims of discrimination, harassment, sexual harassment or abuse of authority are strongly encouraged to deal with the problem as early as possible after it has occurred. The aggrieved individual may opt for an informal or a formal process as detailed in Sections 4.5 and 4.6 of the present policy.

4.4.2 The aggrieved individual is encouraged to maintain a written record of all incidents, dates, places, witnesses or persons who have information regarding the incidents, their feelings at the time of the incidents as well as any steps taken subsequently to resolve the matter.

4.5 Informal Approach

An informal approach can provide individuals with the opportunity to resolve complaints or grievances amicably in an open, honest, confidential, non-threatening and non-contentious manner. The aim of the informal approach is to reach a better understanding and agreement on how to continue working together respectfully. An unsuccessful attempt to resolve the matter informally does not preclude it from being pursued formally through the process set out in section 4.6. The informal options available to aggrieved individuals include:

- a) approaching the Alleged Offender;
- b) involving a Third Party;
- c) involving the Ombudsman Office.

4.5.1 Approaching the Alleged Offender

Individuals who feel that they are being subjected to discrimination, harassment, sexual harassment or abuse of authority are encouraged, where possible, to inform the Alleged Offender that his/her conduct is hurtful and unwelcome and request that such conduct cease. In some instances, the offender may not be aware that his/her behaviour is offensive. The Staff Welfare Section and the Ombudsman Office offer advice and support to the aggrieved individuals in helping to identify the most suitable options for approaching the Alleged Offender.

4.5.2 Involving a Third Party¹

Aggrieved individuals may ask for assistance from a Third Party in seeking informal resolution. The Third Party shall immediately disclose any conflict of interest and must not divulge any confidential information without permission. With the consent of the aggrieved individual, the Third Party may meet informally with the Alleged Offender to apprise him or her of the situation and discuss the manner in which it might be resolved to the satisfaction of all concerned. The Third Party should be aware that sometimes the best form of assistance is a referral to a more appropriate resource within UNHCR. When uncertain about what appropriate actions to take, the Third Party should seek the aggrieved individual's consent to consult the Ombudsman Office.

4.5.3 Involving the Ombudsman Office

As the designated informal conflict resolution mechanism within UNHCR, the Ombudsman Office offers dispute resolution services through Ombudsman practice and mediation. It also makes efforts to ensure institutional integrity by advocating for equity, fair process and respectful treatment of all employees. The Office will assist the parties to understand both views and reach an informal resolution on a strictly confidential basis. In instances of alleged misconduct, the Office will advise the complainant on the formal process.

4.6 Formal Process

If the informal process is not desired or appropriate, an individual may initiate the formal process. The aim of the formal process is to determine whether the allegations of wrongful behaviour are founded and if so, what sanctions should be applied. Individuals should bear in mind that initiating the formal process may compromise or prevent informal resolution of the conflict. To that end, if the complainant has engaged in the informal process and subsequently decides to initiate formal proceedings, he/she is requested to inform the Ombudsman Office.

¹ For the purposes of this policy, a Third Party refers to any individual inside or outside the organization, including but not limited to managers.

4.6.1 Filing a Complaint

4.6.1.1 Any aggrieved individual² may file a formal complaint with the Inspector General's Office (IGO). A complaint can be submitted in any form and should state the date(s) and location of the alleged discrimination, harassment, sexual harassment or abuse of authority as well as any other information that may be relevant for an investigation into the matter. Names of witnesses and/or documentary evidence, which may corroborate the allegation, should also be included in the complaint.

4.6.1.2 Complaints, whether filed immediately or after conclusion of the informal process, should be made within one year of the incident. Only in exceptional circumstances will the IGO accept complaints beyond this period.

4.6.1.3 If an individual is the subject of an adverse administrative decision and believes that this decision was motivated by discrimination or constitutes abuse of authority, he/she may also contest the decision as such in the context of the Administration of Justice system.³

4.6.2. Investigation and Disciplinary Proceedings

4.6.2.1 The IGO will determine whether the allegation of discrimination, harassment, sexual harassment or abuse of authority can be established based on the facts of the case.

4.6.2.2 In cases where a staff member has been found by the IGO to have engaged in prohibited behaviour under this policy, an investigation report will be sent to the Director, DHRM, who may initiate disciplinary proceedings.⁴

4.6.2.3 In cases where a member of UNHCR's Affiliate Workforce has been found by the IGO to have engaged in prohibited behaviour under this policy, an investigation report will be sent to the administering entity for appropriate disciplinary action.

4.6.2.4 Disciplinary proceedings may also be initiated against a complainant who has been found to have intentionally made false statements in connection with the lodging of his or her formal complaint.

² This also includes former personnel or someone who is aware of an incident. For more details, see IOM/009 – FOM/010/2012 on "*The role, functions and modus operandi of the Inspector General's Office*".

³ See IOM/FOM/34/2009 on the New Administration of Justice System.

⁴ See ST/AI/371 and ST/AI/371/Amend.1 on Revised Disciplinary Measures and Procedures.

4.6.3 Referral to Local Authorities

In addition to the above procedures, an Alleged Offender may be referred to national authorities for prosecution where the conduct is considered a criminal act. Referral decisions are taken based on a case-by-case assessment, taking into account the specific circumstances of the case. The Alleged Offender will be informed of any referral to national authorities.

5. TERMS AND DEFINITIONS

For the purpose of this policy, the following definitions will apply:

5.1 Discrimination is any unfair treatment or arbitrary distinction based on a person's race, sex, religion, nationality, ethnic origin, sexual orientation, disability, age, language, or social origin. 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.

5.2 Harassment is any improper and unwelcome conduct that 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 annoy, alarm, abuse, demean, intimidate, belittle or cause personal humiliation or embarrassment to another; or that cause an intimidating, hostile or offensive work environment. While typically involving a pattern of behavior it can take the form of a single incident. Harassment may be unintentional and may occur both at the workplace and outside working hours. Disagreement on work performance or on other work-related issues is normally not considered harassment and is not dealt with under the provisions of this policy but in the context of performance management.

5.3 Sexual Harassment is any unwelcome sexual advance, request for sexual favour, 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. Sexual harassment is particularly serious when it interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive environment. Sexual harassment may be unintentional and may occur outside the workplace and/or outside working hours. While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between or amongst persons of the opposite or same sex.

5.4 Abuse of Authority is any improper use of a position of influence, power or authority by an individual against another person. This is particularly

serious when an individual misuses his/her influence, power or authority to negatively influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion. It can include a one-off incident or a series of incidents. 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.

5.5 Staff Member is any person employed and administered by UNHCR under a Letter of Appointment in accordance with the United Nations Staff Regulations and Rules.

5.6 Affiliate Workforce is any person who is working with UNHCR under an agreement with a governmental or non-governmental organization or in an independent capacity. This includes interns, UNVs, UNOPS contractors, individual consultants or contractors, standby personnel and other contracts pursuant to UNHCR's affiliate workforce arrangements⁵.

6. REFERENCES

6.1 Charter of the United Nations.

6.2 United Nations Staff Rules and Regulations

6.3 UNHCR/IOM/60 – FOM/56/2002 – UNHCR Code of Conduct: Initial Implementation Procedures.

6.4 IOM/FOM/06/2004 – UNHCR Code of conduct: Guidelines for Managers.

6.5 IOM/68 – FOM/70/2004 - Code of Conduct: signature form for non-UN personnel due to the revision of the Code of Conduct in September 2004.

6.6 ST/SGB/2008/5 - UN Secretary General's Bulletin of 11 February 2008 - Prohibition of discrimination, harassment, including sexual harassment and abuse of authority.

6.7 ST/AI/371 and ST/AI/371/Amendment 1 - Revised Disciplinary Measures and Procedures.

6.8 IOM/FOM/34/2009 -The New Administration of Justice System.

6.9 IOM/30 - FOM/31/2011 - Affiliate workforce arrangements in UNHCR.

⁵ See IOM/030-FOM/031/2011 of 29 April 2011.

6.10 IOM/009 – FOM/010/2012 – The role, functions and *modus operandi* of The Inspector General's Office.

6.11 UNHCR/IOM/43 – FOM/45/2008 – Policy on Protection of Individuals against Retaliation.

7. MONITORING AND COMPLIANCE

7.1 The Ombudsman's Office is responsible for monitoring the informal process and the Office of the Inspector General for the formal process.

7.2 Failure to comply with this policy may result in appropriate administrative or disciplinary action.

8. EFFECTIVE DATE

The policy is effective immediately upon release. It will be reviewed in 2019 or earlier if necessary.

9. HISTORY

IOM//29-FOM/29/2005 is superseded by this policy.

ANNEXES

- A. Resources
- B. Flow Chart for Procedures for Informal Resolution
- C. Flow Chart for Procedures for Formal Resolution

ANNEX A

RESOURCES⁶

UNHCR will commit the resources for preventing and addressing discrimination, harassment, sexual harassment and abuse of authority. These resources will work together in ensuring that this policy and the available informal and formal resolution processes are clear and accessible to everyone working with the Organization. The managers' role and the role of each individual will complement the organizational commitment in addressing these issues.

The Manager

Problems among colleagues are normally reported to the responsible manager or, if the problem is with the manager, to the manager's manager. The manager is responsible for ensuring that each individual under his/her supervision has access to this policy and has also received the Code of Conduct. In the event of allegations of misconduct, the manager is responsible for ensuring that these are reported without delay to the Inspector General's Office (IGO).

The Staff Welfare Section (SWS)

The Staff Welfare Section, which is a part of the Staff Health and Welfare Service, DHRM, is responsible to provide initial advice and psychological counselling in cases of possible incidents of discrimination, harassment, sexual harassment and abuse of authority. The Staff Welfare Officers will assist staff and affiliate workforce in coping with the emotional impact of such situations and will help colleagues prepare for personally addressing the alleged offender or for mediation. This support might be provided in parallel to the support provided by the Office of the Ombudsman. The Staff Welfare Officers are bound by a professional code of ethics to maintain strict confidentiality.

<p>Email: hqsw00@unhcr.org Phone: + 41 22 739 8001</p>
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Peer Support Persons (PSPs)

PSP are trained by Staff Welfare Officers (SWOs) to provide psycho-social support to colleagues. Their role includes:

- having empathetic conversations with colleagues in distress.
- acting as first respondent in cases of critical incidents and providing psychological first aid after a traumatic event.
- assisting in family support services.

⁶ Additional resources: *Addressing Grievances in UNHCR; Code of Conduct* -June 2004 (IOM/68-FOM/70/2004), and (IOM/06-FOM06/2004).

- maintaining regular contact with their respective SWO and report to SWS twice per year.

At present, the UNHCR PSP network consists of 240 Peer Support Persons in offices in 66 countries.

The Ombudsman Office

The Ombudsman Office is responsible for the facilitation of the informal approach in dealing with discrimination, harassment, sexual harassment and abuse of authority. The Ombudsman is a neutral, independent contact who can provide advice and help explore options for resolving work-place related problems and conflicts. Recourse to the Ombudsman is strictly voluntary and is treated with strict confidentiality that can only be waived with the consent of the individual(s) concerned. Resorting to the Ombudsman does not have the effect of suspending an administrative decision. However the deadline to request a Management Evaluation to review an administrative decision may be extended by the Deputy High Commissioner pending efforts for informal resolution conducted by the Ombudsman's Office.

Email: ombuds@unhcr.org
Phone: +41 22 739 7770

Respectful Workplace Advisors (RWA)

RWAs are UNHCR colleagues trained by the GLC to assist colleagues confronted with conflicts in the workplace. Their role includes:

- providing colleagues with a confidential contact point and a source of information as well as support.
- advising on the mediation process.
- serving as a sounding board.
- acting as a facilitator for Code of Conduct refresher trainings.
- reporting to the Ombudsman on a quarterly basis.

At present the RWA network consists of 89 number of persons in 62 number of countries.

The Inspector General's Office (IGO)

The Inspector General's Office (IGO) is responsible for receiving allegations of possible misconduct by persons with a contractual link with UNHCR and for investigating and establishing facts in the context of the formal process. This may include ensuring that a complainant is fully informed of the existence of the informal mechanism before initiating an investigation. The principles governing the work of the IGO are impartiality, objectivity and confidentiality.

Email: inspector@unhcr.org
Hotline: +41 22 739 8844

The Division of Human Resources Management (DHRM)

The Director of DHRM is in charge of the disciplinary process following investigations into allegations of misconduct by the IGO. Any disciplinary measure imposed will be implemented by the Personnel Administration and Payroll Section. Staff may contact either the Office of the Director or the respective Personnel Administration Officer within the HR Staff Services in Budapest (HRSS).

Email: Office of the Director: hgps00@unhcr.org
HRSS: *your respective Personnel Administration Officer*
Phone: *(your respective Personnel Administration Officer)*

The Ethics Office

The Ethics Office is tasked with ensuring a work environment of openness, transparency and fairness and that all personnel understand, observe, comply and perform their functions consistent with the highest standards of integrity and foster a culture of ethics, respect, transparency and accountability. Specific functions under its terms of reference include responsibilities under UNHCR's *Policy on protection of individuals against retaliation (Whistleblower protection)* IOM/43 – FOM/45/2008.

Email: hqethics@unhcr.org
Phone: + 41 (0)22 739 8794 or +41 (0)22 739 8301

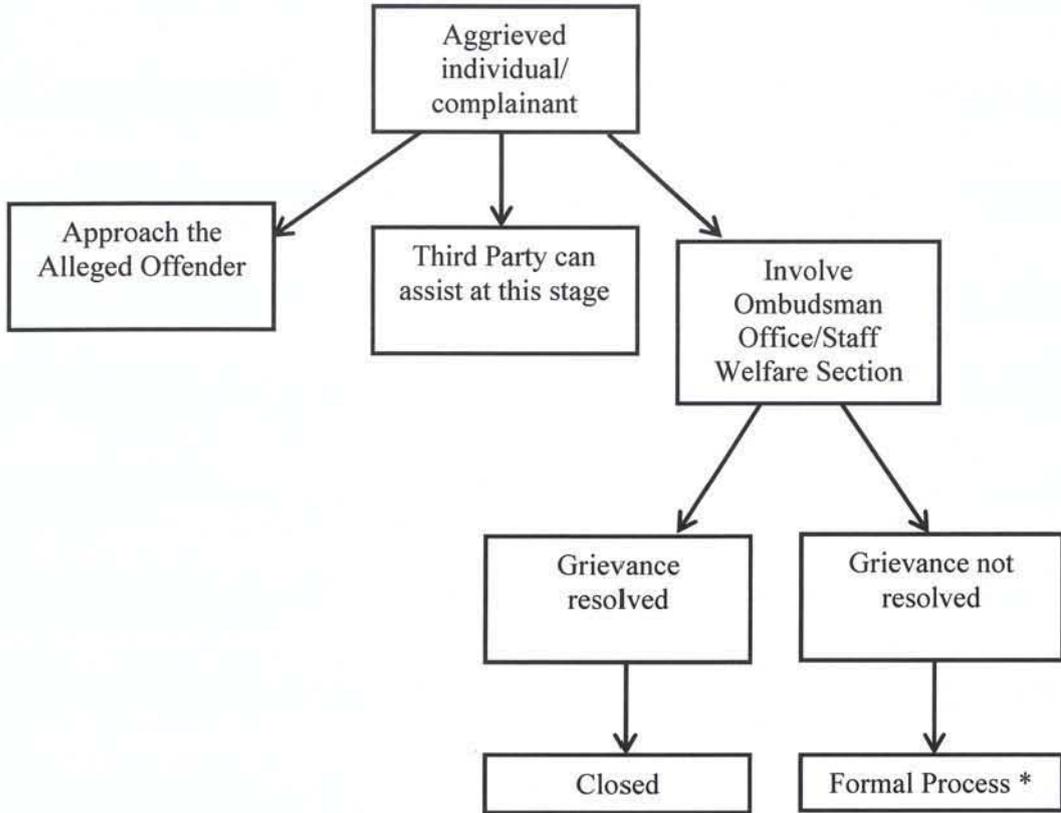
The Staff Council (SC)

The Staff Council assists staff in finding appropriate avenues for addressing their concerns related to harassment and abuse of authority.

The Staff Council acts as an informal channel in helping find solutions to problems which may arise from the implementation of the policy.

Email: hqsr00@unhcr.org
Phone: +41 22 739 8182

ANNEX B
PROCEDURAL FLOWCHART FOR THE INFORMAL APPROACH
AT UNHCR



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Individual should bear in mind that initiating the formal process may lead to an end of the informal approach.

ANNEX C Administration of Justice Disciplinary Process

