



**Policy and Procedural Guidelines:
Addressing Resettlement Fraud Perpetrated by Refugees**

**Resettlement Service
Division of International Protection Services
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Table of Contents

Introduction.....	3
Definition of resettlement fraud	3
Policy objectives	3
Consistency with UNHCR cancellation guidelines	4
Procedures	4
Step One – Pre investigation procedure	4
Appointment of staff members responsible for an investigation	5
Role of the Resettlement Service, Geneva.....	5
Suspension of resettlement processing pending investigation	5
Step Two – Investigation	5
Confidentiality	6
Children.....	6
Interpreters	6
Procedural considerations	6
Investigation report	7
Decision making upon investigation report.....	7
Automatic review process where fraud is established	7
Notification of the decision.....	8
Notification/ general publication of the final decision.....	8
Basic considerations in determining an appropriate response.....	8
Deciding on appropriate corrective actions and sanctions	9
Corrective actions	10
Sanctions	10
Limiting access to UNHCR premises to ensure staff safety	10
Refugee fraud allegations arising after resettlement has taken place.....	11
Annex I – Procedural Flowchart. Investigation of Alleged Resettlement Fraud by Refugees	12
Annex II – Procedural Guidelines for Investigating Alleged Resettlement Fraud by Refugees	13
Annex III – Indicative Sanctions Matrix for Refugees Found to Have Engaged in Resettlement Fraud	14

Introduction

1. UNHCR has clearly stated its commitment to combat fraud and corruption in order to preserve the integrity of resettlement programs.¹ Properly addressing fraud enhances the credibility of UNHCR and increases UNHCR's ability to execute its mandated responsibilities.
2. It is by consistently addressing resettlement fraud and making communities aware that appropriate sanctions are being taken that the consequences of committing resettlement fraud will become known. UNHCR's firm commitment to combat fraudulent acts will thus be fully understood and individuals will be more likely to refrain from attempting resettlement fraud.
3. Where sanctions are imposed, they will vary depending upon such circumstances as the differing national protection environments as well as the type, degree and motivations for fraud, and the unique situations and pressures that refugees face. A careful balancing of the protection need of the refugee and his or her family against the seriousness of the fraud committed will be required.

Definition of resettlement fraud

4. Resettlement fraud is fraud committed in the context of resettlement processing, and may include ongoing fraud committed at an earlier stage of refugee processing. This can be defined for operational purposes, as **'the intentional misrepresentation or concealment of facts or evidence material to the resettlement process with the intent of obtaining a resettlement or other benefit for the refugee concerned or for another individual who otherwise would not be entitled to be resettled or to obtain such a benefit'**.

Policy objectives

5. This policy seeks to safeguard the integrity of the resettlement program and of UNHCR's operations in general by enhancing the effectiveness of the response to resettlement fraud perpetrated by refugees. The policy is intended to bring about a deterrent and preventative effect to fraud as well as to ensure that persons not eligible for resettlement do not benefit from this durable solution. It also seeks to systematize and bring consistency to the sanctions currently being taken in the field.
6. The key objectives of the policy are:
 - To provide staff with policy guidelines and background information that will guide their responses in addressing situations where refugees and other individuals have committed resettlement fraud;
 - To ensure that actions taken with respect to fraud, including sanctions taken against refugees, are proportionate and consistent; and,
 - To change the behaviour and attitudes of refugees and other individuals who might be tempted to engage in resettlement fraud, through prevention and deterrence

¹ See for example, Goal 5, Point 6 of UNHCR Agenda for Protection, Third Edition, October 2003; Paragraph 31 of the Multilateral Framework of Understandings on Resettlement, 16 September 2004; Introduction to UNHCR, Resettlement Anti-Fraud Plan of Action; UNHCR Memorandum, "Cooperation in addressing allegations of resettlement fraud" from Director DIP and Inspector General, 6 April 2005.

7. Some key principles underlying the guidelines are:

- UNHCR's international protection mandate is not undermined and respect for fundamental human rights of individuals found to have been involved in resettlement fraud as well as of other refugees, individuals and persons of concern must be respected. These standards should provide guidance on the limits of actions which can be taken or sanctions which can be imposed;
- Cases must be decided on an individual basis and in a holistic manner taking into account the definition of resettlement fraud as provided above, and also considering the responsibility of the individual concerned and the nature of the involvement;
- Corrective actions and sanctions and their consequences must be proportional to the fraud committed and should take into account the motive of the person concerned; and
- Where practicable, corrective actions and sanctions should have minimal impact on close relatives or other refugees who have clearly not conspired, connived or abetted the fraud.

Consistency with UNHCR cancellation guidelines

8. Where it is discovered that there may have been fraud in the Refugee Status Determination (RSD) process or that potentially affects the individual's refugee status, then the case should also be considered in accordance with the UNHCR's guidelines on the cancellation of mandate refugee status.²

Procedures

9. Please refer to Annex I for a descriptive flowchart of actions.

Step One – Pre investigation procedure

10. This pre-investigation procedure is designed to exclude matters where, for example, baseless allegations are made.

11. Allegations of fraud/wrong-doing/malfeasance on the part of any UNHCR staff member or person with a contractual relationship to UNHCR (such as UNV or consultant) should immediately be referred to the Inspector General's Office (IGO) for investigation. With regard to allegations against the staff of implementing partners, the IGO may be approached for advice on how or whether to proceed.³ All communications with the IGO are treated in confidence.

12. Where allegations of resettlement fraud by refugees come to light, they should immediately be referred to the Representative of the country office concerned (or his or her delegate). The Representative (or his or her delegate) should then determine whether formal investigation of the allegations is warranted. Formal investigation would be warranted if there is some evidence that fraud could have been committed. The Resettlement Service and relevant Bureau at UNHCR Headquarters should be informed where the Representative decides to proceed to a formal investigation.

² UNHCR guidelines on the cancellation of mandate refugee status; IOM077/2004 FOM079/2004 of 22 November 2004.

³ See *The role, functions and modus operandi of the Inspector General's Office*, UNHCR/IOM/054/2005; FOM/054/2005. The IGO's office can be contacted via confidential email at inspector@unhcr.org or by phone hotline +41-22-739 8844 or confidential fax+41-22-739-7380

13. If it is decided by the Representative that formal investigation is not warranted due to insufficient evidence, then the case should be closed, but a record kept on the refugee file for possible future reference.

Appointment of staff members responsible for an investigation

14. If it is decided by the Representative that a formal investigation is warranted, and the case does not potentially involve fraud by staff members, then the Representative should seek to appoint one or two (preferably experienced) international staff members to investigate the matter. Where staff members are not available or specialised experience is required, the Representative may call on Regional Resettlement officers or the Resettlement Service, Division of International Protection Services, for assistance/ field mission by specialist resettlement staff.

Role of the Resettlement Service, Geneva

15. The Resettlement Service, Division of International Protection Services (DIPS) has a central co-ordinating and quality control role in respect of resettlement fraud. The Resettlement Service will keep a global record/ inventory list of all occurrences of Resettlement fraud. The Resettlement Service also regularly liaises with resettlement countries whose programs may be affected by resettlement fraud. Senior Regional Resettlement Officers are also available as a resettlement fraud resource and should be contacted to provide advice and guidance as required.

Suspension of resettlement processing pending investigation

16. Where a formal investigation is conducted, all resettlement action related to the case should be suspended from further processing pending the final result of the investigation. Exceptionally, where suspension may be inappropriate in the circumstances, for example urgent resettlement appears to be the only option to safeguard against *refoulement* of the refugee, then the Resettlement Service, DIPS, may be consulted to assist in determining the way forward.
17. Where appropriate, the concerned resettlement countries and other relevant actors should be informed about the initiation of an investigation and suspension of the resettlement process for the case concerned. This would normally be done in conjunction with the Resettlement Service, DIPS. It is noted that IOM071/2001/FOM068/2001 of 24 August 2001 from the Director of DIP, entitled "Confidentiality Guidelines" includes a section on "Sharing of IC Information with Countries of Resettlement".
18. Where there is an indication of possible widespread, systematic resettlement fraud relating to a significant number of cases, resettlement processes may be suspended in relation to specific partners or caseload or in its entirety as deemed appropriate. Such wider suspension should be undertaken only after consultation with the Resettlement Service and the relevant Bureau.

Step Two – Investigation

19. General procedural guidelines for planning, conducting, and reporting investigations in a professional manner are attached at Annex II. Additional advice and guidance on investigations can be sought from the IGO.

Confidentiality

20. All appropriate measures must be taken to protect individuals, whether refugees or staff members reporting substantiated allegations of fraud.

Children

21. Where a child, that is a person under 18, is suspected of being involved in committing resettlement fraud, or is to be interviewed in connection with another individual committing resettlement fraud, UNHCR staff should proceed in line with the procedural standards applicable to refugee status determination procedures involving children, especially with regard to interviewing and obtaining evidence/information.⁴ These dictate, *inter alia*, that the best interests of the child should be a primary consideration, and that a child's views and individual responsibility need to be assessed in light of his or her age, mental capacity and maturity, and any other relevant circumstances.
22. Consideration should be given to conducting a Best Interest Determination (BID) before any actions are taken affecting unaccompanied or separated children⁵.

Interpreters

23. Where possible, interpreters of the same sex and who are not from the same population as the refugee or individual concerned should be used, particularly in cases involving allegations of a sexual nature.

Procedural considerations

24. In addition to the procedural guidelines outlined at Annex II, formal investigations should include the following steps:
 - Reviewing the individual file of the refugee/s alleged to have committed fraud, and where appropriate, seeking to interview anyone who may be able to provide information to establish basic factual elements of the alleged fraud. While there are no powers to compel a person to participate in an interview, investigators should seek voluntary cooperation in this regard;
 - Interviewees should be informed, preferably in writing, that any information provided as part of the investigation could potentially be made available to local law enforcement authorities for consideration of appropriate follow up action including criminal prosecution;
 - Interviewing the refugee or individual concerned and providing him/her the basic factual and evidentiary elements of the alleged fraud. The refugee should be apprised as fully as possible of the allegations as well as the circumstances surrounding the alleged fraud, and provided a reasonable opportunity to provide a response. There may be circumstances where the individual concerned is not apprised of the allegations until after some initial measures are taken to ensure integrity of investigative processes. Where persons do not cooperate or are evasive in the interview process, then they should be advised that adverse inferences may be drawn;

⁴ See UNHCR, "Procedural Standards for Refugee Status Determination under UNHCR's Mandate", December 2003, paragraphs 3.4.5 and 4.3.7

⁵ See UNHCR Guidelines on Formal Determination of the Best Interests of the Child, May 2006. Available at: <http://www.unhcr.org/cgi-bin/tehis/vtx/refworld/rwmain?docid=447d5bf24>.

- If appropriate, investigating further based on the response of the refugee concerned. This could be undertaken through interviews of relevant persons, obtaining information from all relevant sources and further interviews of the refugee concerned;
- Recording in writing all interviews and available evidence. Interviews of the refugee should be fully recorded, preferably in a question and answer format. Interviews may also be undertaken by audio tape recording.

Investigation report

25. The investigators should prepare a short report following the completion of interviews. The report should include 3 parts:
- Part 1 – findings of facts and evidence, namely: (i) specifics of the allegations (ii) methodology and details of the investigations, including procedural safeguards taken in relation to children or other vulnerable persons and (iii) evidence obtained and statements made during interviews;
 - Part 2 – analysis and conclusions drawn: whether there is reasonable satisfaction that fraud has been committed by the refugee concerned; and;
 - Part 3 – recommendations on corrective actions and/or sanctions taking into account protection needs. This should include arguments for and against alternative sanctions (see factors below) and a recommendation of a particular action or sanction(s);

Decision making upon investigation report

26. The Representative will make a decision concerning the investigation report, indicating whether there is agreement with the conclusions/recommendations reached in all three parts of the report. The decision maker may agree with the report, or may request for further investigations based on specific questions or issues to be clarified for the purpose of reaching a decision or may impose a decision that differs from the conclusions / recommendations at Parts 2 and 3 of the report. The decision should be in writing and substantiated with reasons.
27. Where there is no reasonable satisfaction that fraud has been committed, then the refugee or individual concerned shall be notified verbally and in writing by the field office concerned, and the case shall be closed and records and proGres updated accordingly⁶.

Automatic review process where fraud is established

28. Every case where there is reasonable satisfaction that fraud has been committed will be the subject of an automatic review process by the Senior Regional Resettlement Officer. The purpose of the review process is firstly to re-look at all aspects of the investigation and decision making processes, and decide whether the decision, or any part(s) of the decision, should be varied or set aside in any manner whatsoever, and secondly to seek to ensure that there is wider consistency in terms of the outcome and/or sanction to be applied.

⁶ Where a decision has been taken to suspend resettlement processing for a certain period of time, the resettlement events in proGres should be updated to reflect this decision (non eligibility for resettlement submission for a certain period of time). A reference to sanctions should also be recorded in the resettlement event comments in proGres for reference without details about the context or details (e.g. 'Sanction: resettlement suspended for x year(s), see note for the file of ... date').

29. The Senior Regional Resettlement Officer *only* has the authority to confirm the initial decision. Where the Senior Regional Resettlement Officer decides that it would not be appropriate to confirm the initial decision, then the final decision should be taken by the Head of the Regional platform (Regional Hub or Regional Office) after consideration of the Senior Regional Resettlement Officer's reasoning. The review decision will be considered final.
30. Where there is no Regional platform or Regional Office then the case should be referred to the Head of the Resettlement Service (HRS) for a final decision. The HRS *only* has the authority to confirm the initial decision. Where the HRS decides that it would not be appropriate to confirm the initial decision, then the final decision should be taken by the Director of the relevant regional Bureau at Headquarters, after consideration of the HRS's reasoning. The review decision will be considered final.

Notification of the decision

31. The Field Office will inform the refugee or individual concerned of the final decision verbally and in writing with a summary of the reasons for the decision, as well as of the corrective actions and/or sanctions decided upon. The final decision upon review will also be recorded in the individual's file and in proGres.

Notification/ general publication of the final decision

32. Where possible, general notification or publication of the decision to the local refugee population is recommended, but should be done in a manner designed to protect personal identification of the refugee subject to action or sanctions. This may include publication on a bulletin board accessible to refugees and NGO / resettlement partners e.g. a notice stipulating that 'In accordance with the Resettlement anti-fraud policy of UNHCR, on (xx date), two individuals had their resettlement processing suspended indefinitely by UNHCR due to findings of resettlement fraud concerning use of bogus identity documents. The case has been referred to local authorities who are considering criminal prosecution for fraud '. The aim of such publicity is to generally publicize within the community that where fraud is established then sanctions are applied by UNHCR.

Basic considerations in determining an appropriate response

33. In determining the appropriate response in relation to corrective actions and/or sanctions to be adopted, the following basic considerations should be applied to guide the decision. The circumstances applicable to individual cases will vary considerably and therefore the considerations set out below are not exhaustive:
 - There is a clear distinction between cases for which resettlement would not have been considered if not for the fraud, where corrective action would generally remove resettlement as an option, and cases that have legitimate grounds to be submitted for resettlement, notwithstanding the fraud, which should not be denied resettlement;
 - Principles of proportionality. For example where a refugee is at risk of *refoulement* and is in need of resettlement, then resettlement should not be denied; similarly life saving forms of assistance should not be denied to a refugee;
 - Whether resettlement remains an important protection option for the individual, notwithstanding the fraud. In such circumstances it may be appropriate to consider whether effective protection may be achievable by other actions (e.g.

transfer from an urban to a camp situation or from one part of the country to another);

- Whether the durable solution (resettlement) is for specific protection needs broadly speaking or is to achieve a durable solution (that is, no specific protection need);
- Whether the protection environment in the country of asylum is favourable or otherwise both in general and with respect to the specifics of the case at hand;
- The resettlement criterion and priority under which the case was submitted and any changes to that assessment/ status that may have occurred since the time of the initial resettlement assessment;
- The motivation for the fraud including mitigating and aggravating factors.

34. Mitigating factors tend to decrease the seriousness of the fraud, and may include for example:

- The fraud was committed out of desperation due to a perceived lack of services or durable solutions or other options;
- The refugee or person concerned readily admitted to the fraud and cooperated with the investigation;
- There is a suggestion of coercion by immediate or extended family, ethnic group or others, or some sort of related manipulation.

35. Aggravating factors tend to increase the seriousness of the fraud, and may include for example:

- The fraud was premeditated, e.g. where it was initiated in conjunction with an organized criminal enterprise;
- The refugee denied, or was persistent in denying fraud when confronted with the facts;
- The lengths to which the refugee went to enable or perpetrate the fraud (using fraudulent documents, encouraging or paying others to collaborate in the fraud);
- The nature of any additional benefit, if any, beyond the achievement of resettlement that may accrue to the refugee (e.g. financial, or other);
- There was exploitation, including sexual exploitation and/or abuse of others;
- The Office has in place strong anti fraud messages reaching out to the refugee community and the refugee concerned was clearly aware of the consequences of resettlement fraud.

Deciding on appropriate corrective actions and sanctions

36. UNHCR's protection mandate should always be observed when deciding upon actions or sanctions. *Non-refoulement* and basic standards of human rights are also central when considering corrective action and sanctions.

37. Field offices should consider proportionate actions or sanctions that do not threaten protection, health or other basic or important needs including the provision of food, legal or protection counselling and the education of children. Such actions or sanctions that are appropriate or effective in light of local conditions and experience of staff members should also be considered.

38. In principle, corrective action must be taken, while there is discretion as to the imposition of additional sanctions.

Corrective actions

39. Corrective actions serve to rectify incorrect actions taken as a result of the fraud. It serves to replace the incorrect actions with the appropriate correct actions. For example, where a refugee has been submitted for resettlement due to a resettlement fraud, and if not for the fraudulent act, the case would not have been submitted, the corrective action would be to withdraw the submission. Similarly, where due to resettlement fraud, a refugee case was mistakenly submitted as a priority case, the corrective action would be to de-prioritise it accordingly.

Sanctions

40. An indicative matrix of sanctions is attached at Annex III. This matrix is provided as a guide only and should be interpreted with an understanding that sanctions may vary considerably due to a range of factors, including individual protection needs, country circumstances, individual motives and mitigating/aggravating factors.
41. Sanctions are punitive in nature, and are imposed as an exercise of discretion, in addition to corrective action, with a view to penalising the individual for misbehaviour and to serve as deterrence to further fraudulent acts by the refugee concerned and by others. A non-exhaustive list of sanctions is provided below, noting that in particular cases it may be appropriate to apply one or more of the sanctions listed:
- An official warning to be included in the refugee's individual file for possible future consideration or action. Such a warning, should usually, as a minimum, be imposed in all cases where fraud has taken place;
 - Suspending resettlement processing of the case for a finite period (e.g. 1-3 years), or in more serious cases indefinitely;
 - Withholding non-essential services normally provided by UNHCR or its implementing partners for a limited period of time, (e.g. 1-3 years), or in more serious cases, indefinitely subject to ensuring that there is no violation of fundamental rights. Services relating to education, health, and legal or protection counselling are essential and as such should not be withheld;
 - Definitive termination of an individual's resettlement application, unless overwhelming protection considerations dictate otherwise;
 - Referring the case to local authorities to investigate and consider prosecution of the refugee under the local Criminal Code. Referral to local authorities should be considered if the fraud meets the local legal definition and where it is clear that the refugee or individual concerned is not placed at risk of *refoulement*, or at risk of violations of his or her fundamental human rights. Field offices should seek advice from the Legal Affairs Section (LAS) before taking this action. LAS will coordinate within UNHCR as appropriate.
 - Where resettlement fraud is particularly widespread, suspending resettlement operations in a country for a period of time should be considered in conjunction with the relevant Bureau and the Resettlement Service.

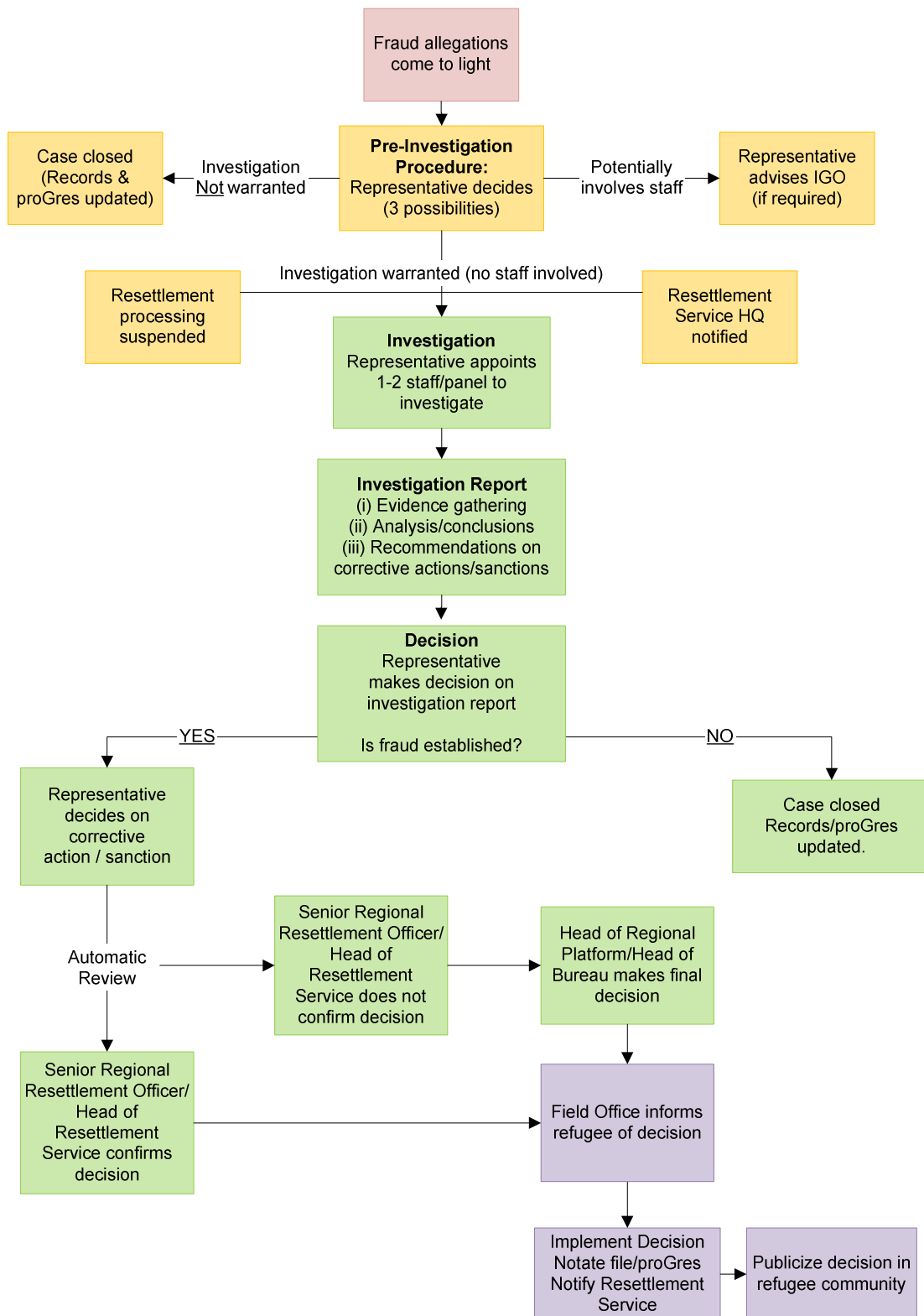
Limiting access to UNHCR premises to ensure staff safety

42. Denial of a person's public access to UNHCR premises is not an appropriate sanction under this policy. Where staff safety and security are however assessed to be at risk from the presence of a person found to have engaged in resettlement fraud, restricting and controlling physical access to UNHCR premises, in addition to any other sanctions applied, may be warranted.

Refugee fraud allegations arising after resettlement has taken place

43. When allegations of fraud arise after the refugee or individual concerned has been resettled, the details or allegations should be referred to the Representative to determine whether a formal investigation in accordance with this policy is warranted (see *Pre-Investigation procedure*). The Resettlement Service should immediately be advised of all such allegations and will communicate with the resettlement country concerned to keep them advised of developments relating to the case.
44. Where an investigation and decision making process establishes fraud then, to the extent possible, corrective actions and/or sanctions should flow in accordance with this policy. In more serious cases, and subject to any protection concerns including the prohibition of *refoulement*, corrective actions may include cancellation of the person's status by the resettlement country. Moreover, that country may also return the refugee or individual concerned to the former country of asylum because he or she would not have been resettled had the fraud not been perpetrated.

Procedural Flowchart Investigation of Alleged Resettlement Fraud by Refugees



Procedural Guidelines for Investigating Alleged Resettlement Fraud by Refugees

(I) Identification

Possible refugee fraud can be identified in the normal course of refugee protection activities where, for example, a discrepancy is noted in the individual case file. In addition, specific reports of impropriety may be received, either anonymously or from attributed sources, such as the refugee community itself.

(II) Planning

Where an investigation is to proceed, a simple plan should be developed indicating: 1) the nature of the possible fraud; 2) the means of gathering related facts; and 3) a schedule for required actions. The nature of the fraud will tend to establish the means of gathering facts most appropriate but in most cases the investigation begins with a review of records, including country of origin information, registration data, protection reports, IC files, medical records, etc. In some cases, home and/or camp visits may be necessary. Interviews with witnesses and the subject are likely to be required.

(III) Fact-Finding

▪ Records

It is advisable to collect all records and gather all background information that may relate to the circumstances of the fraud as part of the initial fact-finding. Records should be assessed for completeness, consistency and authenticity. This includes paper, electronic and other forms of records (e.g. tapes). Authentication is best made by the source of the document in question, for example the issuing authority of an Identification Document. Comparison with other known documents assumed to be authentic also can be useful

▪ Interviews

Interviews with witnesses and people with information relevant to the case must be well planned. Questions should be prepared in advance and a written record of the interview prepared. Where possible, the interview should be witnessed by a colleague. The credibility of witnesses should be assessed, for example by checking their statements for consistency against known facts and prior statements. Discrepancies may reveal a lack of honesty. Their motives should also be considered. Investigators need to be aware that refugees or witnesses may be eager to please and offer biased, incorrect or exaggerated information in order to gain favor, or due to frustration flowing from real or perceived disadvantages.

▪ Confidentiality

The investigation process should be kept strictly confidential. Fact-finding should be well-planned and timed to ensure a quick resolution once witness interviews have commenced in order to avoid potential breaches of confidentiality.

▪ Safety & Security

It is recommended that home visits and other activities outside the office that are related to the investigation be done with careful consideration of the risks of such actions weighed against the benefits. Consideration should also be given to alternative approaches that avoid potential risks. Where possible, the investigators should solicit the advice of UN security personnel and UNHCR personnel familiar with the environment to provide input to a Risk Assessment for the programme as a whole, i.e. that a risk assessment is done for the investigation of resettlement fraud, outlining potential risks, vulnerabilities and mitigating measures. This risk assessment should also consider the potential for risks to staff outside of the office (e.g. at residences).

(IV) Reporting

The final report (see main document for full description) should include a brief description of how the possible fraud was identified, the methodology for investigating and the facts as established through that process. All supporting documents and interview records should be attached.

**INDICATIVE SANCTIONS MATRIX FOR REFUGEES FOUND TO HAVE
ENGAGED IN RESETTLEMENT FRAUD***

*This matrix should be read in conjunction with paras 40-41 of the main text, and is provided as a guide only. Sanctions may vary considerably due to a range of circumstances, including individual protection needs, country conditions, individual motives and mitigating/aggravating factors. Consequently the examples of fraud given below may be more or less serious in individual cases and therefore be subject to different levels/types of sanctions than those indicated. Sanctions are applied in a discretionary manner, and in addition to corrective actions.

FRAUD – CATEGORY OF SERIOUSNESS	RESETTLEMENT FRAUD EXAMPLES	INDICATIVE SANCTION(S) EXAMPLES
<p><u>Level 1</u> Basic fraud</p>	<ul style="list-style-type: none"> • Falsification of part of personal information • Invention/omission of part of personal story 	<ul style="list-style-type: none"> ➤ Warning; and/or ➤ Suspension of resettlement processing (up to 3 years)
<p><u>Level 2</u> Serious fraud</p>	<ul style="list-style-type: none"> • Falsification of family composition • Falsification of significant element related to resettlement assessment • Attempted bribery of UNHCR officers • Identity fraud • Use of fraudulent documents 	<ul style="list-style-type: none"> ➤ Suspension of resettlement processing (3 to 10 years); or ➤ Termination of resettlement application; and ➤ Consideration of referral for criminal prosecution
<p><u>Level 3</u> Very serious fraud</p>	<ul style="list-style-type: none"> • Misrepresentation of medical condition to achieve resettlement • Concealment of material that would lead to Article 1F exclusion • Participation in an organised criminal enterprise • Trafficking of fraudulent identity documents 	<ul style="list-style-type: none"> ➤ Termination of resettlement application; and ➤ Consideration of referral for criminal prosecution