UNOPS | United Nations Office for Project Services

# Transmittal Memorandum

Date: 22 August 2005

To: All Staff Members

From: Nigel Fisher, Executive Director

Ref: OD/05/0008

Subject: **Policy on Harassment, Sexual Harassment and Abuse of Authority**

Dear Colleagues,

As international civil servants we are all entrusted to conduct ourselves in accordance with the highest standards of conduct and ensure that we create and sustain a work environment free from harassment, sexual harassment, and abuse of authority.

Over the past two years, UNOPS has played a prominent role as a member of an inter-agency working group, setup under the auspices of the United Nations Development Group (UNDG) and comprised of UNOPS, UNDP, UNICEF, UNFPA, UNHCR, WFP, and the UN Secretariat, to devise a common policy on harassment, sexual harassment, and abuse of authority.

As a result of this work and based on a framework developed by the UNDG Working Group, I am pleased to promulgate Organizational Directive # 8 on Harassment, Sexual Harassment, and Abuse of Authority.

The present policy provides us with information on what harassment, sexual harassment, and abuse of authority is and how we may prevent it in the workplace. Furthermore, the policy sets out the mechanism through which any alleged cases can be addressed.

To ensure that we are all fully informed about this topic, UNOPS, in conjunction with other agencies, is developing an online training module which will provide staff and supervisors the tools to recognize and prevent conduct which would amount to harassment, sexual harassment, and abuse of authority. This training course will be available in the autumn and more details on this will be provided when the course has been completed.

I also wish to inform you that the UNOPS focal point on Prevention of Harassment, Sexual Harassment, and Abuse of Authority is Michele Page, Chief, Division of Human Resources Management. So as to ensure that we can respond to and prevent any cases of harassment, sexual harassment, and abuse of authority an email address (harassment@unops.org) has been set up for staff to submit queries or lodge complaints, all of which will be dealt with under the strictest of confidence.

I urge all of you to familiarize yourselves with the contents of the present policy and trust that we will all interact with our colleagues with the same modicum of respect and dignity which we would want bestowed upon ourselves.

OD No. 8 is effective 22 August 2005.

UNOPS | United Nations Office for Project Services

The Chrysler Building, 405 Lexington Avenue, 4th Floor
New York, NY 10174

UNITED NATIONS OFFICE FOR PROJECT SERVICES ("UNOPS")

Headquarters, New York
O.D. No. 8
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# ORGANIZATIONAL DIRECTIVE No. 8

# POLICY ON PREVENTION OF HARASSMENT, SEXUAL HARASSMENT AND ABUSE OF AUTHORITY

## 1. Introduction

1.1 All employees have the right to work in an environment free from harassment, sexual harassment, and abuse of authority. All employees therefore have the obligation to ensure that they do not engage in, nor condone, behaviour which would constitute harassment, sexual harassment, or abuse of authority.

1.2 UNOPS supports the commitment that all international organizations must have "zero tolerance" for harassment in the workplace and will not tolerate conduct that can be construed as harassment, sexual harassment, or abuse of authority. Such behaviour or conduct is contrary to the Charter of the United Nations, to the Standards of Conduct for the International Civil Service, and the United Nations Staff Regulations and Rules and employees responsible for such behaviour or conduct may be subject to appropriate administrative or disciplinary measures.

1.3 In furtherance of these objectives, UNOPS along with other UN agencies has, as part of the UNDG Sub-Group on Harassment, developed a "Policy Framework on Harassment, Sexual Harassment and Abuse of Authority". The Sub-Group formulated the present draft framework based on their experiences gained from the implementation of existing sexual harassment and harassment policies during the 1990s.

## 2. Definitions

2.1 Harassment: Any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another. Harassment may be present in 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 causes an intimidating, hostile or offensive work environment. It includes harassment based on any grounds, such as race, religion, colour, creed, ethnic origin, physical attributes, gender or sexual orientation. It can include a one-time incident or a series of incidents. Harassment may be deliberate, unsolicited, and coercive.

2.2 Sexual Harassment: 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 offense or humiliation to another. Sexual harassment may occur when it interferes with work, is made a condition of employment or creates an intimidating, hostile, or offensive environment. It can include a one-time incident or a series of incidents. Sexual harassment may be deliberate, unsolicited, and coercive. Both male and female Employees can be either the victims or offenders.

2.3 Abuse of Authority: The improper use of a position of influence, power, or authority by an Employee against another Employee or group of Employees. This is particularly serious when an Employee uses his or her influence, power, or authority to negatively influence the career or employment conditions (including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion) of another Employee. It can include a one-time 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.

2.4 Retaliation: Threats or acts of retribution against an Employee who raises concerns, makes claims or assists in providing information about Harassment, Sexual Harassment, or Abuse of Authority.

2.5 Employee[1]: Any person who either works for or represents UNOPS, regardless of whether or not they are compensated monetarily for such work or representation. This includes both staff members and non-staff personnel.

2.5.1 Staff Members: Any person who is either employed by UNOPS under a 100, 200, or 300 Series letter of appointment under the United Nations Staff Regulations and Rules.

2.5.2 Non Staff Personnel: Any person who is employed by UNOPS, under either a Special Service Agreement, Service Contract, Consultants Agreement, External Collaboration Contract, Reimbursable Loan Agreement, Internship, through an employment agency, or through any contractual arrangement that gives rise to an Employer/Employee relationship between UNOPS and the individual.

2.6 Third Party: An Employee who assists a victim or an alleged offender in an informal process.

## 3. Prevention

### 3.1 Role of Employees

3.1.1 Employees must:

a) Be respectful to their colleagues and maintain the highest standards of conduct.

b) Maintain a harmonious working environment for other Employees by behaving in a manner which is free of intimidation, hostility, offence and any form of Harassment, Sexual Harassment, or Abuse of Authority.

c) Familiarize themselves with the present directive, including an understanding of conduct that constitutes Harassment, Sexual Harassment or Abuse of Authority.

d) Be aware of the various options and internal channels available to them for addressing harassment.

[1] The use of the term "Employee" does not give rise to any additional rights and entitlements to any individual working for UNOPS other than those rights and entitlements included in the individual's contract of employment with UNOPS. Furthermore, in implementing the present framework, the term "Personnel" may substitute the term "Employee".



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3.2 Role of Managers and Supervisors

3.2.1 Managers and Supervisors must:

a) Create a harmonious working environment, free of intimidation, hostility, offence and any form of Harassment, Sexual Harassment and Abuse of Authority. In order to achieve such an environment, managers and supervisors must act as role models by upholding only the highest standards of conduct.

b) Ensure that incidents of Harassment, Sexual Harassment or Abuse of Authority are promptly addressed. In such cases, managers and supervisors must demonstrate fairness, impartiality, and be free from intimidation or favoritism.

c) Ensure that Employees who supervise others do not engage in Harassment, Sexual Harassment, or Abuse of Authority. Managers and supervisors must also take measures consistent with the present policy should they witness any acts of Harassment, Sexual Harassment, or Abuse of Authority.

d) Ensure that no Employee is Retaliated against.

e) Communicate UNOPS' policy on Harassment, Sexual Harassment and Abuse of Authority to all Employees and act as a resource for Employees.

3.2.2 The failure of a manager or supervisor to communicate and/or address any known act of Harassment, Sexual Harassment, or Abuse of Authority may result in the imposition of appropriate administrative or disciplinary measures.

3.3 Role of UNOPS

3.3.1 In implementing the present framework, UNOPS shall act consistently and take the appropriate administrative, investigative, and disciplinary action required, regardless of the Employee's function, title, length of service and contractual status.

3.3.2 UNOPS should, on a periodic basis, provide training to Employees regarding prevention of Harassment, Sexual Harassment, and Abuse of Authority. Employees are required to participate in the training.

3.3.3 UNOPS shall appoint a focal point or designate an official to be the primary referral for all incidents of Harassment, Sexual Harassment, or Abuse of Authority.

4. <u>Dispute Resolution Process</u>

4.1 Employees may choose to deal with any complaint or grievance through either an informal or formal process.

4.2 Where an Employee, or former Employee, has been notified of a decision (which may be administrative or disciplinary in nature) and he/she believes that the decision derives from Harassment, Sexual Harassment or Abuse of Authority, he/she can seek the review of that decision only through the appropriate request for review or, as the case may be, through the appeal procedure in accordance with the terms of his/her contract, and the applicable staff regulations and rules.



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4.3 The timeframes for the different dispute resolution processes available to Employees are included in Table 1 below:

| Table 1: Time Frame for Dispute Resolution Processes | |
|---|---|
| Process | Time Frame |
| Informal Process | • Anytime after the incident of alleged Harassment, Sexual Harassment, or Abuse of Authority. |
| Formal Process | • Written complaint must be filed within 6 months from the date of the last incident of Harassment, Sexual Harassment, or Abuse of Authority.<br>• If the victim approaches the UNDP/UNOPS/UNFPA Ombudsperson for mediation, the written complaint must be filed within 3 months from the conclusion of the Ombudsperson's involvement in the mediation. |
| Request for Reviews | • Any requests for reviews of an administrative decision must be filed in accordance with the timeframes stated in the United Nations Staff Regulations and Rules. |
| In exceptional circumstances all time limits may be extended by the UNOPS' focal point. | |

4.4 Employees have the option of deciding upon any of the dispute resolution processes available to them and are encouraged to speak with counselors, and/or a personnel officer, Ombudsperson, or Focal Point about the situation. Employees may also speak with counselors and/or a personnel officer, Ombudsperson, or Focal Point about the support and/or redress options available to them.

4.5 For a breakdown of the available processes for addressing cases of Harassment, Sexual Harassment, and Abuse of Authority, please refer to Annex A of the present policy.

4.6 It is strongly advised that all parties maintain detailed written records (including hard copies of e-mails), of all incidents, dates, places, witnesses, and their feelings at the time of the alleged Harassment, Sexual Harassment, or Abuse of Authority. All parties should note that not all informal processes are successful and that mediation and/or an investigation may occur in the future, and as such written records would prove useful should any more formal approaches occur.

## 5. The Informal Process

### 5.1 Informal Options

5.1.1 An informal complaint process can provide Employees with the opportunity to resolve any complaints or grievances in an open, honest, non-threatening and non-contentious manner. The informal options available to Employees include:

a) Approaching the Alleged Offender;

b) Involvement of a Third Party; or

c) Involvement of the Ombudsperson.

### 5.2 Approaching the Alleged Offender



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5.2.1 An Employee may not understand that he/she is being offensive and, if asked, may stop or alter his/her behaviour. Employees who feel that they are being subject to Harassment, Sexual Harassment, or Abuse of Authority are encouraged, where possible, to inform the alleged offender that his/her conduct is unwelcome and request that such conduct cease.

5.3 Involvement of a Third Party

5.3.1 If a Third Party chooses, he/she may agree to assist either the victim or alleged offender. It is vital that the Third Party ensures that confidentiality is respected at all times. The Third Party should be fully knowledgeable about the present framework. The Third Party should always act in the best interests of the victim/offender yet refrain from defaming the character of the victim/offender. The Third Party should be aware that sometimes the best form of assistance is a referral to a more appropriate source within UNOPS. When they are uncertain about what appropriate actions to take, the Third Party should inform, with the consent of the victim, the UNOPS focal point.

5.4 Involvement of the Ombudsperson

5.4.1 The Ombudsperson will provide mediation on a strictly confidential basis.

5.4.2 If Employees wish, they may approach the Ombudsperson who will discuss the matter with all concerned parties. The Ombudsperson will assist the parties to understand both views and reach an informal resolution.

5.4.3 In cases where the situation indicates that an instance of alleged misconduct has occurred that may warrant administrative action or disciplinary measures, the Ombudsperson is required to bring the matter to the attention of the appropriate authorities.

5.5 Moving from an Informal Process to a Formal Process

5.5.1 If the victim is not satisfied with the results, he/she may submit a written complaint to begin the formal grievance process.

6. Formal Process

6.1 Filing a Complaint

6.1.1 Who can submit a complaint?

a) Any Employee and/or former Employee may file a complaint, regardless of the nature, length and type of contract they hold with UNOPS.

6.1.2 To whom should the complaint be submitted?

a) The complaint should be submitted to the UNOPS focal point. The complaint may be submitted via email to harassment@unops.org

6.1.3 Content of the complaint

a) The complaint shall state the date(s) and location of the alleged incident of Harassment, Sexual Harassment, or Abuse of Authority. Names of witnesses and physical and/or documentary proof, which corroborate the allegation may also be



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included in the complaint. All complaints must be signed and dated and no anonymous complaints shall be accepted.

6.2 The Fact Finding Process

6.2.1 Preliminary Investigation

a) Upon receipt of the formal complaint, a determination by the focal point must be made as to whether this complaint is admissible and should be investigated. The complaint would be investigated if it appears to have been made in good faith, within the set time limits and within UNOPS' definition of Harassment, Sexual Harassment and/or Abuse of Authority as set out in the present directive. If the complaint is deemed admissible, it is sent by the focal point to the alleged offender for his/her comments within a given time frame. The alleged offender's failure to respond does not interrupt the process of fact-finding.

b) If the alleged offender is no longer employed by UNOPS at the start of this process, the fact-finding process will still be carried through to a conclusion.

c) An offer of resignation from the alleged offender will not be accepted by UNOPS until the investigation is completed.

6.2.2 Establishment of an Investigating Body

a) If the complaint is admissible, it should be promptly investigated by an internal investigating body, or similar ad-hoc panel (for country offices). It is suggested that the investigating body members be three in number, in order to ensure there is no bias. They should be selected on the basis of various criteria including seniority, background, nationality, gender, inter-personal skills, and relevant language skills where necessary. They should be persons of discretion. Members may be required to undergo training if deemed necessary by UNOPS.

6.2.3 Role of the Investigating Body

a) The investigating body's task is to collect evidence, establish the facts and compile a report with appropriate findings and recommendations to be submitted to the focal point. To this end, the assistance of a professional investigator may be sought if necessary and if pre-approved by the Executive Director.

b) The investigating body must remain neutral throughout the investigation and due process is essential to the integrity of the process. The investigating body should not presume the guilt of any party.

6.2.4 Time Frame for Starting an Investigation

a) The investigation should begin as soon as possible, but not later than two months for headquarters locations and three months for field offices and regional locations after the complaint has been filed. The investigation should on average be completed within a month.

6.2.5 Investigation



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a) The goal of an investigation is to find facts, which will, for the most part, be obtained by interviewing the victim, the alleged offender and other witnesses as deemed relevant by the investigating body. The facts should establish the time, sequence and nature of the occurrence.

b) The alleged offender has the right to the initial statement of the victim which includes the allegations of Harassment, Sexual Harassment or Abuse of Authority. Neither party has the right to question each other or any other witnesses nor the right to counsel during the investigation process.

c) Both parties may suggest a list of persons to be interviewed by the investigating body. The investigating body will interview such persons at their discretion.

d) For guidelines on conducting interviews, please refer to Annex B of the present policy.

6.2.6 Conclusion of the Investigation

a) The investigating body should submit its findings and recommendations in a confidential report to the focal point.

b) The investigation body's report should be based on written and oral statements, physical or any other evidence such as e-mails, photographs, tape recordings, etc.

c) For guidance on the format of the investigation report, please refer to Annex C of the present directive.

6.3 Disciplinary Phase

6.3.1 Staff Members: After completion of the investigation process, the Executive Director of UNOPS has the discretionary authority to proceed as follows:

a) Should the facts reported in the investigation appear to indicate that misconduct has not occurred, decide that the case should be closed; or

b) Should the facts reported in the investigation appear to indicate that misconduct may have occurred, the Executive Director shall refer to the appropriate disciplinary body in accordance with the United Nations Staff Regulations or Rules; or

c) Should the facts reported in the investigation indicate that misconduct has occurred and that the seriousness of the misconduct warrants immediate separation from service, the Executive Director may summarily dismiss the staff member for misconduct; or

d) The Executive Director may also choose to institute measures not deemed to be disciplinary measures in accordance with the United Nations Staff Regulations and Rules, such as a reprimand by a supervisory official.

6.3.2 Non-Staff Personnel

a) The Executive Director must determine whether the nature of the reported conduct constitutes a breach of the standards of conduct for Non-Staff Personnel, with the meaning of the alleged offender's contract. Following that determination, the



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Executive Director must decide whether to pursue any remedial action, in accordance with the provisions of the alleged offender's contract.

b) In the case of Non-Staff Personnel provided by an external agency, the Executive Director may request that the employment agency terminate the Non-Staff Personnel's contract.

6.3.3 Wrongful Accusations

a) When the facts appear to substantiate the conclusion that the victim has intentionally made false statements in connection with the lodging of a formal complaint of harassment, appropriate action could be taken against him/her. Such appropriate action could include disciplinary measures.

6.4 Appeal

6.4.1 The person subject to the administrative or disciplinary measure imposed may appeal against such disciplinary measure or administrative action taken, in accordance with the terms of their contracts and with UNOPS' appropriate internal procedures.

6.5 Referral to Local Authorities

6.5.1 At any juncture in either the informal or formal process, should it become apparent that the alleged act of Harassment, Sexual Harassment, or Abuse of Authority constitute a serious breach of local laws, management should be informed. Thereafter, management may, in accordance with established procedures, refer the alleged offender to the appropriate local authorities.

## 7. Effective Date of the Policy

7.1 The Policy would be applicable with effect from date of this policy (hereinafter referred to as the "**Effective Date**").

7.2 The present policy supercedes any previous UNOPS policies or provisions in UNOPS policies pertaining to sexual harassment, harassment, and abuse of authority.

Nigel Fisher
Executive Director



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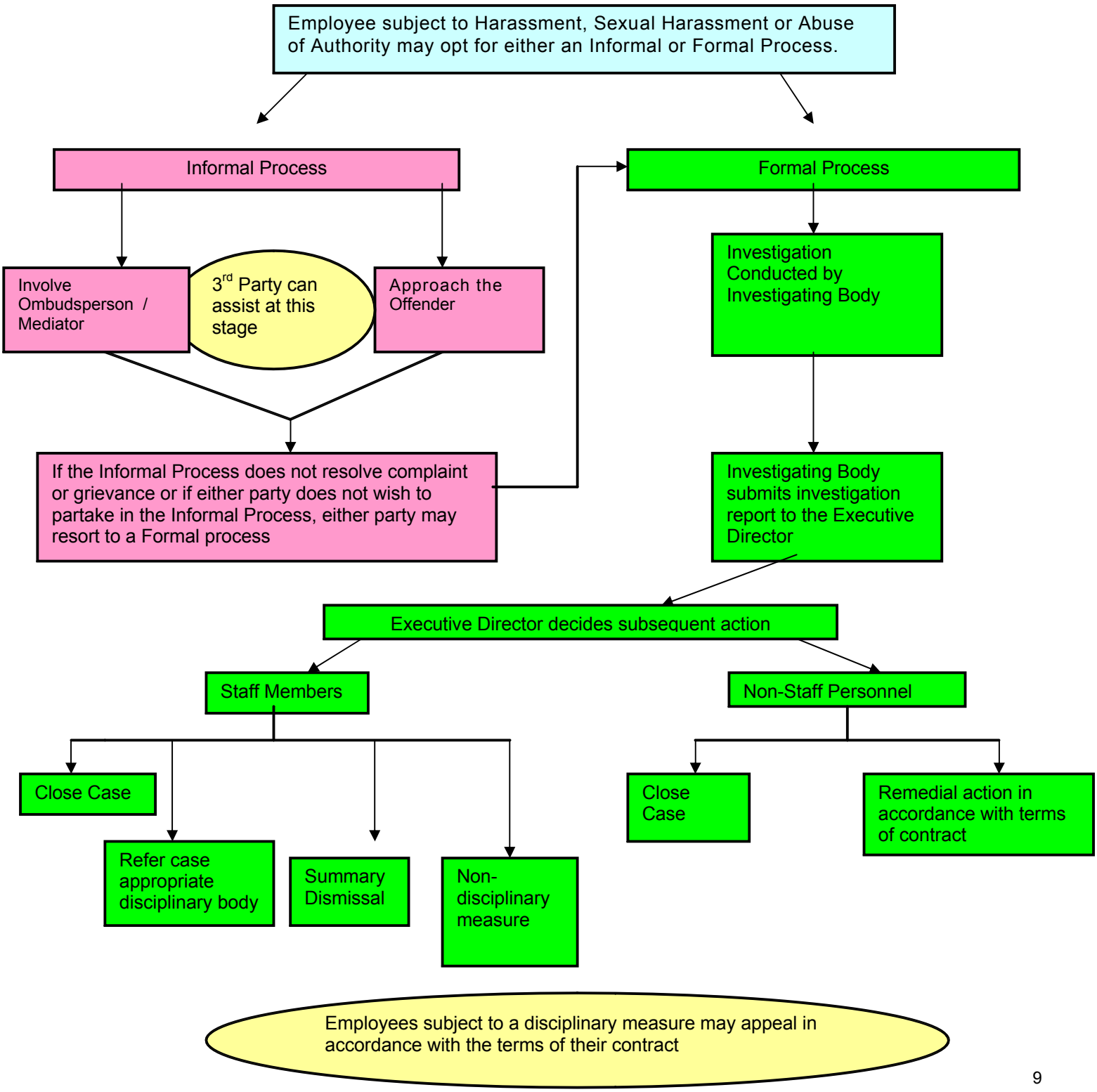
Annex A

Procedural Flowchart for Addressing Cases of Harassment, Sexual Harassment, and Abuse of Authority



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Annex B

Guidelines for Conducting Interviews

- The investigating body should interview the parties and all relevant witnesses. Questions/areas to be covered with each witness/party should be prepared in advance.
- The location of the interview should be one which makes the interviewee feel comfortable, safe and at ease. Wherever reasonable, transportation to and from the interview should be provided. The whole investigative process should be explained to the interviewee.
- At the start of each interview, the interviewer should make a disclosure statement giving reasons for the interview, explaining UNOPS' policy on harassment/abuse of authority, the importance of confidentiality in the investigation process and of providing accurate and relevant information.
- All parties should be reassured that all information they provide will be kept strictly confidential and that they will suffer no retaliation for having provided information.
- The interviewers must be non-judgmental throughout the interview.
- The interviewer's goal is to find accurate facts. Questions should be specific and direct, even if embarrassing.
- The interviewer should recap throughout the interview, asking the interviewee to confirm whether the interviewer has accurately heard and recorded what has been said.
- Translators should be utilised where necessary.
- If the alleged offender denies all or part of the allegations of harassment the interviewer should ask what he/she thinks would motivate the victim to lie or fabricate such a story. If the alleged offender claims that the victim welcomed or invited the harassment/abuse of authority the interviewer should ask for detailed supporting facts. It is important to separate rumors and gossip from facts.
- In closing the interview the interviewer should ask whether the interviewee has anything else he/she wishes to add. Each interviewee should be informed that he/she may be interviewed again. The interviews may be audio-recorded where possible. The interviewees should be asked to review their statements for accuracy and sign them.
- Where a direct interview is not feasible, a written submission will be considered.

For further assistance, the interviewers should contact the focal point on harassment, sexual harassment, or abuse of authority.



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Annex C

Investigation Report

The report is submitted to the focal point and/or designated official. Copies of all evidence cited or referred to in the report should be submitted as annexes to the report. It is important to report clearly, concisely and completely on the findings of the investigation and to maintain an appropriate sense of decorum throughout the report. The report should cover the following points:

## Overview

What the case is about, who is conducting the investigation, when and how the allegations were reported, timeframe for the investigation, and the location(s) where it was carried out.

## Allegations

Summary of the allegations.

## Findings

Detailed account of the facts of the case, how evidence was obtained, what the evidence shows about the events and their implication. In particular, the investigative body should establish the time, sequence and nature of the occurrence, analyze the victim's/alleged offender's story for sufficient detail, internal consistency and credibility, whilst gathering evidence that corroborates either party's story and of other complaints of harassment, if any, by either the victim or other Employees against the alleged offender.

## Recommendations

The facts in the case as presented above are evaluated in the context of the applicable policy and rules. The investigating body must bear in mind that the investigation process is not a criminal trial and therefore it is not necessary for the victim/alleged offender to have provided his/her version of the events beyond a reasonable doubt. The standard of proof for the legal analysis is "clear and convincing evidence".

Conclusions may include that further action should be considered[2], or that the evidence found does not support the allegations[3], and consequently the complaint should be dismissed. The report may include any recommended changes or improvements to the functioning of the policy that might help prevent similar actions from occurring again.

[2] See paragraphs 33 and 35 of the present directive

[3] An investigation may reveal that the allegations were unfounded. It is equally important to have this documented in an investigation report.



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