

INVESTIGATION AND DISCIPLINARY PROCESS POLICY	
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1 Purpose

- 1.1 As international civil servants, Staff Members are required to adhere to the highest standards of efficiency, competence and integrity.
- 1.2 The purpose of the Investigation and Disciplinary Process Policy (this Policy) is:
 - a) To serve as a reminder to all Staff Members of their duty to abide by the highest standards of conduct;
 - b) To define what constitutes Misconduct;
 - c) To define the mechanisms that currently exist within UN Women for personnel to report allegations of possible Misconduct by Staff Members as well as breaches of policies and procedures of UN Women by Staff Members, Affiliate Personnel, implementing partners, vendors and other third parties;
 - d) To set out the investigative process; and
 - e) To explain the procedure following investigation, including the disciplinary process in the case of Staff Members.

2 Application

2.1 This Policy applies to:

All Staff Members, except those who are on a secondment or transfer to another organization pursuant to the Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations Applying the United Nations Common System Salaries and Allowances. In such scenarios of secondment or transfer, the Staff Member would be governed by the receiving organization’s policies, procedures, regulations and rules.

2.2 This Policy does not apply to:

All Affiliate Personnel. Affiliate Personnel are bound by the terms and conditions of their individual agreements in place with UN Women, which includes a requirement that they uphold the highest standards of efficiency, competence and integrity. Should Affiliate Personnel undertake conduct that is inconsistent with the terms and conditions of their individual agreements, this may result in appropriate action being taken pursuant to the terms and conditions outlined in the individual’s agreement, including termination.

3 Definitions

3.1 For the purposes of this Policy, the terms and phrases referred to herein have the following meaning:

“Affiliate Personnel”	means those personnel engaged by UN Women to perform services for UN Women whose contractual relationships are not governed by letters of appointments subject to the Staff Regulations and Rules of the United Nations, including independent contractors (which include service contract holders, personnel services agreement holders and consultants, personnel engaged on a Non-Reimbursable Loan Agreement, United Nations Volunteers, fellows, and interns).
“Charge Letter”	means the formal, written notification to the Staff Member to whom is addressed of the charges against them, their right to seek the assistance of counsel in their defense and by which the Staff Member is given a specified period of time to answer the charges and produce any countervailing evidence.
“Head of Office”	means a Division Director or Head of an Independent Office at Headquarters , a Regional Director, a Multi-Country or Country Representative, or a Head of Liaison Office.
“Internal Investigation Function”	is UN Women’s internal investigation function that receives investigation reports, referrals for management action, status updates and matters for investigation from the

	external investigation service provider. The Internal Investigation Function takes relevant action pursuant to the aforementioned, including investigating matters.
“Investigation Subject”	means a Staff Member who is the focus of the investigation by virtue of an allegation made against them
“Misconduct”	means the failure by a Staff Member to comply with their obligations under the Charter of the United Nations, the Staff Regulations and Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant. Such a failure could be deliberate (intentional or willful act) or result from an extreme or aggravated failure to exercise the standard of care that a reasonable person would have exercised with respect to a reasonably foreseeable risk (gross negligence) or from a complete disregard of a risk which is likely to cause harm (recklessness).
“Staff Members”	means those personnel who are working for UN Women whose employment and contractual relationship are defined by a letter of appointment subject to the Staff Regulations and Rules of the United Nations.

4 Roles and Responsibilities

4.1 The Executive Director

- a) In accordance with the delegation of authority from the Secretary-General, the Executive Director has the authority to institute a disciplinary process and to impose disciplinary measures on Staff Members.
- b) The Executive Director has retained decisional authority elaborated herein in relation to the placement on administrative leave of Staff Members at the rank of D-2 and above, as well as for all Heads of Offices, and at the end of the initial administrative leave period, making a decision on whether to extend it.

4.2 The Director, Division for Management and Administration (DMA)

4.2.1 The Executive Director delegates to the Director, DMA the authority:

- a) To place Staff Members at the rank of D-1 and below, excluding all the Heads of Office, on administrative leave, and at the end of the initial administrative leave period, making a decision on whether to extend it;

- b) To charge a staff member with Misconduct;
- c) To clear a staff member from allegations of Misconduct;
- d) To apply other means to conclude a case, including settlements, where the interests of the organization would be served by such action.

4.2.2 The Director, DMA is responsible for recommending disciplinary measures, or other courses of action as appropriate to the Executive Director.

4.3 The Director, Independent Evaluation and Administration (IEAS)

4.3.1 The Director, IEAS is responsible for:

- a) Acting as the designated official with the external investigation service provider, including receiving reports, referrals for management action, status updates, matters for investigation by the Internal Investigation Function and other matters;
- b) Overseeing the consideration of matters under the purview of the internal investigation function. This could include a preliminary assessment and investigation process.
- c) Responding to requests for information from the external investigation service provider, ensuring that such requests are dealt with in accordance with UN Women's policies and procedures;
- d) Providing high-level advice and briefing to the Executive Director on strategic and critical issues related to investigations, findings and recommendations.
- e) Transferring a matter to another UN entity if the Investigation Subject transfers, or otherwise separates and accepts a position at the United Nations Secretariat or another United Nations organization prior to the completion of the report, if they determine that it would be in the best interest of UN Women or the other organization to do so.
- f) Promptly submitting the information into the Secretary-General's online reporting database on sexual exploitation and abuse if a report of an allegation of sexual exploitation and abuse contains sufficient information to identify an act of sexual exploitation and abuse.

4.4 The Ethics Advisor

4.4.1 Pursuant to the Protection Against Retaliation Policy, the Ethics Advisor is responsible for:

- a) Receiving and conducting preliminary reviews of requests for protection against retaliation following a report of possible Misconduct or cooperation with an audit or investigation;

- b) Referring the case to the external investigation service provider for investigation if the Ethics Advisor determines the requesting Staff Member engaged in a protected activity and there is a prima facie case that the protected activity was a contributing factor in causing the alleged retaliation; and
- c) Receiving the investigation report and the supporting documents from the external investigation service provider and conducting an independent review of the findings of the report and supporting documents to determine whether the retaliation has occurred.

4.5 The Heads of Offices

The Executive Director delegates to Heads of Office the authority to decide in relation to certain Staff Members at the rank of D-1 and below, excluding all the Heads of Office, whether to place a staff member on administrative leave with full pay in exceptional cases where the circumstances require immediate action, subject to the subsequent formal authorization of the Director, DMA.

4.6 The Internal Investigation Function:

4.6.1 Receives investigation reports, referrals for management action, status updates and matters for investigation from the external investigation service provider.

4.6.2 Takes relevant action pursuant to what it receives from the external investigation services provider, including investigating matters.

4.7 The Chief, Legal Office

4.7.1 The Chief, Legal Office is responsible for:

- a) Reviewing investigation reports prepared by the external investigation service provider and internal investigation function, and requesting clarification from the external investigation service provider, internal investigation function, or the Investigation Subject, as appropriate;
- b) Recommending the placement of Staff Members on administrative leave and any subsequent extension of the administrative leave;
- c) Recommending the initiation of disciplinary proceedings through presenting the Charge Letter to the Investigation Subject, or recommending other appropriate resolution to the matters;
- d) Recommending disciplinary action, exoneration from allegations of Misconduct, or other courses of action as appropriate;
- e) Preparing disciplinary submissions and representing the Secretary-General before the United Nations Dispute Tribunal in cases of appeals by Staff Members regarding disciplinary measures imposed on them as well as supporting the Office of Legal Affairs of the United Nations Secretariat in its representation of the Secretary-General before the United Nations Appeals Tribunal in the above-mentioned cases; and

- f) Assisting, as appropriate, in the recovery action of any financial loss.

4.8 The Director, Human Resources (HR)

4.8.1 The Director, HR is responsible for:

- a) Providing guidance on addressing work environment and performance related issues revealed by the intake and preliminary assessment process or the investigation;
- b) Recovery action of any financial loss; and
- c) Placement of notes to the official status file of Staff Members.

4.9 Staff Members with a supervisory role

4.9.1 Staff Members with a supervisory role, including Heads of Office, are responsible for:

- a) Reporting allegations of breaches of policies or procedures of UN Women to the external investigation service provider as soon as they become aware of such allegations;
- b) Addressing work performance related issues indicated by the circumstances of a case in accordance with the relevant policies and procedures; and
- c) As appropriate, issue letters of reprimand, after first obtaining the Staff Member's comments, or take other non-disciplinary measures.

4.10 All Staff Members

4.10.1 Staff Members, are responsible for:

- a) Reporting any breach of policies and procedures of UN Women to the external investigation service provider or their immediate supervisor, pursuant to staff rule 1.2(c) and paragraph 5.4; and
- b) Cooperating with any duly authorized audits and investigations pursuant to staff regulation 1.2 (r) and staff rule 1.2 (c) and paragraph 5.7.1(b).

5 Policy

5.1 Standards of conduct

5.1.1 Standards of conduct expected from Staff Members

- a) Staff Members shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity enshrined in the Charter of the United Nations includes all aspects of behaviour of an international civil servant, including such qualities as honesty, truthfulness, impartiality and incorruptibility.
- b) Staff Members must abide by the standards of conduct contained in Charter of the United Nations, the Staff Regulations and Rules of the United Nations, the Standards of Conduct for the International Civil Service as adopted by the International Civil Service Commission in 2013, the UN Women Financial Regulations and Rules, and other applicable policies,

procedures and administrative issuances including the Secretary-General's bulletin on "Special measures for protection from sexual exploitation and sexual abuse", ST/SGB/2003/13 Staff Members can also refer to the Secretary-General's bulletin on "Status, basic rights and duties of United Nations Staff Members", ST/SGB/2016/9. This document contains commentary to assist Staff Members and management in better understanding the obligations applicable to staff conduct. Staff Members are expected to know and respect the obligations stemming from their status, including as outlined in the online mandatory training, without UN Women being bound to remind them.

- c) Staff Members are required to know and comply with the required standards of conduct. Lack of knowledge of any rule, regulation or applicable policy, procedure or administrative issuance is no excuse, and will not amount to a defense for their case.

5.1.2 Additional standards of conduct expected from Staff Members with a supervisory role

- a) In addition to complying with the above standards of conduct, Staff Members with a supervisory role shall:
- Create and maintain a harmonious working environment, free of intimidation, hostility, offence and of any form of harassment, discrimination and abuse of authority, and seek the informal resolution of interpersonal conflicts, harassment, sexual harassment, discrimination and abuse of authority in the workplace, as appropriate, in accordance with the Prevention of Harassment, Sexual Harassment, Discrimination and Abuse of Authority Policy;
 - Communicate the policies protecting the rights of all UN Women personnel, such as the Prevention of Harassment, Sexual Harassment, Discrimination and Abuse of Authority Policy, Protection Against Retaliation Policy as well as this Policy to all Staff Members, and ensure that Staff Members are aware of the contents of the Secretary-General's bulletin on "Special measures for protection from sexual exploitation and sexual abuse", ST/SGB/2003/13, and know where to turn in case they have concerns or want to make a report;
 - Ensure that Staff Members with a supervisory role, themselves, do not engage in any Misconduct and do not create an intimidating, hostile, offensive, belittling, harassing work environment and/or demonstrate partiality, unfairness or favouritism;
 - Report allegations of possible Misconduct to the external investigation service provider as soon as they are aware of such allegations;
 - Ensure that all discussion, communications and actions are handled with extreme sensitivity and utmost confidentiality, using best efforts to ensure that no UN Women personnel is retaliated against; and
 - Ensure that personnel under their supervision undertake mandatory training within the required timeframe.

5.2 Misconduct

5.2.1 Misconduct for which disciplinary measures may be imposed includes, but is not limited to:

- Acts or omissions in conflict with the general obligations of Staff Members as set forth in article I of the United Nations Staff Regulations, chapter I of the Staff Regulations and Rules of the United Nations and other policies or procedures as applicable, including failure to comply with the standards of conduct expected from international civil servants;
- Unlawful acts (for example, theft, corruption, child-related conduct, fraud, smuggling, possession or sale of illegal substances or objects), wherever it occurs, and whether or not the Staff Member was officially on duty at the time;
- Assault, discrimination, harassment, sexual harassment, abuse of authority or threats to other Staff Members or third parties (see the Prevention of Harassment, Sexual Harassment, Discrimination and Abuse of Authority Policy);
- Sexual exploitation and sexual abuse as defined in the Secretary-General's bulletin "Special measures for protection from sexual exploitation and sexual abuse", ST/SGB/2003/13;
- Misrepresentation, forgery, or false certification, including, but not limited to, in connection with any official claim or benefit, the failure to disclose a fact material to that claim or benefit, or engaging in a knowing misrepresentation which has adverse consequences for the United Nations or UN Women;
- Misuse or mishandling of official property, assets, equipment or files, including electronic files or data;
- Action or omission to avoid or deviate from the UN Women Financial Regulations and Rules, policies and procedures, including inappropriate use of authorizing, approving, committing or verifying authority;
- Mishandling of contract obligations and relations with third parties leading to loss of property or assets, or generating liabilities for the United Nations or UN Women;
- Failure to disclose an interest or relationship with a third party who might benefit from a decision in which the Staff Member takes part including favouritism in the award of a contract to a third party;
- Breach of fiduciary obligations vis-à-vis the United Nations or UN Women;
- Misuse of office, breach of confidentiality, abuse of United Nations privileges and immunities, including misuse of the United Nations Laissez-Passer;
- Exaction or acceptance of funds, services or benefits, from a colleague or a third party in return for a favour or benefit;

- Failure to disclose promptly the receipt of gifts, remuneration or other benefits received from an external source by the Staff Member in connection with their official duties;
- Retaliation established under the Protection Against Retaliation Policy;
- Making false accusations and disseminating false rumours;
- Direct or indirect use of, or attempt to use, official authority or influence of the Staff Member's position or office for the purpose of obstructing an individual from reporting allegations of Misconduct, or cooperating with an audit or an investigation; and
- Abetting, concealing or conspiring in any of the above actions, including any act or omission bringing the United Nations or UN Women into disrepute.

5.2.2 Misconduct may also include assisting in, or contributing to, the act of Misconduct.

5.3 Unsatisfactory performance

Unsatisfactory work performance, when it does not come to the level of gross negligence or recklessness, does not constitute Misconduct and thus does not fall within the scope of this Policy. Performance-related issues are to be addressed pursuant to the Performance Management Policy.

5.4 Reporting allegations of possible Misconduct and breaches of policies and procedures of UN Women

- a) Pursuant to staff rule 1.2(c), Staff Members have a duty to report any breach of the policies and procedures of UN Women. This includes breaches by Staff Members, Affiliate Personnel, implementing partners, vendors and other third parties.
- b) Staff Members may report allegations of possible Misconduct or breaches of policies and procedures of UN Women to the external investigation service provider in the ways outlined at <https://www.unwomen.org/en/about-us/accountability/investigations>, or to their immediate supervisor or other appropriate supervisor within the division/office/section. In the event that a Staff Member reports possible Misconduct to the external investigation service provider, the Staff Member may do so anonymously by using the online reporting form found online at the link above. In the event that the Staff Member reports to the Staff Member's supervisor or other appropriate supervisor, the supervisor shall report the matter to the external investigation service provider via the link above.
- c) Reporting of allegations of harassment, sexual harassment, discrimination and abuse of authority must be undertaken considering the provisions of the Prevention of Harassment, Sexual Harassment, Discrimination and Abuse of Authority Policy. At any time following a report of alleged harassment, sexual harassment, discrimination and abuse of authority, UN Women may take management action or implement interim measures, which may

include reassigning or changing the reporting lines of alleged perpetrators, as further outlined in the Prevention of Harassment, Sexual Harassment, Discrimination and Abuse of Authority Policy.

- d) If a report of an allegation of sexual exploitation and abuse contains sufficient information to identify an act of sexual exploitation and abuse against an identifiable perpetrator or identifiable victim, IEAS will promptly put the information into the Secretary-General's online reporting database on sexual exploitation and abuse.
- e) If a Staff Member believes that there is a conflict of interest on the part of the person to whom the allegations of possible Misconduct are to be reported, the Staff Member may report the allegations to the next higher level of authority.
- f) All requests for protection following a report of possible Misconduct or cooperation with an audit or investigation under the Protection Against Retaliation Policy should be directed to the Ethics Advisor at ethics@unwomen.org. Other cases of retaliation that do not fall within the Protection Against Retaliation Policy may be reported to the external investigation service provider.

5.5 Administrative leave

- a) Pursuant to staff rule 10.4, a Staff Member may be placed on administrative leave at any time from the moment allegations of possible Misconduct are reported or detected, pending or during an investigation and until the completion of the disciplinary process.
- b) Staff Members at the D2 level and above, and Heads of Office may be placed on leave by the Executive Director, and with the exception of circumstance outlined in paragraph 5.5(f), Staff Members at the D1 level and below may be placed on leave by the Director, DMA.
- c) As a general principle, administrative leave with full pay (ALWFP) may be contemplated in cases where at least one of the following conditions is met:
 - The Staff Member is unable to continue performing the Staff Member's functions effectively, in view of the ongoing investigation or proceedings, and the nature of those functions;
 - Continued service by the Staff Member would create a risk that the Staff Member could destroy, conceal or otherwise tamper with potential evidence, or interfere in any way with the investigation or disciplinary process, including by retaliating against individuals protected under the Protection Against Retaliation Policy;
 - The conduct in question and/or the continued presence of the Staff Member at the office poses or may pose a security or financial risk to UN Women and/or its personnel, including the Staff Member concerned, or otherwise prejudice UN Women's interests or reputation;
 - The Staff Member's continued presence at the office could have a negative impact on the preservation of a harmonious work environment;

- There is a risk of a repetition or continuation of the alleged possible Misconduct.
- d) Administrative leave shall be with full pay except (i) in cases in which there is probable cause that the Staff Member has engaged in sexual exploitation and sexual abuse, or (ii) when the Executive Director decides that exceptional circumstances exist which warrant the placement of the Staff Member on administrative leave with partial pay or without pay because the possible Misconduct is of such gravity that it would, if established, warrant separation or dismissal, and there is information before the authorized official about that possible Misconduct that makes it more likely than not that the Staff Member engaged in the alleged Misconduct.
- e) Requests for placement of a Staff Member on administrative leave at the investigation stage should be addressed to the Chief, Legal Office. On the basis of the evidence presented, the Chief, Legal Office may recommend to the Executive Director or the Director, DMA, as applicable, that an individual be placed on administrative leave. Heads of Office in Headquarters and other locations **do not have the authority to place Staff Members on administrative leave, except as set out in paragraph 5.5(f).**
- f) Exceptionally, if the Head of Office considers that the circumstances require immediate action, they may decide to place a Staff Member at the rank of D-1 and below, excluding all the Heads of Office, on ALWFP; the Head of Office cannot place a staff member on administrative leave without pay. In such a case, the Head of Office must, **within 24 hours** of their decision to place the staff member on ALWFP, inform the Director, DMA of the decision, and, **within 48 hours**, provide all the relevant evidence documenting why they deemed that placement on ALWFP was urgently required and could not wait for the formal authorization of administrative leave to be granted. After review of the case, the Director, DMA shall determine whether administrative leave is justified:
- If the administrative leave is warranted, the decision to place the Staff Member on administrative leave signed by the Director, DMA shall supersede the Staff Member's initial placement on ALWFP by the Head of Office; and
 - If the administrative leave is not warranted, the Director, DMA shall revoke the decision to place the Staff Member on ALWFP.
- g) The Head of Office shall be held accountable if they improperly place a Staff Member on administrative leave or does not report their action in this respect within the prescribed timeframe.
- h) When a Staff Member is placed on administrative leave, the Staff Member shall:
- Be notified in writing of the reason(s) for being placed on administrative leave, of its probable duration and of its conditions;
 - Immediately surrender their grounds pass and/or United Nations Laissez-Passer; and

- Immediately surrender any UN Women property or assets they may have, when requested;
- i) Placement of a Staff Member on administrative leave shall not exceed three months at a time. Subject to the justification provided by the Chief, Legal Office to support an extension of the administrative leave, the Executive Director or the Director, DMA (where applicable) may extend the administrative leave for a further defined period not exceeding three months. There is no limit to the cumulative time a Staff Member may be on administrative leave, but the Executive Director or the Director, DMA (where applicable) shall try to limit the time on administrative leave as much as possible, and to this extent, alternatives to administrative leave such as a change in functions, reporting, training or a detail assignment, may be decided. The Executive Director or the Director, DMA (where applicable) may consult with the Director, HR, and/or Chief, Legal Office on the application of such measures.
 - j) A Staff Member placed on administrative leave shall not ordinarily be allowed to enter UN Women's premises without first obtaining written permission from the Head of Office. Such entry shall be under escort and in connection with the Staff Member's defense of the case or other valid reason justifying such entrance. Normally, the Staff Member placed on administrative leave shall not be precluded from remaining at, or returning to, the duty station. Special consideration should be made for staff residing in the United Nations or UN Women compound. The Staff Member placed on administrative leave has a duty to remain available for the purposes of cooperation with an investigation, to participate in the disciplinary process and follow any directions and instructions issued by UN Women and must ensure that they update as necessary during the period of administrative leave, their current contact information, including telephone number(s), personal email address(es) and current residential address.
 - k) The Staff Member placed on administrative leave may make a request to the Director, DMA to be granted access to files, provided that they justify that they are relevant to their case and provided that access will not be disruptive to UN Women operations or access otherwise needs to be restricted (such as where the Staff Member requests information that is confidential or privileged). The Director, DMA will decide in each case whether the Staff Member placed on administrative leave will or will not be given access to email.
 - l) The Staff Member placed on administrative leave shall not engage in any outside occupation or employment, whether remunerated or not, without approval by the Executive Director. Such approval can be sought by following the process outlined in the Procedure for UN Women Clearance for Outside Activities.

5.6 Preliminary assessment of reports of possible Misconduct

- a) The external investigation service provider shall acknowledge receipt of a report of possible Misconduct and undertake an initial assessment to determine whether, in its view, the information received relating to the allegation/s merits any action.
- b) If the external investigation service provider is of the view that the report does not contain sufficient information to warrant an investigation, the external investigation service provider may refer the reported conduct to UN Women for potential management action and close the matter. In such cases, the Director, IEAS may consult with HR, the Legal Office and other offices on potential managerial or other administrative actions. For such matters referred to UN Women, the Director, IEAS shall also determine whether an investigation, may still be warranted.
- c) If the external investigation service provider decides to investigate the matter, it will proceed to investigate the matter in accordance with paragraph 5.7.1 below. The external investigation service provider will investigate prima facie cases of retaliation referred to it by the Ethics Advisor and provide the investigation report to the Ethics Advisor, in accordance with the Protection against Retaliation Policy.
- d) If the external investigation service provider determines that the matter would be better handled by the Internal Investigation Function, it will transmit the matter (including the contents of the report made by the complainant, and all relevant supporting documentation) to the Director, IEAS. If the Internal Investigation Function decides to investigate the matter, it will proceed to investigate the matter in accordance with paragraph 5.7.1 below. If upon receipt of the transmission the Director, IEAS considers that it may be more appropriate for the external investigation service provider to investigate the matter, UN Women may request that the external investigation service provider reconsider the intake of the matter.

5.7 Investigation

5.7.1 Investigative process

- a) The rights and responsibilities of the Investigation Subject, participants and investigators as well as the different phases of the investigation are set out in the investigations manual of the external investigation services provider and related guidance materials, as well as the UN Women Investigation Guidelines, as applicable.
- b) Pursuant to staff regulation 1.2 (r) and staff rule 1.2 (c), Staff Members must cooperate fully and in good faith with a duly authorized investigation. If requested, a Staff Member must provide any records, documents, information and communications technology equipment or other information under the control of UN Women or under their control, as requested. Failure to cooperate may be considered Misconduct Staff Members must treat all matters relating to an investigation confidentially.

- c) The decision to conduct an investigation is not an accusation. The outcome of the investigation may or may not support a conclusion that Misconduct was committed and, if so, by whom. The outcome of the investigation shall be documented in a document prepared by the external investigation service provider or Internal Investigation Function, recording either; (i) in an investigation report together with any supporting documentation where the established facts constitute reasonable grounds to conclude that the Investigation Subject failed to observe the standards of conduct expected of an international civil servant; or (ii) that the case has been closed because the evidence did not substantiate the alleged Misconduct (in which case the Investigation Subject may be informed). In the instance of (ii), the external investigation service provider or Internal Investigation Function may issue an advisory memorandum, including lessons learned, that contains recommendations for management or an investigation report together with any supporting documentation where a conclusion is reached that the established facts constitute reasonable grounds to conclude that the Staff Member failed to observe the standards of conduct expected of a United Nations staff member. With the exception of investigations into allegations of retaliation in accordance with the Protection Against Retaliation Policy, this document shall be provided to the Executive Director, Director, IEAS and Chief, Legal Office who will then distribute and act upon as it is appropriate.
- d) Investigation reports and supporting documents received from the external investigation service provider that are premised on investigations into allegations of retaliation in accordance with the Protection Against Retaliation Policy, shall be forwarded to the Ethics Advisor only.

5.7.2 Separation including resignation while under investigation

- a) If the Investigation Subject resigns or otherwise separates prior to the completion of an investigation report, such a report may be finalised at the discretion of the external investigation service provider or Internal Investigation Function, as applicable, notwithstanding the Investigation Subject's resignation or separation.
- b) Should the investigation report be finalised, the Director, HR shall place a letter in the former Staff Member's official status file indicating whether, if the former Staff Member had remained employed; (1) a recommendation would have been made for charges of Misconduct to be initiated against them, or (2) whether or not they would have been cleared of the allegations of Misconduct; or (3) whether the matter would have been dealt with from a work performance standpoint, and if so, how (for example. via a letter of reprimand). The letter shall also indicate whether the former Staff Member resigned while under investigation, or whether their contract expired while under investigation. The former Staff Member shall be invited to comment on the letter, and the letter and the former Staff Member's comments will be placed in their official status file.
- c) Should the report not be finalised, the Director, HR shall place a letter in the former Staff Member's official status file, indicating that the former Staff Member; (1) resigned; or (2) the former Staff Member's contract expired while under investigation. The former Staff

Member shall be invited to comment on the letter, and the letter and their comments will be placed in their official status file.

- d) If the Investigation Subject transfers, or otherwise separates and accepts a position at the United Nations Secretariat or another United Nations organization prior to the completion of the report, the Director, IEAS may decide to transfer the matter to that UN entity.

5.8 Procedures following receipt of the investigation report

5.8.1 Clearance from the allegations of Misconduct:

- a) If the Chief, Legal Office considers that the allegations are not substantiated or the facts do not warrant disciplinary action, the Chief, Legal Office shall recommend to the Director, DMA:

- That the Staff Member be notified in writing that they have been cleared of the allegations of Misconduct, and that the matter be closed; the relevant Head of Office or the Executive Director of the organization to which the Staff Member is assigned, may be informed of such notification;
- If the Staff Member was placed on administrative leave, that the administrative leave be discontinued and that the Staff Member be authorized to resume their duties; and
- That documents related to the investigation be expunged from the Staff Member's official status file, except those referred to in paragraph 5.8.1(b)
- The Staff Member shall be notified in writing, as soon as feasible, of the decision of the Director, DMA concerning their clearance from the allegations of Misconduct.

- b) Work performance related issues:

- While the Chief, Legal Office may recommend that the Investigation Subject be cleared of the allegations of misconduct, the Chief, Legal Officer may determine that the conduct depicted in the investigation report and the circumstances of the case have shown unsatisfactory performance and/or poor judgement not amounting to misconduct on the part of the Staff Member. In such a case, the Chief, Legal Office may recommend to the Director, DMA to decide that:
 - a) An oral reprimand or letter of reprimand be issued by the Director, DMA or the relevant Head of Office or other responsible officer;
 - b) The investigation report (or extracts thereof) be included in the annual performance management document of the Staff Member and/or the official status file of Staff Members, as relevant; and/or
 - c) An appropriate training course be undertaken by the Staff Member.

5.8.2 Charges of Misconduct

- a) If the Chief, Legal Office considers that the facts indicate that Misconduct occurred, the Chief, Legal Office shall recommend to the Director, DMA to formally charge the Staff Member with Misconduct through the issuance of a Charge Letter.
- b) If the Director, DMA is satisfied that the facts indicate that Misconduct occurred, the Director, DMA shall: (i) issue a Charge Letter (which shall attach the investigation report) to the Staff Member notifying them in writing of the formal charges (which at the Staff Member's request may be translated into the working language of their duty station); (ii) give the Staff Member a specified period of time (normally at least ten (10) working days) to provide their comments on the charges and produce countervailing evidence, if any; and (iii) notify the Staff Member of their right to counsel to assist in their defense, and be informed as to how to obtain the assistance of the Office of Staff Legal Assistance.
- c) The Chief, Legal Office may, on an exceptional basis, grant an extension to the Staff Member to respond to the charges of Misconduct contained in the Charge Letter. Any request by the Staff Member should be accompanied by specific reasons for such an extension.

5.8.3 Procedures following the Investigation Subject's response to charges of Misconduct

- a) Upon receipt of the Investigation Subject's comments to the formal charges outlined in the Charge Letter, the Chief, Legal Office shall consider whether, in considering all of the evidence on record, including the Investigation Subject's comment, the Investigation Subject's conduct constitutes Misconduct within the meaning of staff rule 10.1, or, whether the Investigation Subject has given a satisfactory account of their behavior and should be cleared from the allegations of Misconduct. In the latter case, the Chief, Legal Office may also consider whether the circumstances indicate the need to address the conduct of the Investigation Subject as a performance issue. On the advice of the Chief, Legal Office, should the Director, DMA consider that the Investigation Subject's conduct constitutes Misconduct, they shall make a recommendation to the Executive Director as to the appropriate measure or measures, taking into account, *inter alia*, relevant case law and precedents.
- b) The Executive Director shall notify the Investigation Subject of the decision to impose a disciplinary sanction in writing. The Head of Office may also be informed of such notification. The Executive Director of the organization to which the Investigation Subject is assigned, will also be informed of such notification. A copy of the decision will be placed on the Investigation Subject's official status file.
- c) Where on the advice of the Chief, Legal Office, the Director, DMA considers that the Investigation Subject has given a satisfactory account of their behaviour in their comments to the formal charges and their conduct does not rise to the level of Misconduct, the Director, DMA shall make a recommendation to this effect to the Executive Director who has authority to decide on the clearance of an Investigation Subject of allegations of Misconduct. The Executive Director shall notify the Investigation Subject in writing of the clearance. The relevant Head of Office may also be informed of such a decision. The

Executive Director of the organization to which the Investigation Subject is assigned, shall also be informed of such a decision.

Disciplinary Measures

5.8.4 In accordance with staff rule 10.2 (a), the disciplinary measure or measures which the Executive Director may impose on a Staff Member, depending on the nature and gravity of the Misconduct in which the Staff Member has engaged, are the following:

- Written censure;
- Loss of one or more steps in grade;
- Deferment, for a specified period, of eligibility for salary increment;
- Suspension without pay for a specified period;
- Fine;
- Deferment, for a specified period, of eligibility for consideration for promotion;
- Demotion with deferment, for a specified period, of eligibility for consideration for promotion;
- Separation from service, with notice or compensation in lieu of notice, notwithstanding staff rule 9.7, and with or without termination indemnity pursuant to Annex III (c) to the Staff Regulations and Rules of the United Nations;
- Dismissal.

5.8.5 Paragraph 5.8.16 of this Policy specifies the effects of each of the above-mentioned measures.

Non-disciplinary measures

5.8.6 The conduct of the Investigation Subject may require other administrative action and/or measures. These do not constitute disciplinary sanctions. Under staff rule 10.2 (b), the following measures are not considered to be disciplinary measures:

- Written or oral reprimand;
- Recovery of monies owed to UN Women;
- Administrative leave with or without pay pursuant to staff rule 10.4.

5.8.7 Other measures may be taken such as recovery of monies from the Investigation Subject as a result of a failure to comply with their private legal obligations in accordance with the findings of a competent court, specific training to improve or further develop certain skills or the temporary reassignment to different, but equivalent-level, functions. Such measures do not constitute a disciplinary measure.

5.8.8 The recovery for any financial loss attributable to the Staff Member's misconduct, including gross negligence or recklessness pursuant to staff rule 10.1 (b) may be pursued in addition to the imposition of disciplinary measures.

5.8.9 The application of other means may be taken to conclude a case, including settlements, where the interests of the organization would be served by such action.

5.8.10 Separation including by resignation before disciplinary process

- a) If the Investigation Subject resigns or otherwise separates from service after the issuance of an investigation report but prior to the initiation of disciplinary proceedings through the issuance of a Charge Letter, upon review of the report and the comments of the Investigation Subject thereon, the Director, HR may decide to place a letter in the former Staff Member's official status file indicating whether, if the former Staff Member had remained employed; (1) a recommendation would have been made for charges of misconduct to be initiated against them; (2) whether or not the former Staff Member would have been cleared of the allegations of Misconduct; or (3) whether the matter would have been dealt with from a performance standpoint, and if so how (for example, via a letter of reprimand). The letter will also indicate whether the former Staff Member resigned or otherwise separated following an investigation. The former Staff Member will be invited to comment on the letter, and the letter and their comments will be placed in their official status file.
- b) If the Investigation Subject resigns or otherwise separates from service after the initiation of disciplinary proceedings but prior to the completion of the case and imposition of a disciplinary sanction, the Chief, Legal Office may nevertheless decide to proceed, and seek to obtain the comments of the Investigation Subject. Upon receipt of the comments of the Investigation Subject or an indication that the Investigation Subject does not wish to provide comments the Chief, Legal Office may conclude the matter as follows:
- Upon review of the comments from the Investigation Subject in accordance with this Policy, the Chief, Legal Office may determine that, if the Investigation Subject had remained a Staff Member, a recommendation would have been made to impose disciplinary sanctions on the Investigation Subject. The Chief, Legal Office may request the Director, HR to place a letter to this effect on the Investigation Subject's official status file. The letter will also indicate that the Investigation Subject resigned or otherwise separated from service following the issuance of a Charge Letter. The Investigation Subject will be invited to comment on the letter, and their comments will be attached to the letter from the Chief, Legal Office to be placed in their official status file;
 - The Chief, Legal Office may determine that, had the Investigation Subject remained a Staff Member, a recommendation would have been made to clear the Investigation Subject of allegations of misconduct without further consequences, or to clear the Investigation Subject of allegations of misconduct and treat the matter as a performance issue. In such a case, such a recommendation will be made to the Director, DMA who may formally and fully clear the Investigation Subject of allegations of misconduct or clear the Investigation Subject of allegations

of misconduct and issue a reprimand. Should the Chief, Legal Office determine that the Investigation Subject should not be cleared, the matter shall proceed as in the previous paragraph;

- If the Investigation Subject transfers, or otherwise separates and accepts a position at the UN Secretariat or another UN organization after issuance of an investigation report but prior to the initiation of disciplinary proceedings, the Chief, Legal Office may decide to transfer the matter to that UN entity; or
- The Director DMA may otherwise make a decision to close the matter without further action.

5.8.11 Future employment

- a) Staff Members who have been separated from service on grounds of Misconduct, whether with notice or compensation in lieu thereof, or dismissed, may not be appointed as Staff Members of UN Women at a later time or contracted on any Affiliate Personnel contract or agreement. This also applies to persons who on grounds of Misconduct were separated or dismissed by another organization, agency or subsidiary organ using the United Nations common system or salaries and allowances.
- b) Staff Members who have resigned during an investigation and/or disciplinary process shall be ineligible for re-employment with UN Women following their separation from service, unless the former Staff Member agrees to cooperate with an ongoing investigation and/or disciplinary process until its conclusion.
- c) UN Women may disclose to other employers, including other UN common system entities, who intend to appoint (former) UN Women Staff Members, information about disciplinary measures imposed on the (former) Staff Member, or that the (former) Staff Member refused to cooperate with an investigation and/or disciplinary process after separation. UN Women may also include in a certificate of service, an invitation for prospective employers to contact the Chief, Legal Office to learn about any aspect regarding the Staff Member's employment with UN Women.

5.8.12 Appeal against a disciplinary measure to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal

- a) Within ninety (90) calendar days of being informed of the decision taken in a Staff Member's case, the Staff Member against whom a disciplinary or non-disciplinary measure has been imposed following the completion of the disciplinary proceedings, may submit an application to the United Nations Dispute Tribunal, in accordance with Chapter XI of the Staff Regulations and Rules of the United Nations.
- b) A Staff Member may appeal against a judgement of the United Nations Dispute Tribunal to the United Nations Appeals Tribunal within sixty (60) calendar days from the issuance of the judgement, on grounds set out in staff rule 11.5.

5.8.13 Counsel to Staff Member

Representation by counsel is permitted when the Staff Member is charged with Misconduct and during disciplinary proceedings. The Staff Member can secure counsel from one of the following:

- Office of Staff Legal Assistance, United Nations: a Staff Member, who wishes to obtain the assistance of the Office of Staff Legal Assistance, may contact this Office at e-mail: osla@un.org, or telephone number: (1) 212-963-3957; or
- External counsel: If a Staff Member chooses to secure counsel from outside the Office of Staff Legal Assistance, it shall be at their expense (see staff rule 10.3 (a)).

5.8.14 Publication of disciplinary decisions

In the interests of transparency, the Executive Director shall inform the UN Women Executive Board of disciplinary decisions taken in the course of the preceding year and publish an annual disciplinary report of cases of misconduct that have resulted in the imposition of disciplinary and administrative measures, as well as cases of misconduct where the subject of an investigation resigned or otherwise separated prior to an allegation being substantiated. Such report shall be circulated to all UN Women personnel.

5.8.15 Local authorities

The Chief, Legal Office shall consider, in consultation with the UN Office of Legal Affairs, whether a referral to national authorities is appropriate, including whether a referral is required in accordance with UN General Assembly Resolution 62/63. Any such referral will be made in accordance with established mechanisms and procedures for such referrals.

Staff Members shall not report any possible Misconduct by Staff Members to local authorities except in the case of compelling emergency or an imminent threat or danger, after which the matter shall be immediately reported to the Chief, Safety and Security Service and the Chief, Legal Office.

5.8.16 Effects of implementation of disciplinary measures

a) Written censure

A written censure is a letter indicating that the Staff Member has committed Misconduct. The written censure is placed in the Staff Member's official status file and becomes part of their permanent record (a written censure is distinguished from a letter of reprimand, which is issued by a Staff Member with a supervisory role over the Staff Members. A letter of reprimand is not a disciplinary measure and may contain a specified period of time, after which it will no longer be considered part of the Staff Member's record).

b) Loss of one or more steps-in-grade

Loss of steps-in-grade means that the Staff Member's level within grade is reduced by the number of steps specified in the decision. As a result, the Staff Member loses any accrued period of service within the year the decision is implemented. The Staff Member shall be

eligible for subsequent in-grade increments on the anniversary date of the implementation of the disciplinary decision. In the event that the number of steps to be lost is greater than the Staff Member's current step, the staff member is placed at the lowest step on the salary scale for their grade and remains at that step for the number of years by which the decision exceeds the number of steps available before receiving the next increment on the scale.

c) Deferment, for a specified period, of eligibility for salary increment

Deferment of eligibility for salary increment means that for the stated time period of the deferment, the Staff Member's step is frozen, and, for that period, the Staff Member does not accrue any time to be credited towards eligibility for the next salary increment. In this instance, the anniversary date upon which the Staff Member would be eligible for the next salary increment is postponed for a period of time corresponding to the length of the deferment, and all future anniversary dates upon which the Staff Member becomes eligible for salary increments will change accordingly. Any period of service occurring between the date of the Staff Member's last salary increment and the implementation date of the deferment measure will be credited towards the Staff Member's next salary increment.

d) Suspension without pay for a specified period

Suspension without pay means that the Staff Member is not permitted to serve for a specified period of time, which normally does not exceed six months, during which the Staff Member's salary and allowances are withheld and any contribution which UN Women is paying in respect of medical insurance and pension is discontinued.

e) Fine

The Staff Member is assessed a monetary penalty, the amount of which is determined in proportion to the Staff Member's annual remuneration. The fine is either paid directly by the Staff Member or deducted from their emoluments in a lump-sum or schedule of payments. A fine shall be taken into account when assessing whether a Staff Member's performance has been satisfactory during the period in question.

f) Deferment, for a specified period, of eligibility for consideration for promotion

Deferment of eligibility for consideration for promotion means that for the stated time period of the deferment, the Staff Member cannot be considered for promotion to any posts.

g) Demotion with deferment, for a specified period, of eligibility for consideration for promotion

Demotion means a reduction in grade, normally the Staff Member's immediate grade below, unless the decision provides for a demotion by more than one grade. Demotion is implemented like a reverse promotion. As a result, the Staff Member is placed at the closest step in the grade below their present grade, which provides a decrease in net base salary to at least the amount that would have resulted from the granting of two steps at the higher grade. If the demotion is effective in the month in which an increment at the higher step is due, such increment is implemented, and the above subtraction is effected on the basis of the

new step. The demotion decision shall specify the period of time during which the Staff Member shall not be eligible and considered for promotion. The date of the next salary increment at the lower level becomes the anniversary date of the demotion.

h) Separation from service, with notice or compensation in lieu of notice, notwithstanding staff rule 9.7, and with or without termination indemnity pursuant to Annex III (c) to the Staff Regulations

- The decision shall specify whether the separation from service is: (i) with notice or compensation in lieu thereof; and (ii) with or without termination indemnity.
- The termination notice or compensation in lieu thereof, shall not be less than three months for permanent appointments and continuing appointments, not less than thirty (30) days for fixed-term appointments, and not less than fifteen (15) days for temporary appointments, or such period as may be stipulated in the letter of appointment.
- In lieu of the serving of the notice period, the Executive Director may authorize payment of compensation on the basis of the salary and allowances which would have been payable if the date of termination had been at the end of the notice period. In such a case, all salaries, allowances and other benefits which the staff member would have received had they served the period of notice, are taken into account, including post adjustment, dependency allowances, special post allowances, education grant, etc. The period is counted in the calculation of terminal payments, but annual leave does not continue to accrue. The salary paid in lieu of notice is not pensionable and the period is not counted as contributory service. Unless the Staff Member requests that it be excluded, any contribution which UN Women is paying in respect of medical insurance is continued during the period of notice.
- If the Staff Member is granted termination indemnity, this indemnity does not exceed half of the amount calculated pursuant to Annex III to the Staff Regulations.
- Subject to the conditions of eligibility, a Staff Member separated from service is entitled to repatriation grant.

i) Dismissal

Dismissal means immediate separation from service. A Staff Member who is dismissed is neither entitled to termination notice or compensation in lieu thereof, nor to any termination indemnity pursuant to Annex III to the Staff Regulations, nor to repatriation grant pursuant to staff rule 3.16.

6 Anti-Fraud Controls

UN Women is committed to preventing, detecting and responding to all acts of fraud and other proscribed practices. Fraud prevention, detection and correction measures are an important component of the organization's anti-fraud and enterprise risk management frameworks. Effective fraud prevention and detection measures safeguard the organization's resources and support the integrity of the organization while protecting its reputation.

7 Exceptions to this Policy

- 7.1 Exceptions to this Policy are strongly discouraged, are permitted only in very limited circumstances, and require pre-approval by the Executive Director. The process to be followed in the unlikely event that an exception to this Policy is required is outlined in paragraph 5.9 of the Policy, Procedure and Guidance Framework Procedure.
- 7.2 A deviation from this Policy that has not been pre-approved by the Executive Director will be classified as a post-facto case and is not permitted.
- 7.3 It is not acceptable under any circumstance for personnel to take any action that is inconsistent with this policy as this could lead to reputational, financial, governance and other types of risks.
- 7.4 Staff Members who do take any action that is inconsistent with this Policy will be held accountable for their actions and this may amount to misconduct.
- 7.5 Monitoring and reporting on exceptions: The content owner of this Policy (Chief, Legal Office) has an obligation to monitor the validity and application of all approved exceptions to this Policy and the related procedures (where granted), and to report to the Internal Policy Management Team on a quarterly basis, on the validity of these exceptions.

8 Other Provisions

This Policy supersedes the Legal Policy for Addressing Non-Compliance with UN Standards of Conduct dated 30 July 2018.

9 Relevant documents

- 9.1 Staff Regulations and Rules of the United Nations
- 9.2 Standards of Conduct for the International Civil Service
- 9.3 Secretary-General's bulletin on "Special measures for protection from sexual exploitation and sexual abuse", ST/SGB/2003/13
- 9.4 Prevention of Harassment, Sexual Harassment, Discrimination and Abuse of Authority Policy
- 9.5 Protection Against Retaliation Policy
- 9.6 Anti-Fraud Policy
- 9.7 Charter of the Independent Evaluation and Audit Services
- 9.8 UN Women Investigation Guidelines