

DRAFT
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**Inter-Agency Standing Committee Task Force on
Protection from Sexual Exploitation and Abuse**

**Model Complaints and Investigation
Procedures and Guidance Related to
Sexual Abuse and Sexual Exploitation**

ACKNOWLEDGEMENTS

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¹ The National Society for Prevention of Cruelty to Children (NSPCC) is the UK's leading charity working to protect children from abuse. The NSPCC provides services to children and their families and campaigns on behalf of children.

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Executive Summary

Purpose and applicability

1. The model complaints and investigation procedure specifies the steps to be taken when sexual exploitation and abuse, and potentially other forms of abuse, of women or children is suspected and when that abuse is allegedly perpetrated by a (AGENCY NAME) staff member or staff of any other United Nations or partner agency. The purpose of the model is to facilitate a consistent and effective approach across all agencies in implementing the Secretary-General's Bulletin ST/SGB/2003/13, dated 9 October 2003, on "Special measures for protection from sexual exploitation and sexual abuse." This specifically applied to all UN agencies and their implementing partners, but the standards and procedures are recommended as applicable to all organisations working in an emergency or development context.² The model also provides some guidance for situations in which complaints are received by an (AGENCY NAME) but the affiliation of the perpetrator is unknown.

2. Sexual harassment of staff members is not included in the scope of these procedures.³

3. For the purposes of this model, "staff member" shall be taken to include any person who either works for or represents the (AGENCY NAME), regardless of whether or not they are compensated monetarily for such work or representation.

4. The conditions and obligations stated within the model complaints mechanisms will be applicable to non-staff personnel, consultants, interns and staff members of partner agencies or organizations which may be executing a project or undertaking any other work in the name of (AGENCY NAME). (see Annex 1, Terminology). The requirement to report would extend to concerns about anyone in a position of authority engaging in abusive or exploitative behaviour, including contractors, military or law enforcement personnel.

Part 1: Essential Elements of a Complaints Protocol

5. The purpose of the complaints protocol is to provide a fair and consistent means of addressing concerns with regard to violations of UN or [Agency Name] Staff Rules and Regulations and applicable codes of conduct [see, Annex 2] regarding sexual exploitation and abuse by a [Agency Name] staff member.

6. [Agency Name] staff are obliged to create and maintain an environment that prevents sexual exploitation and sexual abuse. Managers at all levels have a particular responsibility to support and develop systems that maintain this environment.

7. All (AGENCY NAME) staff must report internally any concerns, including both specific complaints and rumours, regarding possible sexual exploitation or abuse by a(n) (AGENCY

² While anyone can be a victim of sexual abuse, because of their unequal status, the majority of victims are women and children, including boys as well as girls.

³ Within the UN system, policies and procedures for handling cases of sexual harassment are set forth in ST/AI/379, entitled "Procedures for dealing with sexual harassment." NGOs should refer to existing relevant agency policy and procedures for dealing with harassment cases.

NAME) staff as defined in paragraph 3 and other persons outside of their respective agency. Failure to report information through the proper channel should result in disciplinary action. Complaints should be reported even when the institutional affiliation of the perpetrator unknown.

Concerns that must be reported include, but are not limited to:

- A practice or behaviour suggesting that a staff member has abused the power invested in him/her, by virtue of his/her post, to sexually exploit or abuse a beneficiary;
- An allegation that a staff member has breached [Agency Name]'s policy and rules regarding sexual exploitation and abuse outside the work environment (e.g. by engaging in a sexual relationship with a person under the age of 18);
- Concerns that cover a wide range of issues involving the exploitation of women and or children ranging from inappropriate behaviour to possible criminal offences;
- Concerns regarding the past behaviour of a staff member;
- Concerns expressed by a government partner, UN agency, NGO or INGO about the behaviour staff member.

8. It is essential that (AGENCY NAME) treats complaints concerning these and other possible violations regarding sexual exploitation and abuse by its staff very seriously, irrespective of whether they constitute illegal or prohibited acts in the country where they were allegedly committed. (AGENCY NAME) must carry out rigorous investigations when such concerns are raised about its staff, as described in the investigation procedures and resort to disciplinary proceedings when complaints are substantiated.

9. A clear and accessible referral system must be established in each setting so that all beneficiaries, including children, know how and where to go to make a complaint and receive assistance. A confidential mechanism for lodging a complaint must be accessible to all staff, partners and beneficiaries, irrespective of the individual's sex, age, physical ability, language level of literacy, ethnicity, or any other background characteristic, that allows him/her to make a complaint safely. To accommodate anonymous complaints, mechanisms such as complaints boxes should be in place and their whereabouts made known so that complaints can be made anonymously if so desired. Procedures should be developed by each Agency to ensure reasonable confidentiality of witnesses and the security of all relevant records and documentation.

10. Information made available to beneficiaries in camp situations should include details of designated complaint focal points that are trained and able to receive a complaint. Children must be able to access designated focal points and related information in ways that are child-friendly.

11. UN agencies and their implementing partners should each appoint an official at a sufficiently high level to serve as a focal point for receiving reports on cases of sexual exploitation and sexual abuse.

There should be an overall inter-agency network on sexual abuse and exploitation that includes the focal points designated by the agencies, departments and organizations. Present. This will facilitate regular consultations with representatives of all relevant organizations including national government authorities, NGOs, and INGOs.

12. Inter-agency reporting and referral procedures that clearly identify roles and responsibilities of individuals within the system must be agreed upon, and a simplified version translated into the appropriate local languages, and well publicised. There should also be an agreed process by which the effectiveness of any inter-agency system can be monitored and evaluated.

13. It is the responsibility of the staff member to report a concern/complaint via the process outlined in the complaint procedures.

The following is an overview of the procedures to be followed in making/receiving a complaint (further details are provided in *the Complaints Protocol found in the Sexual Exploitation and Abuse Complaints and Investigations Procedures and Guidance document*):

13.1 The first point of contact should be the line manager or the focal point designated pursuant to the Secretary-General's Bulletin (section 4.3).

13.2 If the staff member genuinely believes that this reporting route is compromised, or that s/he would be victimised or s/he has no confidence in the [AGENCY NAME] local management structure, then the complaint should be raised directly with another [AGENCY NAME] manager or focal point at the regional or headquarters level.

13.3 In exceptional circumstances, the complaint could also be made to another UN agency or department if the staff member genuinely believes that raising the matter within [AGENCY NAME] would not be effective, or could result in further victimization, or if s/he has already disclosed the matter to [AGENCY NAME] but no effective action has been taken.

13.4 It is suggested that the complaint should be recorded or should be written using a standard complaint referral form (Appendix 1- Complaints Protocol), which should be signed and dated. [AGENCY NAME] must ensure that the individual who makes a complaint is informed of the [AGENCY NAME]'s policy on confidentiality. [AGENCY NAME] may wish to obtain a written consent from the complainant for the information to be made available to others within the complaint management system.

13.5 Once a complaint or report is made, the manager or designated focal point who receives the information should immediately report it to [AGENCY NAME]'s designated focal point at headquarters. Once the complaint is received, the Head of [AGENCY'S NAME], in consultation with the agency focal point and the Head of Office or Mission will consider the appropriate steps to take, including the initiation of preliminary inquiry or an investigation as per the Investigation Procedures.

13.6 Any investigation that is undertaken must be completed, regardless of whether the alleged perpetrator is still a(n) (AGENCY NAME) staff member. In the event that a complaint does not warrant a full investigation, the Head of Office or Mission may nonetheless be asked to take a number of steps to address concerns in other ways, (for example, addressing matters of poor practice via training, a change in working arrangements or a change in procedures).

13.7 If the complaint involves staff of other UN agencies, NGO partners, military personnel or non-staff personnel, such agencies must be informed of the complaint via established mechanisms.

Where the complaint involves personnel of more than one agency, consideration must be given to conducting a joint investigation in the interests of information and resource sharing, as well as limiting the number of interviews necessary. This would be coordinated through a joint strategy meeting, convened urgently to discuss the complaint and agree on a course of action.

13.7 bis: If the complaint involves allegations against persons who could be UN staff or partners, even when the precise affiliation of the person(s) is unknown, the matter should be referred to the inter-agency network, and consideration should be given to conducting an interagency investigation to ensure that ‘rumours’ are addressed expeditiously.

13.8 [AGENCY NAME] must inform the subject of the complaint against them. He or she must be given an opportunity to answer the allegations in writing and to produce evidence to the contrary.

14. Staff members should be reassured that there will be no action taken against any member of staff who reports in good faith information indicating a violation of the [AGENCY NAME]’s Staff Rules and Regulations and applicable codes of conduct regarding sexual exploitation and abuse and which, following investigation, proves unfounded. However, if a staff member knowingly and wilfully reports false or malicious information regarding another member of staff, such false reports will lead to disciplinary action.

15. A detailed record of information gathered via the complaints protocol should be kept confidentially on file as it may be used in subsequent disciplinary or legal action. Every effort must be made to ensure the security of such files. (See section on “The recording of information, suspicions or concerns” in the Sexual Exploitation and Abuse Complaints Procedure for a list of essential information to be recorded.)

16. Complaint protocol and investigation procedures should include systematic monitoring and evaluation and be subject to audit and review for lessons learned.

Part 2: Needs of the Victim

17. Urgent medical assistance and counselling must be made available to anyone who was potentially harmed by any alleged sexual exploitation or sexual abuse. This will generally be through referral to the appropriate service provider. The physical and psychological well-being of any such victim must be a primary concern throughout the reporting and investigation process.

18. It is particularly important that, where the complainant is a beneficiary, the staff member receiving the complaint considers whether the beneficiary has ongoing needs requiring protection or assistance. There may be immediate safety needs if the beneficiary is returning to an unsafe situation, or immediate health and psychological needs, particularly if there was a risk of transmission of disease. As [AGENCY NAME] is responsible for the action of its staff, every

effort must be made to ensure that any victim of sexual exploitation or abuse is provided with the necessary means for protection and rehabilitation. This will generally involve referral to other organisations able to address these needs.

19. Staff members working for or on behalf of [AGENCY NAME] will provide complainants of sexual or gender based violence with full information and advice on existing redress and compensation mechanisms and/or procedures. Such information shall include at the minimum the contact or addresses where claims may be filed and any network helping complainants in the filing of claims or which would otherwise support them.

Part 3: Essential Elements of Investigative Procedures

20. The investigation of complaints should be conducted with due regard to a number of key principles including, but not limited to; confidentiality, safety, impartiality, objectivity, thoroughness, timeliness and accuracy as well as safeguarding the due process rights of the alleged perpetrator. It is incumbent upon (AGENCY NAME), in cooperation with relevant agencies or local institutions, to do all in its power to protect witnesses and victims and to promote their safety and welfare. All individuals concerned, including the subject of the complaint, have the right to be treated with respect and dignity and to be kept informed of the progress of the investigation.

21. The [AGENCY NAME] must designate a senior member of staff or focal point to assume responsibility for the oversight and monitoring of the investigation. The designated senior member of staff or focal point will be responsible for ensuring that an investigation is undertaken according to the principles of confidentiality, safety, impartiality, objectivity, thoroughness, timeliness and accuracy, in line with (AGENCY NAME'S) established sexual exploitation and abuse investigation procedures, and local inter-agency agreement or procedures. Consequently, the senior member of staff or focal point should be trained in investigation skills and in dealing with sexual exploitation and abuse complaints.

22. It is essential that all organisations establish procedures that detail actions to be taken and allocate clear and specific roles and responsibilities. *(A detailed description of the issues to be addressed and the designation of specific roles and responsibilities is outlined under "Responsibilities" in the Sexual exploitation and abuse Investigation procedures guidance)*

23. In cases where multiple agencies are implicated in the complaint, all such agencies must be involved in the investigation and consideration given to conducting a joint investigation.

24. In order to ensure professional care and competence, investigators, managers and human resources staff must receive appropriate training in the skills and knowledge required to fulfil their responsibilities. A "pool" of investigators from internal and external sources should be established.

25. Investigators are appointed by the Head of [AGENCY NAME] or senior management and are provided with Terms of Reference and delegated authority. [AGENCY NAME] will ensure that all investigators receive the necessary training to undertake interviews of women and children who have been sexually exploited and abused.

26. Investigators are responsible for developing a written plan of the investigation and conducting the investigation in accordance with established complaint procedures.

27. The general principle of confidentiality is such that the disclosure of the identity of complainants, witnesses, victims/survivors, the subject of the complaint and any others involved in an investigation, is restricted and is permitted only on an authorised or “need to know” basis, and only in certain exceptional circumstances. A breach of confidentiality may lead to disciplinary action.

28. The [AGENCY NAME] owes a duty of care to the subject of the complaint, which includes conducting a fair and impartial investigation.

29. Interviews should be conducted in a safe and supportive environment and in accordance with the principles of good practice as per “Guidance on the Interviewing of Witnesses and Victims,” which apply at every stage of the interview process.

30. Witnesses should always be interviewed in the language of his/her choice.

31. The victim’s race, age, gender, caste, culture, and ethnicity should be given due consideration by the interviewer. The interviewer should be aware of the role of unequal positions of power and cultural differences when conducting the interview. The interviewer should also take into consideration factors impeding open responses such as fear of reprisal, vulnerability, anxiety, intimidation, or contravention of cultural norms.

32. If, after proper investigation, there is evidence to support allegations of sexual exploitation or sexual abuse which may contravene national laws, in consultation with the complainant, these cases may, upon consultation with the appropriate internal legal advisors, be referred to national authorities for criminal prosecution.

Part 4: Disciplinary Action

33. The report of any investigation will be submitted to the Head of [AGENCY NAME], who will, in consultation with the focal point and Head of Office or Mission, decide upon an appropriate course of action. Should the investigation indicate that misconduct has not occurred, the case will be closed. Should the investigation indicate that misconduct has occurred, the matter will be referred to the head of administration with a recommendation for disciplinary action, including possible summary dismissal, pursuant to [Agency Name] Staff Rules and Regulations.

34. [AGENCY NAME] must obtain references for a candidate for employment from previous employers to ensure that the candidate has not been subject to disciplinary action as a result of a breach of the former employer’s code of conduct. Staff qualifications, prior employment records, as well as declarations with respect to criminal records or prosecutions should be thoroughly checked.

COMPLAINTS AND INVESTIGATION PROCEDURES AND GUIDANCE
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INTRODUCTION

PURPOSE AND APPLICABILITY
BACKGROUND
BENEFITS OF ADHERENCE TO THE PROCEDURES.....
KEY PRINCIPLES
MANAGEMENT RESPONSIBILITIES

Purpose and Applicability

The purpose of the “Complaints and Investigation Procedures and Guidance” is to specify steps to be taken when sexual exploitation and abuse, and potentially other forms of abuse, of women or children is suspected and when that abuse is allegedly perpetrated by a (AGENCY NAME) staff member or staff of another humanitarian agency, either in a development or an emergency context.⁴

Sexual harassment of staff members is not included in the scope of these procedures and guidance.⁵

“Staff member” shall be taken to include any person who either works for or represents the (AGENCY NAME), regardless of whether or not they are compensated monetarily for such work or representation.

The conditions and obligations stated within the model complaints mechanisms will be applicable to non-staff personnel, consultants, interns and staff members of partner agencies or organisations which may be executing a project or undertaking any other work in the name of (AGENCY NAME) (see Annex 1, Terminology).

Background

The following reports, which address sexual exploitation/abuse, have been influential in the commission of the IASC protocols and procedures.

- The UNHCR and Save the Children UK report entitled *Sexual Violence and Exploitation: The Experience of Refugee Children in Liberia, Guinea and Sierra Leone (2002)*. This report alleged that UN staff (and workers from NGOs and INGOs) were the most frequent perpetrators of sexual exploitation/ abuse, abusing their position of power and trust by using, as tools of exploitation, humanitarian aid and services intended to benefit the refugee population. More recent UNHCR investigations have identified similar concerns in other parts of the world.

⁴ While anyone can be a victim of sexual abuse, because of their unequal status, the majority of victims are women and children, including boys as well as girls.

⁵ Within the UN system, policies and procedures for handling cases of sexual harassment are set forth in the Secretary-General’s Bulletin, entitled “Promotion of equal treatment of men and women in the Secretariat and prevention of sexual harassment.” NGOs should refer to existing relevant agency policy and procedures for dealing with harassment cases.

- The Report of the Secretary General on the Activities of the Office of Internal Oversight Services entitled *Investigation into Sexual Exploitation of Refugees by Aid Workers in West Africa (2002)*. This was unable to verify the allegations contained in the above report but concluded that 'sexual exploitation of refugees is real.'
- The UN IASC Task Force on Preventing Sexual Exploitation/ Abuse in Humanitarian Crisis (2002) - which was mandated to make recommendations to eliminate sexual exploitation/ abuse by humanitarian workers which the above two reports had investigated.

The UN IASC Task Force stated that:

' Humanitarian agencies have a duty of care to beneficiaries and a responsibility to ensure that beneficiaries are treated with dignity and respect and that certain minimum standards of behaviour are observed. The goal is to create an environment free of sexual exploitation and abuse in humanitarian crises, through integrating the prevention of and response to sexual exploitation and abuse into the protection and assistance function of all humanitarian workers. '

It is evident from this statement that the complaints and investigation procedures should form one aspect of a broader strategy in which measures to prevent sexual exploitation/ abuse are addressed as well as measures to respond to complaints.

The UN IASC Task Force Report further stated that:

- The lack of economic options for displaced populations may result in commercial and exploitative sex being one of the few options for income generation to meet basic needs.
- Beneficiary communities often come from an environment where sex and gender based violence⁶ is common and community structures may collude to ensure that it continues.
- Where women and children are displaced, do not have options to supplement their basic requirements and are also excluded from involvement in community decision making or education, then they may become extremely vulnerable to abuse and exploitation.

In addition to the above, it is important to recognise the additional vulnerability to sexual abuse and exploitation of:

⁶ Gender Based Violence is violence that is directed against a person on the basis of sex or gender. While men and boys can be victims of gender based violence, because of their subordinate status, girls and women, and sometimes boys are generally targeted. Sometimes, these guidelines will refer to violence against girls and women, instead of gender based violence. This is not intended to ignore the violence done to boys, but merely recognizes that violence based on gender is more often perpetrated against girls. Examples of gender-based violence include rape, battery, trafficking, sexual exploitation and sexual abuse. This is merely illustrative, not a comprehensive list.

- Boys - There may be a reluctance to believe that young men are also vulnerable to sexual abuse and exploitation and it may be a social taboo to admit that it exists.
- Disabled women and children - Myths and barriers may prevent the recognition or belief that anyone would do such things to disabled people, but where they are socially isolated, excluded from the community and dependent on aid agencies for their survival, disabled women and children are particularly vulnerable.
- Children who live away from home in institutions, schools or children's homes, particularly when these facilities are residential.
- Very young children - There have been examples of babies being subject to sexual abuse and serious physical abuse.

Finally, (AGENCY NAME) has adopted the Core Principles and Code of Conduct developed by the UN IASC task force. These stipulate that:

- *Sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination of employment;*
- *Sexual activity with children (person under the age of 18) is prohibited regardless of the age of consent locally. Mistaken belief in the age of the child is not a defence;*
- *Exchange of money, employment, goods or services for sex, including favours or other forms of humiliating, degrading or exploitative behaviour is prohibited. This includes the exchange of assistance that is due to beneficiaries.*
- *Sexual relationships between (AGENCY NAME) staff members and beneficiaries are strongly discouraged since they are based on inherently unequal power dynamics. Such relationships undermine the credibility and integrity of humanitarian aid work.*
- *Where a (AGENCY NAME) member of staff develops concerns or suspicions regarding sexual abuse or exploitation by a fellow member of staff, whether in (AGENCY NAME) or not, s/he must report such concerns via the prescribed procedure.*
- *(AGENCY NAME) workers are obliged to create and maintain an environment which prevents sexual exploitation and abuse and promotes the implementation of this code of conduct.*
- *Managers at all levels have particular responsibilities to support and develop systems which maintain this environment.*

In order to fulfil these commitments it is essential that (AGENCY NAME) takes complaints/breaches in UN rules regarding sexual exploitation and abuse by staff very seriously and that it

instigates rigorous investigations when serious concerns are raised and disciplinary proceedings when complaints are substantiated.

An allegation about the possible sexual abuse or exploitation of a women and/or child may arise in both the course of tasks staff undertake on behalf of (AGENCY NAME) as well as in their private lives. It is of paramount importance that such concerns and allegations are investigated rigorously and independently as possible so that beneficiaries and supporters of (AGENCY NAME) can maintain the utmost confidence in the organisation.

Benefits of Adherence to the Procedures

There are three principal benefits to the complaints and investigation procedures being implemented and followed. These are:

- **Women and children are protected.**
Those who have suffered sexual exploitation/ abuse can be protected and the rigorous application of such protocols acts as a preventative measure.
- **(AGENCY NAME) staff are protected.**
Staff are clear as to what expectations (AGENCY NAME) has about their behaviour and what to do if they observe or are made aware of inappropriate behaviour on the part of others. The presence of and adherence to clear procedures helps to ensure due process and protect them against false allegations.
- **(AGENCY NAME)'s reputation is upheld.**
By implementing these protocols (AGENCY NAME) is making clear its commitment to protect the rights of women and children by doing all it can to prevent their sexual exploitation and abuse. The code of conduct and supporting procedures will ensure that (AGENCY NAME) moves towards best practice and deters those who wish to abuse beneficiaries from joining the organisation.

Conversely, the failure to implement or adhere to procedures bears many risks, to women and children, staff and to the reputation of (AGENCY NAME).

Key Principles

The receipt and investigation of complaints should be conducted with due regard to a number of key principles. Each of these is important. However, extensive consultation suggests that the first three - confidentiality, anonymity and safety/ welfare needs - are particularly so, as the making of a complaint and giving of evidence can render a witness vulnerable to reprisal. In extreme cases the witness' survival might be under threat. This being the case, it is incumbent upon (AGENCY NAME) to do all in its power to protect witnesses and to promote their safety and welfare:

Confidentiality - complainants, witnesses and subjects of a complaint have a right to confidentiality. In some instances it will not be possible to guarantee confidentiality e.g. where referral is made to national authorities, or where the witness' identity will be readily inferred. In such cases the guiding principle should be that of 'informed consent.' Information needs to be

shared on a 'need to know' basis with the parameters of this being established at the planning stage. The identity of those involved should only be disclosed on an authorised basis where referral to national authorities is indicated. Within the disciplinary process it would not normally be necessary or desirable to reveal the identity of complainant, victim or other witnesses. Records should be stored securely to avoid accidental or unauthorised disclosure of information.

Anonymity - the fact that a complaint is made anonymously does not automatically mean that it bears less substance than one in which the complainant identifies himself/herself and is prepared to give evidence. It may indicate fear of reprisal. This being the case, anonymous complaints should be treated as seriously as 'named' complaints - though the extent to which they can be investigated may be circumscribed by the anonymity. Consideration needs to be given as to how an anonymous referral might be facilitated (e.g. via a complaints box).

The safety and welfare needs of women and children - the needs of women and children are paramount in the investigation process and must be constantly and consistently addressed. Their needs can be summarised under the following four sub-headings:

- **Safety** - this is crucial for reasons outlined above. Whilst (AGENCY NAME) may be unable to guarantee safety, it is essential that a witness plan is developed and reviewed - and the witness advised as to the limits of (AGENCY NAME)'s capacity to protect (where such exist) when 'informed consent' is sought. Steps to promote safety might include establishing a 'safe zone,' moving to a 'safe house,' relocating the subject, relocating the witness or maintaining an effective security/ law enforcement presence.
- **Health** - medical intervention should be arranged to promote the witness' health and well-being (not generally as part of the internal investigation process) to, for example, prevent unwanted pregnancy, treat injuries or treat sexually-transmitted diseases. Where there is a report of sexual abuse within the previous 72 hours the victim should be referred immediately if medical treatment for HIV post-exposure or emergency contraception is to be effective.
- **Psycho-social** - e.g. to help the witness deal with fear, guilt, shame etc. via access to support groups and/or crisis counselling.
- **Legal/ justice** - the decision to refer to national authorities will hinge on a number of factors and needs to be taken by the designated senior management staff. However, there are a number of potential benefits to the complainant/ witnesses (including recovery) as well as risks and their views should be sought about this.

Professional care and competence - all those involved have due training, skills and knowledge to fulfil their responsibilities. A training strategy will need to be developed to address the training needs of investigators, managers and human resources staff. The competence of all involved must be subject to review within supervision and annual appraisals.

Thoroughness - investigations must be conducted in a diligent and rigorous manner to ensure that all relevant evidence is obtained and evaluated (including evidence which might both support or refute the complaint).

Independence - it is essential that investigators have no personal or professional interest in the people implicated or the project. This will require the creation of a pool of qualified investigators.

Planning and review - to ensure that investigations are planned, systematic and completed according to agreed timeframes.

Respect for all concerned - including the subject of the complaint. All concerned have the right to be treated with respect and dignity and to be kept informed of the progress of the investigation.

Timeframes - it is in everyone's interest that investigations are conducted as quickly as possible without prejudicing quality. A number of factors (communication systems, travel, distance etc.) will influence what is a reasonable timeframe. However, as a general rule, investigations should be complete (i.e. final report submitted) within 28 days of receipt of complaint.

Working in partnership with other interested parties - in some cases other INGOs or NGOs might be implicated in the complaint. In such instances, consideration needs to be given to conducting a joint investigation in the interests of sharing relevant information and obviating the need for repeated interviews.

National authorities - in any case in which a crime appears to have been committed, consideration needs to be given to informing national authorities. This can be a very challenging decision if there are doubts as to the integrity of police/legal systems. The decision to inform the authorities should be taken by the designated senior manager.

Management Responsibilities

Managers are responsible for:

- Ensuring that all staff are inducted and aware of their responsibilities under the code of conduct and complaints procedure.
- Identifying how staff and beneficiaries from both emergency and development programmes can access complaint mechanisms and ensuring that mechanisms are in place that address the needs of both women and children.
- Being clear of their role and responsibility to support /cooperate with any investigation.
- Being aware of the need to involve the national authorities in responding if a complaint is of a criminal nature.
- Understanding local attitudes to sexual abuse and exploitation and local support/advocacy structures to support complainants and possibly provide witness protection.

Managers also need to ensure that all investigations are undertaken in accordance with the key principles outlined above and the investigation procedures. The ultimate responsibility for this lies with the Head of Agency - with tasks delegated as appropriate.

The fact that ultimate responsibility lies with the designated senior manager does not obviate the need for all managers to create a culture in which sexual exploitation/ abuse is reported and

investigated. A collaborative effort is required if abuses by staff are to be tackled.
Draft for OHRM

COMPLAINTS AND INVESTIGATION PROCEDURES AND GUIDANCE

MAKING/RECEIVING COMPLAINTS

CAUSES FOR CONCERN
BLOCKS TO MAKING A COMPLAINT
ESTABLISHING REFERRAL, REPORTING AND MONITORING MECHANISMS FOR BENEFICIARIES
ENABLING STAFF TO MAKE A COMPLAINT
KEY PRINCIPLES
GOOD PRACTICE IN RECEIVING A COMPLAINT DIRECTLY FROM A BENEFICIARY
RECORDING OF INFORMATION, SUSPICIONS OR CONCERNS
THE PROCEDURE
COMPLAINT REFERRAL CHART
COMPLAINT REFERRAL FORM

Introduction

The purpose of this procedure is to provide a fair and consistent means of addressing concerns about breaches of UN rules/agency codes of conduct regarding sexual exploitation by a [AGENCY NAME] staff member. This includes all [AGENCY NAME] staff, whether host country or international staff on permanent or fixed-term contracts, self-employed consultants, interns and partners from NGOs and INGOs

Breaches of agency rules/codes of conduct regarding sexual exploitation and abuse will be investigated by [AGENCY NAME], irrespective of whether they constitute illegal acts.

Causes for Concern

Concerns in relation to a member of staff or volunteer may arise in a number of ways, for instance:

- A practice or behaviour suggesting that a member of staff has abused the power invested in him/her, by virtue of his/her post, to sexually abuse or exploit a beneficiary.
- An allegation that a member of staff/volunteer has breached UN rules regarding sexual exploitation and abuse outside the work environment (e.g. by paying for sex with a child prostitute or via early marriage);
- Concerns that cover a wide range of issues involving the exploitation of women and or children ranging from inappropriate behaviour to various criminal offences.
- Concerns regarding the past behaviour of a staff member.
- Concerns expressed by a government partner, UN agency, NGO or INGO about the behaviour of a staff member.

Blocks to making a complaint

Complainants will not come forward unless they have trust in [AGENCY NAME] to take the issue seriously and protect him/her from potential reprisal. [AGENCY NAME] managers need to

create a culture and related systems that promote trust among both host country and international staff.

There are many blocks to making a complaint such as:

- Fear of reprisal
- Fear of not being taken seriously
- Respect for/fear of a senior officer and/or expatriate staff member
- Fear of 'getting it wrong'
- Fear that source of income (maybe to sustain life) will be cut off
- Fear of losing job, status or prospects
- Cultural issues and norms - it is seen as acceptable practice in the country/ region
- Cultural issues and norms - it is not seen as acceptable to challenge those in authority
- Attitudes towards women and children
- A socio-economic or political context which might sustain a belief that sexual exploitation/ abuse is unimportant.
- Isolation, lack of management and support
- Age - children may be less likely to report
- Lack of knowledge concerning the reporting process, access to anyone with power or will to intervene
- Lack of awareness sexual exploitation and abuse is wrong.

Establishing Referral, Reporting and Monitoring Mechanisms for Beneficiaries

It is essential that (AGENCY NAME) treats complaints concerning these and other possible violations regarding sexual exploitation and abuse by staff very seriously, irrespective of whether they constitute illegal acts or prohibited acts in the country where they were allegedly committed. (AGENCY NAME) must carry out rigorous investigations when such concerns are raised as described in the investigation procedures and resort to disciplinary proceedings when complaints are substantiated.

It is a management responsibility to ensure that a clear and accessible referral system is established in each setting so that all beneficiaries (particularly children) in both emergency and development contexts know where to go to make a complaint and receive assistance. A confidential mechanism for lodging a complaint must be accessible to all staff, partners, and beneficiaries, irrespective of the individual's sex, age, physical ability, language, level of literacy, ethnicity, or any other background characteristic or factor, that may prevent or discourage him/her from making a complaint safely. To accommodate anonymous complaints, mechanisms such as complaints boxes should be in place and their whereabouts made known so that complaints can be made anonymously if so desired. Procedures should be developed by each Agency to ensure reasonable confidentiality of witnesses and the security of all relevant records and documentation.

In emergency camps it may be beneficial to have a number of entrance points where reports can be made. Camp management guidelines should include where these focal points are and which NGO/INGO staff or refugees are trained and able to receive a complaint. It is also vital to consider how children may access these focal points. It may be necessary to build them into other structures that support children such as youth groups, mentoring schemes, health and educative forums.

The mechanisms for lodging a complaint need to be accessible to all. Language, age, sexual orientation, sex, caste, physical ability, faith, level of literacy, culture or job role should not hinder access to the complaints mechanisms. For those women and children who have an impairment or disability it is essential that they have a means of being heard and that lack of mobility or verbal communication does not exclude them. Consideration needs to be given to how male children or men can make a complaint. Mechanisms must be sensitive to the fact that boys and men can also be vulnerable to sexual exploitation.

It is recommended that there should be an overall inter-agency complaints management system in-country, co-ordinated by an appropriate individual or body. The inter-agency management system should comprise agency focal points from UN, NGOs, and INGOs, and representatives from national government authorities.

Inter-agency reporting and referral procedures that clearly identify roles and responsibilities of individuals within the system must be agreed upon, and a simplified version translated into the appropriate local languages, and well publicised. There should also be an agreed process by which the effectiveness of any inter-agency system can be monitored and evaluated.

Mechanisms such as complaints boxes should be in place so that anonymous complaints can be made. In addition other measures need to be developed so that those who are not literate can also make a complaint, eg. establishing a system of beneficiary advocates.

Enabling [AGENCY NAME] Staff to Make a Complaint

[AGENCY NAME] employees may be fearful that by making a complaint against another member of staff it may lead to some form of reprisal. 'Whistle-blowers' should not face official or unofficial sanctions as a consequence of making a complaint unless this is subsequently

proved to have been made maliciously. All staff must have access to a confidential mechanism that allows them to make a complaint safely.

Contracts and policies affecting host country and international staff should make clear that no action will be taken against any member of staff who reports in good faith information indicating a breach in the code of conduct and which following investigation proves unfounded. However, if a staff member knowingly and wilfully reports or spreads false or malicious information regarding another member of staff, his/her behaviour will constitute misconduct.

[AGENCY NAME] mandates staff to voice their concerns against breaches of UN rules regarding sexual exploitation and abuse and must be seen to act responsibly when those concerns are received. The benefits of such a policy are that it should encourage a climate of open communication which enables staff to voice concerns at the earliest opportunity and therefore avert a larger issue in the future or address it before it becomes out of control.

In some instances, staff will make a specific allegation, e.g. another member of staff is known to be living with a beneficiary. In other instances staff will have concerns which might be described as being ‘in the air,’ e.g. they observe or hear of behaviour which might indicate sexual exploitation/ abuse but is not of itself conclusive. Staff need to be encouraged to report ‘in the air’ concerns as well as more specific complaints as the former might cumulatively enable an investigation to be instigated.

It is not the responsibility of the member of staff to ascertain whether or not the complaint is true. It is his/her responsibility to report the concern on via the process outlined in this protocol.

Key Principles

A number of key principles underpin this protocol. Particularly important are those relating to **confidentiality, anonymity and safety/ welfare needs**. These are elaborated on in the Source Document.

It is particularly important that, where the complainant is a beneficiary, the staff member receiving the complaint considers whether the beneficiary has immediate needs requiring attention. These are specific tasks of the investigation phase but some needs are likely to be pressing. There may be immediate safety needs if the beneficiary is returning to an unsafe situation, there may also be immediate health needs if the complainant is a victim of sexual exploitation/ abuse.

Similarly, there might be immediate **health** needs if the complainant is a victim of sexual exploitation/ abuse. The victim might have sustained injuries (if violence was used) which may not be visible. Similarly, if there is information to suggest that sexual activity has occurred within the past 72 hours, immediate referral for medical treatment should be carried out in order to maximize the effectiveness of emergency contraception or treatment to prevent HIV.

Good Practice in receiving a complaint directly from a beneficiary

In the event of a staff member receiving a complaint s/he should:

- React calmly and listen carefully to what is being said.
- Reassure the complainant that he or she was right to raise the concern.
- Address issues of confidentiality (see source document - key principles), explaining that there are limits to ensuring confidentiality to the extent that staff members are obliged to report complaints, while reassuring the complainant that information will only be shared on a “need to know” basis
- Take what is said seriously - the ‘unthinkable’ *is* possible.
- Avoid asking too many questions: Ask only the number of questions required to gain a clear understanding of the complaint so that it can be passed on via [AGENCY NAME]’s reporting procedures.
- Ensure that his/her safety is not at risk.
- Consider his/her need for medical attention.
- Inform him/her of the next steps in the procedure.
- Make a written record of what has been said via the complaint referral form if possible – at a minimum, a signed and dated record of the complaint should be made at the earliest opportunity.
- Report on the complaint, as per the agency reporting procedure, at the earliest opportunity.

Recording of information, suspicions or concerns

Information that is referred to via the complaints protocol needs to be as clear as possible. It may be used in subsequent disciplinary or legal action, hence the need to make a detailed record, including:

- Correct names of all involved, identity numbers of witnesses, victims, and if possible photo records of the subject.
- The nature of the complaint.
- A description of any visible sign of abuse or other injuries including a body map, if helpful.
- An accurate account of what was said by the complainant in her own words.
- Any observations made by staff member receiving the complaint.
- Times, locations, dates given.

- Whether any one else knows or has been given the information
- The relationship between the complainant and staff member receiving the complaint.

Procedures to be followed in making/receiving a complaint

It is the responsibility of the staff member to report a concern/complaint via the process outlined in the complaint procedures as follows:

1. The main point of contact should be the staff member's line manager, a designated senior manager or focal point.
2. If the staff member genuinely believes that s/he would be victimised or s/he has no confidence in the [AGENCY NAME] local management structure to respond appropriately to the complaint, then the complaint should be raised directly with another [AGENCY NAME] manager or focal point, at the regional or headquarters level, for example.
3. In exceptional circumstances, the complaint could also be made to another international organisation, NGO, or INGO, if the staff member genuinely believes that raising the matter within [AGENCY NAME] would not be effective, or could result in further victimization, or if s/he has already disclosed the matter to [AGENCY NAME] but no effective action has been taken.
4. It is suggested that the complaint should be recorded or should be written using a standard complaint referral form (Appendix 1- Complaints Protocol), which should be signed and dated. [AGENCY NAME] must ensure that the individual who makes a complaint is informed of the [AGENCY NAME]'s policy on confidentiality. [AGENCY NAME] may wish to obtain a written consent from the complainant for the information to be made available to others within the complaint management system.
5. Once a complaint is made the designated senior manager or focal point who receives the information should immediately report it to [AGENCY NAME]'s headquarters' (via Head of Agency, Focal Point, human resources department, etc.). Once a complaint is received, [AGENCY NAME] will consider the appropriate steps to take, including the initiation of preliminary inquiry or an investigation as per the Investigation Procedures.
6. Any investigation that is undertaken must be completed, regardless of whether the alleged perpetrator is still a(n) (AGENCY NAME) staff member. In the event that a complaint does not warrant a full investigation, the (AGENCY NAME) may nonetheless be asked to take a number of steps to address concerns in other ways, (for example, addressing matters of poor practice via training, a change in working arrangements or a change in procedures).
7. If the complaint involves staff of other UN agencies, NGO partners, military personnel or non-staff personnel, such agencies must be informed of the complaint via established mechanisms and a joint strategy meeting convened urgently to discuss the complaint and agree on a course of action. Consideration must be given to conducting a joint investigation

in the interests of information and resource sharing, as well as limiting the number of interviews necessary.

8. [AGENCY NAME] must inform the subject of the complaint about the allegations and provide him or her with a copy. He or she must be given an opportunity to answer the allegations in writing and to produce evidence to the contrary.

Staff members should be reassured that there will be no action taken against any member of staff who reports in good faith information indicating a violation of the [AGENCY NAME]'s Rules and Regulations and applicable codes of conduct regarding sexual exploitation and abuse and which, following investigation, proves unfounded. However, if a staff member knowingly and wilfully reports false or malicious information regarding another member of staff, such false report may lead to disciplinary action.

A detailed record of information gathered via the complaints protocol should be kept confidentially on file as it may be used in subsequent disciplinary or legal action. Every effort must be made to ensure the security of such files. (See section on "The recording of information, suspicions or concerns" in the Sexual Exploitation and Abuse Complaints Procedure for a list of essential information to be recorded.)

Complaints and investigation procedures should include systematic monitoring and evaluation and be subject to audit and review for lessons learned.

Needs of the Victim

Urgent medical assistance and counselling must be made available to anyone who was potentially harmed by any alleged sexual exploitation or sexual abuse. The physical and psychological well-being of any such victim must be a primary concern throughout the reporting and investigation process.

It is particularly important that, where the complainant is a beneficiary, the staff member receiving the complaint considers whether the beneficiary has ongoing needs requiring protection or assistance. There may be immediate safety needs if the beneficiary is returning to an unsafe situation, or immediate health and psychological needs, particularly if there was a risk of transmission of disease. As [AGENCY NAME] is responsible for the action of its staff, every effort must be made to ensure that any victim of sexual exploitation or abuse is provided with the necessary means for protection and rehabilitation.

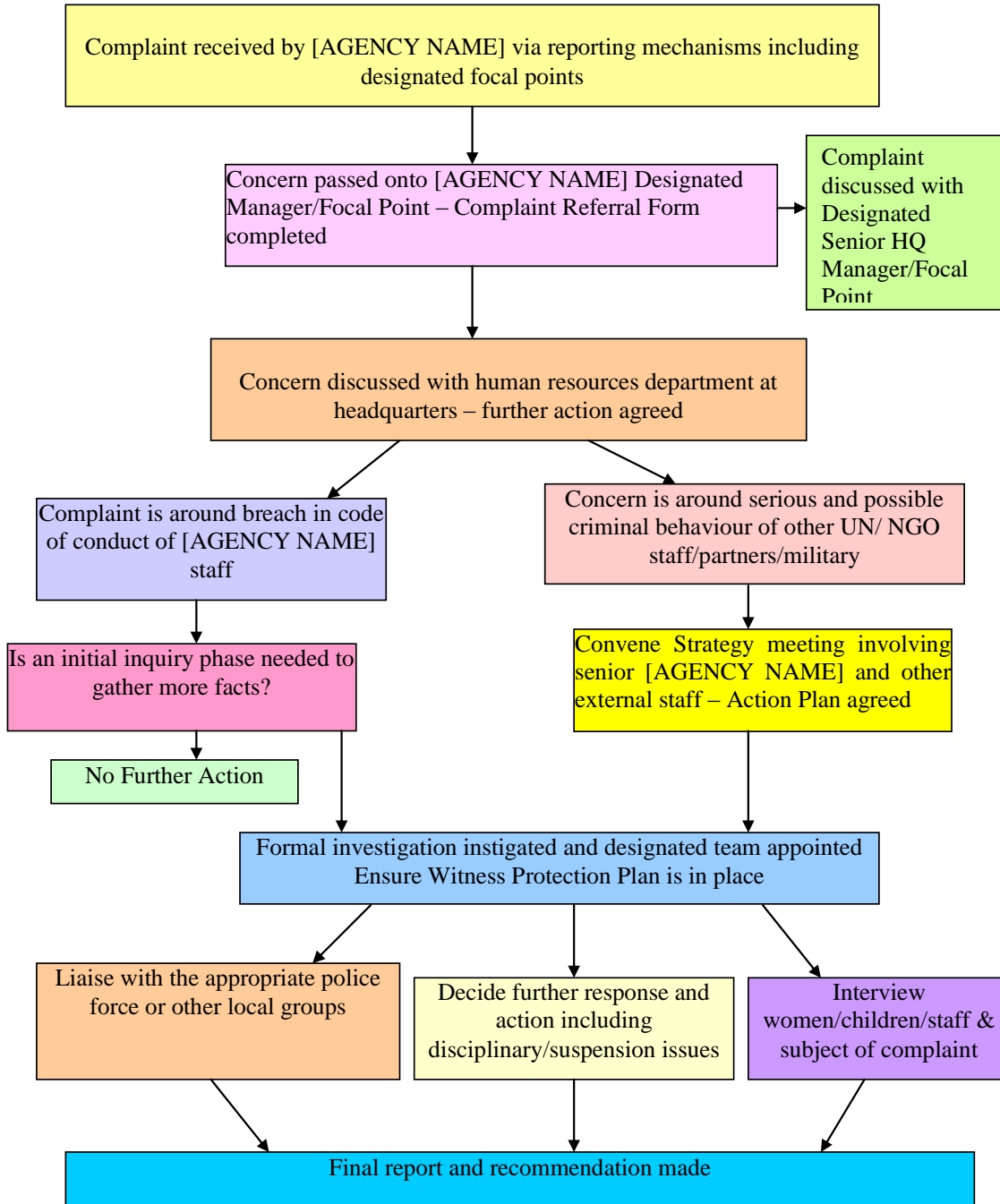
Staff members working for or on behalf of [AGENCY NAME] will provide complainants of sexual or gender based violence with full information and advice on existing redress and compensation mechanisms and/or procedures. Such information shall include at the minimum the contact or addressees where claims may be filed and any network helping complainants in the filing of claims or which would otherwise support them.

Outcome of Investigations

An Agency's internal investigation may lead to the following results:

- The allegations are considered as established by the persons in charge of the investigation process. The investigation report should be sent to the competent managers/department who will take the appropriate administrative/disciplinary action as per the rules applicable to the Agency's staff.
- Due consideration and assistance should be given to the complainant to seek legal redress from the competent authorities in the host country or in the country of the nationality of the perpetrator when such legal remedies are actionable.
- The decision reached as the result of the disciplinary process of the agency will automatically be inserted in the personal administrative file of the perpetrator and will be communicated to any prospective employer seeking a reference for this person.
- Should the allegations be insufficiently established or unfounded, the staff member will be officially notified that he/she has been cleared. If the allegation was made known to his/her staff, the field manager will take appropriate action to inform the staff about the decision of clearance.

Appendix 1 Complaint Referral Chart



MODEL COMPLAINTS REFERRAL FORM (SEXUAL EXPLOITATION AND ABUSE)

Name of Complainant: _____ Ethnic origin/Nationality: _____
Address/Contact details: _____ Identity no: _____
Age: _____ Sex: _____

Name of Victim (if different from Complainant): _____ Ethnic origin/Nationality: _____
Address/Contact details: _____ Identity no: _____
Age: _____ Sex: _____
Name(s) and address of Parents, if under 18: _____
Has the Victim given consent to the completion of this form? ☐ YES ☐ NO

Date of Incident(s): _____ Time of Incident(s): _____ Location of Incident(s): _____
Physical & Emotional State of Victim (Describe any cuts, bruises, lacerations, behaviour, and mood): _____

Witnesses' Names and Contact Information: _____

Brief Description of Incident(s) (Attach extra pages if necessary): _____

Name of Accused person (s): _____ Job Title of Accused person(s): _____
Organization Accused person(s) Works For: _____
Address of Accused person(s) (if known): _____
Age: _____ Sex: _____
Physical Description of Accused person(s): _____

Have the police been contacted by the victim? ☐ YES ☐ NO If yes, what happened? _____

If no, does the victim want police assistance, and if not, why? _____

Has the victim been informed about available medical treatment? ☐ YES ☐ NO

If Yes, has the victim sought Medical Treatment for the incident? ☐ YES ☐ NO

If Yes, who provided treatment? What is the diagnosis and prognosis? _____

What immediate security measures have been undertaken for victim? _____

Who is responsible for ensuring safety plan (Name, Title, Organisation): _____

Any other pertinent information provided in interview (including contact made with other Organisations, if any): _____

Details of referrals and advice on health, psychosocial, legal needs of victim made by person completing report: _____

Report completed by: _____
Name Position/Organisation Date/Time/Location

Has the Complainant been informed about the Organisation's procedures for dealing with complaints? ☐ YES ☐ NO

Signature/thumb print of Complainant signaling consent for form to be shared with relevant mgt structure* and SRSG/RC/HC:

Complainant's consent for data to be shared with other entities (check any that apply): _____

Police ☐ Camp leader (name) ☐ _____ Community Services agency ☐ _____

Health Centre (name) ☐ _____ Other (Specify) ☐ _____

Date Report forwarded relevant management structure*: _____

Received by relevant management structure*: _____
Name Position Signature

(*Relevant management structure is the official(s) responsible for sexual exploitation and abuse issues in the Headquarters of the Organisation where the Accused person works)

**ALL INFORMATION MUST BE HELD SECURELY AND HANDLED STRICTLY IN LINE WITH
APPLICABLE REPORTING AND INVESTIGATION PROCEDURES**

COMPLAINTS AND INVESTIGATION PROCEDURES AND GUIDANCE

INVESTIGATION GUIDELINES

CORE PRINCIPLES OF AN INVESTIGATION	
ACCOUNTABILITY	
RESPONSIBILITIES	
CONFIDENTIALITY	
PRELIMINARY INVESTIGATION	
EXTERNAL REFERRALS	
PLANNING AND CONDUCTING THE INVESTIGATION	
Compiling Evidence.....	
Use of Interpreters.....	
Witness Protection	
Health Needs	
Subject's Needs.....	
Timeframes.....	
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Location	
INTERVIEWING WOMEN AND CHILDREN	
INTERVIEWING THE SUBJECT OF A COMPLAINT	
INVESTIGATION REPORT	
INVESTIGATION FLOWCHART	

Introduction

The aim of this guidance is to clarify steps to be taken when sexual exploitation/ abuse of beneficiaries / recipients of services, is suspected and when that abuse is allegedly perpetrated by a member of staff working in a development or emergency context. The focus of the investigation is to :

- Find out if the staff member has breached the organisation's policy
- Recommend appropriate and proportionate disciplinary action
- Protect individuals from being abuse or exploited
- Highlight issues relating to poor practice/performance
- Identify aspects of programme delivery or performance that increase risks of abuse or exploitation by staff.

This is an administrative procedure and should not be seen as a substitute for a criminal investigation when this is warranted.

CORE PRINCIPLES OF AN INVESTIGATION

THOROUGHNESS: investigations must be conducted in a diligent, complete and focused manner.

CONFIDENTIALITY: complainants, witnesses and the subject of allegations have a right to confidentiality other than in certain, exceptional circumstances.

SAFETY PARAMOUNT: the safety and welfare needs of the victim/survivor and/or complainant are paramount.

COMPETENT, RESPONSIBLE, INDEPENDENT INVESTIGATORS: people conducting investigations and preparing reports should be responsible, independent and have received training.

IMPARTIALITY: investigations must be conducted in a fair and equitable way. Investigators must be free of any influence that could impair their judgement.

OBJECTIVITY: evidence to support and refute the allegation, must be gathered and reported in an unbiased and independent manner

TIMELINES: investigations must be conducted and reported in a timely way

ACCURACY AND DOCUMENTATION: investigation reports and their conclusions must be supported by adequate documentation.

Accountability

All organisations need to designate a senior member of staff, to assume responsibility for the oversight and monitoring of the investigations. This person would be responsible for ensuring that an investigation is undertaken according to the core principles above and in line with these procedures.

It is essential that all organisations establish procedures that detail actions to be taken and allocate clear and specific roles and responsibilities to named post-holders, following an allegation of abuse or exploitation by a member of staff (see following section). This would identify who must do what, within what timescales, and the lines of reporting or consultation at each stage of the investigation.

Responsibilities

The following list of tasks is intended to act as a guide/check-list of some of the specific issues that must be addressed and therefore tasks that must be allocated to a specific member of staff, upon receipt of a complaint. Depending on the structure of the organisation, it is assumed that this could involve a senior member of staff in headquarters, senior country management, and staff identified and trained as investigators.

Senior Member of Staff's responsibilities

- Initiating an investigation of an alleged breach of UN staff rules regarding sexual exploitation and abuse.
- Deciding who needs to know and briefing those individuals.
- Ensuring that the investigation is conducted according to the key principles and procedures.
- Deciding whether to suspend or redeploy the subject during the investigation.

Appointing the investigators and providing them with terms of reference and delegated authority. There should normally be 2 investigators allocated to each case, to allow for greater objectivity, support and easier documentation, recording of interviews.

- Receiving the final report and making a decision on outcomes.
- Notifying the national authorities, if the allegation concerns a possible crime, if appropriate, and ensuring that due legal process is followed.
- Deciding whether and when to notify the national authorities and/or other external agencies (e.g. UNHCR if this concerns a population of concern to them).
- Facilitating the investigation by ensuring the co-operation of staff, the availability of premises, interpretation, office facilities etc.
- Facilitating the implementation of plans to meet the needs of complainant and/or victims, specifically their need for protection, including possible relocation, and any health/medical needs.
- Informing other organisations which are implicated in the allegation/ investigation.
- Providing information on the local context, culture, or any other issues that may be relevant or impact on the investigation
- Maintaining at least a basic database, that is secure and protected from unauthorised disclosure, of prior complaints/ investigations.
- Checking records to establish any prior complaint/investigation against a specific individual, and ensuring this information is made available to staff involved in the planning and conduct of investigations.

Investigators' responsibilities

- Developing a written plan of the investigation
- Conducting the investigation according to the agreed protocol, including gathering evidence, reporting and making recommendations.
- Assessing/reviewing and advising on matters pertaining to the needs of the survivor/victim and other witnesses.
- Assessing/reviewing and advising on matters pertaining to the subject e.g. support needs, suspension etc.

In order to ensure professional care and competence, investigators, managers and human resources staff must receive appropriate training in the skills and knowledge required to fulfil their responsibilities. A “pool” of qualified investigators from internal and/or external sources should be established. Depending on the nature of the investigation, establishing a multi-disciplinary team may be advisable, and consideration of using a professional with relevant experience and skills in counselling may also make sense.

Investigators are appointed by senior staff members and are provided with Terms of Reference and delegated authority. [AGENCY NAME] will ensure that all investigators receive the necessary training, supervision, emotional and psychological support to undertake interviews of women and children who have been sexually exploited and abused.

Confidentiality

The general principle of confidentiality is that the disclosure of the identity of a staff member or others involved in an investigation, is restricted, permitted only on an authorised basis, in certain

exceptional circumstances. Only those who “need to know” should be informed of the investigation, and all staff reminded of their obligations to colleagues and beneficiaries to comply with this. This is critical, recognising that reporting concerns, and providing evidence in the course of an investigation can be difficult and dangerous. The disclosure of the identity of a complainant would only occur when the complainant has consented to the disclosure, it is necessary for disciplinary and judicial proceedings, and this has been approved by the designated senior member of staff. A breach of confidentiality may lead to disciplinary action.

Preliminary Investigation

Upon receipt of a complaint, a decision needs to be made as to whether to proceed immediately to a full investigation or conduct a preliminary investigation. In cases where multiple agencies are implicated in the complaint, all such agencies must be involved in deciding the nature and scope of the investigation and consideration given to conducting a joint investigation as appropriate.

The aims of a preliminary investigation are to gather relevant data and ensure that the immediate needs of all concerned are met. The presumption should be that an investigation will be instigated (without recourse to a preliminary investigation) unless the complaint is sufficiently vague to merit further clarification before a decision can be reached. The fact that a complaint lacks clarity, or occurs within a specific context does not constitute grounds for treating it less seriously than other complaints.

The senior person should establish whether the subject had had prior complaints made against him as multiple complaints could provide a compelling case for proceeding to an investigation. (This requires the maintenance of good personnel records and documentation of concerns.)

It may also entail a brief interview with complainant/ victim(s)/ others. This should be aimed at establishing whether grounds exist to proceed, not to elicit substantive detail.

It is essential that those involved in preliminary investigations guard against closing down the investigation process too quickly. To this end, the presumption should be that an investigation should take place unless the preliminary investigation finds that there are no grounds to proceed.

External Referrals

1. If the alleged behaviour constitutes a possible crime, according to local laws

If the incident in question is a crime, in addition to being a possible breach of the organisation policies, the victim/survivor should be informed of the option of making a parallel complaint to the law enforcement authorities, and informed of any available support to assist with this. In some countries there may be mandatory reporting of certain alleged crimes.

The senior member of staff, in consultation with the senior local manager, should consider informing the law enforcement authorities whenever a crime is alleged, taking into account the wishes of the victim/survivor, his or her capacity to give informed consent, and any concerns about the legal/judicial processes in that specific country. The internal investigation should not be seen as a substitute for a criminal investigation where this is warranted.

Having a criminal investigation and an administrative investigation underway at the same time, may seriously compromise the police investigation and jeopardise any subsequent criminal prosecution. It may be advisable to delay the administrative process. There may be circumstances where this is not advisable, eg excessive delay, but if they are run concurrently, great care must be taken to avoid compromising any future legal procedures

2. Consideration needs to be given as to whether there are other stakeholders (e.g. other INGOs/NGOs, UNHCR) who need to be notified and engaged in strategic planning.

Planning and Conducting the Investigation

Careful planning is central to the conduct of a 'best practice' investigation. This includes clarification of:

- What the tasks are
- Who is to undertake them
- When they are to be undertaken and
- How progress is to be reviewed.

The investigators should construct a written plan which addresses the following:

Compiling Evidence

Consideration needs to be given as to who is to be interviewed and in what sequence. A degree of flexibility will be required as interviews might reveal the identities of others who should be approached. As a general rule the sequence should be:

- Complainant
- Victim(s) - if different from above
- Witnesses - if any exist
- Subject

Consideration also needs to be given as to whether other forms of evidence might exist and as to how to access them. Evidence might include work logs/rosters, stockpiles of rations, photos, emails, photographs and so on.

In planning the compiling of evidence, investigators should bear in mind the need to seek and evaluate evidence which might support the complaint and evidence which might refute it. Investigators should conduct interviews in a 'neutral' frame of mind, i.e. they should neither assume guilt nor innocence on the part of the subject.

Use of Interpreters

The plan needs to establish whether interpreters are required and how to access these. The need to protect the confidentiality of witnesses and the subject requires that interpreters are carefully chosen.

Witness Protection

The plan should anticipate what the witnesses' (including victim/survivor and the subject of the complaint) needs might be and identify some potential resources to meet them. The principal consideration is for the witnesses' need for protection and, to this end, a witness protection plan needs to be established at the planning stage. There needs to be discussion around possible reprisal - from e.g. subject or other members of the community - and how to tackle this.

Health Needs

In some cases (see complaints procedure) urgent medical attention is indicated. This must take priority over any other procedure as it may be necessary for victims/ survivors to undertake a medical investigation to ensure their own health and well being. Protocols should be in place for referral to appropriate services and consent for this should be sought from the victim/survivor.

It should not be necessary for an internal investigation to instigate a medical as part of the process of investigation and for gathering evidence. Where there is an overwhelming need or justification for such a procedure (e.g. it is clear that analysis of forensic evidence is possible, relevant and may assist with criminal prosecution) prior agreement must be sought from the victim/survivor, parents or carers if this is a child, and the designated senior staff.

Other Witness Needs

Witnesses (particularly if they are also victims) may have other needs which should be anticipated at the planning stage, including any need for additional support or counselling, and help to understand the criminal justice implications and make an informed view as to whether he/she wishes to make a complaint (see complaints procedure).

The plan needs to consider how the victim (and complainant/ other witnesses) will be kept informed of the progress and outcome of the inquiry.

Subject's Needs

Irrespective of the nature of the complaint, [AGENCY NAME] owes a duty of care to the subject of the complaint. The plan needs to address what support he/she needs, how this can be provided, and whether he/she should be suspended, with or without pay, or moved to other duties, while the investigation is underway.

It also needs to consider how he will be kept informed of the progress and outcomes of the inquiry and the expected timeframe.

Timeframes

The plan needs to set timeframes for each stage of the investigation to ensure completion (without prejudice of quality) at the earliest opportunity.

Confidentiality

It is essential that the plan address how confidentiality with respect to the identity of the witness and the subject is to be preserved. This includes:

- Only disclosing identities to those who ‘need to know’
- Accessing interpreters in such a way as to maximise the preservation of confidentiality
- All records and reports being made anonymous - via the removal of names and substitution of witness A, witness B, subject A etc.
- All records being kept within a locked filing cabinet accessible only by investigators.

Careful consideration needs to be given to how the confidentiality of the complainant in particular, is to be preserved when informing the subject of the nature of the complaint. There are potential conflicts of interest in such situations. The subject needs to know the details of the allegation if he/she is to have an opportunity to respond. However, paramount consideration must be given to ensuring the safety and security of the complainant and the victim/survivor - this must take precedence. This may entail the investigators exercising great care in the presentation of evidence.

Location

- Interviews need to be conducted in a location, which is suitable and protects confidentiality.

Interviewing Women and Children

Special care should be taken to reduce the risks of causing further harm or distress when interviewing any witnesses. This is particularly important when interviewing children, or other anxious, fearful or vulnerable people.

Witnesses should always be interviewed in the language of his/her choice.

The victim's race, age, gender, caste, culture, and ethnicity should be given due consideration by the interviewer. The interviewer should be aware of the role of unequal positions of power and cultural differences when conducting the interview. The interviewer should also take into consideration factors impeding open responses such as fear of reprisal, vulnerability, anxiety, intimidation, or contravention of cultural norms.

Interviews should be conducted in a safe and supportive environment and in accordance with the principles of good practice as per the extensive guidance on interviewing women and children is contained in a separate below (see Guidance on the Interviewing of Witnesses and Victims).

Interviewing the Subject of a Complaint

The purpose of interviewing the subject is to establish:

- Whether there has been a breach of UN rules regarding sexual exploitation and abuse.
- Whether there is evidence to suggest a crime has been committed.

It is **not** within the remit of this interview to:

- Mediate between subject and victim or help them reach a mutually acceptable solution (the power differentials make this inappropriate)
- Debate the morality (or otherwise) of the subject's actions - it is easy to be drawn into such debates but they are irrelevant in this context.

The organisation owes a duty of care to the employee, which includes conducting fair, and impartial investigations. The investigators need to ensure that the subject:

- knows why he/she is being interviewed,
- understands that he/she is expected to cooperate,
- is advised on the rules of confidentiality with respect to both the subject and witnesses,
- is informed that harassment of complainant/ victim/ others, including breaching their confidentiality, will be viewed as misconduct and may lead to disciplinary action,
- is aware that notes will be taken of the interview (or a tape-recording if consent is given)
- knows that the investigation may lead to disciplinary action and/or referral to law enforcement authorities.

Under the rules of confidentiality, the employer undertakes to preserve the confidentiality of all involved. In certain circumstances breach of the subject's confidentiality might be authorised. These might include:

- Where the evidence suggests that a crime has been committed and referral to the national authorities is appropriate.
- Where a finding is made against the subject within a disciplinary hearing which might lead to this information being released to other potential employees.

The subject should be given a summary of the complaint and given sufficient time to assimilate any evidence and make an informed response.

On completion of the interview, a record of the interview should be made at the earliest opportunity. This should summarise succinctly the *facts* as recounted by the subject and pertinent *opinions, motives* etc. A typed copy of this record should be presented to the subject and he should be asked to make amendments or additions and sign the document.

Investigation Report

The investigation report should:

- Observe the principles of good report writing i.e. be clear, concise, written in plain language and be grammatically correct.
- Bear testimony to the core principles of an investigation
- Address evidence to support and refute the complaint (where such exists)
- Describe the methodology (process) as well as findings (content)
- Evaluate evidence against specific stipulations UN rules regarding sexual exploitation and abuse.
- Separate fact from opinion
- Provide sufficient evidence to back conclusions and recommendations.
- Be produced according to agreed timeframes

The report should include:

- Name and title of investigators
- Name (or case reference number) of subject(s)
- A statement to the effect that the report is confidential and is not to be copied or disclosed without due authorisation
- Date

- Clarify the nature of the complaint and which stipulations of UN rules regarding sexual exploitation and abuse are alleged to have been breached.
- State the scope of the investigation (how many complainants, witnesses, subjects etc)
- Give brief contextual information e.g. which country.
- State any impediments to the investigation e.g. lack of co-operation by subject or unwillingness to be interviewed by any witnesses.

Sections of the report will include:

Executive Summary

This should provide a very concise overview of the investigation from inception through to the report. It should not contain any information, which is not in the main body of the report. The executive summary should not be written until all other sections have been completed.

Findings

This section should:

- Take each complaint in turn (if there is more than one) and summarise the evidence by all interviewees in respect of it/ them.
- Describe other evidence - photos, work logs, emails etc.
- Impartially state evidence to support and refute the complaints.
- Draw logical and fair conclusions

Conclusions & Recommendations

It should state specifically the findings with respect to each complaint according to the following:

1. Found by reasonable inference
2. Not found - insufficient or unclear evidence
3. Not found – based on evidence to clear the complainant or to establish a malicious complaint

Findings and disciplinary action

If there is evidence to clear the subject of the complaint, he/she should be informed of this, and managers encouraged to inform those staff involved in the investigation or otherwise aware of the nature of the allegations, that the person has been cleared of the allegation. Should the investigation indicate that the allegations have not been substantiated, the case will be closed.

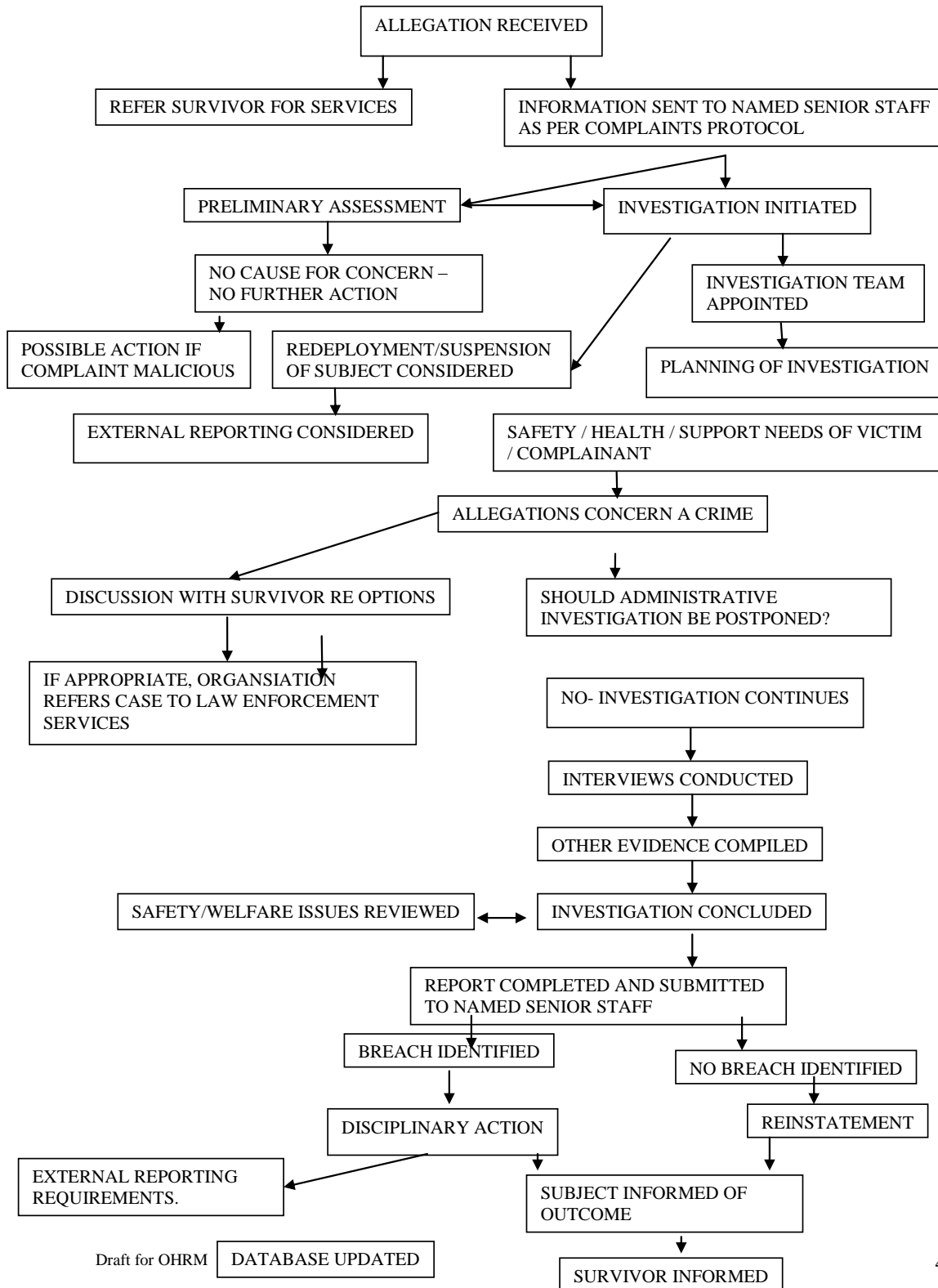
Should the investigation find that the allegations have been substantiated, the matter should be pursued under the Agency's appropriate disciplinary procedures. Found by reasonable inference is sufficient grounds to recommend disciplinary action. Neither 2 nor 3 should lead to disciplinary action though steps might be recommended (training, supervision) if there is an indication of poor practice or negligence, which does not amount to abuse or exploitation, or to enable the subject to take better steps to protect himself in future.

If a finding of malicious complaint by another member of staff is reached, sanctions will be pursued against that member of staff.

Any particular concern about possible reprisals against witnesses should be noted. The designated senior staff member should put in place concrete plans to monitor this.

If, after proper investigation, there is evidence to support allegations of sexual exploitation or sexual abuse, these cases may, upon consultation with the appropriate internal legal advisors, be referred to national authorities for criminal prosecution.

INVESTIGATIONS



COMPLAINTS AND INVESTIGATION PROCEDURES AND GUIDANCE

INTERVIEWING WITNESSES AND VICTIMS

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Introduction

The purpose of this guidance is to help [AGENCY NAME] investigators undertake interviews of women, children and other witnesses and victims in the course of investigations into sexual exploitation/ abuse. It is important to note that interviews should only be conducted by accredited/designated investigators who have undergone the appropriate training.

The guidance will detail principles of good practice, which apply at every stage of the process and offers advice as to how to conduct interviews. Part one describes principles of good practice, while part two provides guidance on the interviewing of witnesses and victims and includes specific guidance with respect to children.

Interviewers should apply this guidance with rigour, whilst always being sensitive and flexible. Whilst the circumstances or context of the complaint are important in shaping an interview, the individual needs of the woman or child and his/her protection should always remain paramount in deciding the techniques and methods employed.

Each woman and child is an individual, and therefore will react differently to her experience, and will need different kinds of intervention and support to assist her in describing what has happened to her. It is inevitable that the interviewer will also have strong feelings about the nature of complaints being investigated. [AGENCY NAME] will ensure that all designated staff receive the necessary training, supervision and emotional and psychological support to undertake interviews of women and children who have been sexually exploited and abused. However, it must be recognized that women and children constitute two distinct groups, each with particular needs and vulnerabilities. Individuals with expertise in interviewing adult women will not necessarily possess the specific skills and knowledge required to interview children. Individual expertise should therefore be a factor when selecting appropriate interviewers.

Terminology used is explained in Appendix I but it should be noted that the terms witness and victim are used interchangeably. Although it is recognized that not all witnesses are in fact victims of sexual exploitation and abuse themselves.

Part 1-Principles of Good Practice

Communication

The interviewer must ensure that the witness fully understands the investigation process and is able, insofar as this is practical, to give informed consent. This is particularly important as the witness may be disempowered by a variety of factors (e.g. poverty, gender, age and exploitation, etc.) and as the interviewer is in a position of power by virtue of his/her professional status. To this end, the interviewer should explain clearly:

- Who s/he is
- Why s/he is interviewing the witness
- How any information the witness provides is to be used

- The rules of the interview e.g. confidentiality
- Who the information is to be shared with; including the circumstances under which external reporting might take place.
- How the witness's needs (for protection etc.) are to be met.

In the interests of open communication and maintaining integrity, the interviewer should never promise anything which s/he cannot deliver.

The interviewer must also ensure that s/he understands clearly what the witness is saying. The interviewer needs to be attentive to factors that can impact upon this, including:

- Language and vocabulary (there may not be the vocabulary to describe precisely what has happened)
- Cultural norms, customs and expectations
- Religious beliefs and expectations
- Age
- Environment and access to privacy
- Time
- Pressure and perception of risk (in telling).

Witnesses are more likely to speak openly about their experiences if they feel safe and supported. Consideration needs to be given to accessing support via local advocacy or women's groups or community leaders.

Sensitivity

A key factor determining the witness's ability to talk freely is the sensitivity of the interviewer to the witness's particular experience. Witnesses who have been sexually exploited/abused are likely to have strong feelings. These might include guilt, shame, fear – and perhaps anger if their source of income has been interrupted. Interviewers need to convey that such emotions are normal under the given circumstances. They also need to be sensitive to the pace at which the witness can proceed, her need for breaks and so on.

Interviewers need to be sensitive to the specific vulnerabilities of some witnesses. These include witnesses who are:

- Young

- Unsupported (or where there is parental collusion)
- Children who are unaccompanied
- Isolated
- Disabled.

Barriers, fears and retraction

There are a number of barriers which impede both the victim's ability to talk freely about her experiences and the interviewer's ability to fully 'hear' what has happened and to act upon it.

For example, the personal safety of the victim will fundamentally affect her ability and willingness to disclose complaints of sexual abuse or exploitation. It is well established that children and vulnerable adults will often not disclose fully what has happened to them until they feel they are in a place of safety. Once in a safe environment, it may still take time before victims begin to believe that they are secure and can disclose the extent of the exploitation or abuse they have suffered.

A witness may not be able to provide a full account at the first meeting. This is not because he/she is purposefully withholding information but may be because of:

- Fear of not being believed
- Fear of what might happen next, including the withdrawal of her source of basic survival
- Trauma affecting recollection and memory
- Feelings of embarrassment or guilt
- Lack of vocabulary or language differences
- Lack of awareness that what he/she has experienced is seen as exploitative or abusive
- Fear of blame or rejection by close relatives and community.

Women and children who have been sexually exploited may also retract the initial complaint, for similar reasons. It is important that this is dealt with sensitively. Interviewers should not assume that a retraction automatically indicates that exploitation/ abuse has not occurred.

Interviewers need to be aware of the potential barriers to their believing that exploitation/ abuse has occurred. These include disbelief that 'nice' or 'professional' or white people can do such things, fear that they might make it worse or a reluctance to become involved in distressing and complex matters. To counter this, it is important that there are two investigators working together and that support/ supervision is available to each of them.

Planning

Thorough planning is essential to a successful interview. This can prove to be complex, time consuming and challenging. If, as a result of planning, a decision is taken not to proceed with an

interview, the reasons must be explicit and documented. It is unacceptable to decide not to undertake an interview because of:

- Differences in culture, religion, gender, language, caste
- Geographical distance
- Lack of human resources.

The following are the matters interviewers should consider when planning interviews of witnesses and/or victims of sexual exploitation and abuse.

Purpose

The primary purpose of an interview is to gather sufficient information to substantiate or refute an allegation that there has been a breach of UN rules regarding sexual exploitation and abuse. However, interviewers also have obligations to:

- Consider the needs of any witness or victim (including their need for protection)
- Identify other concerns or allegations that [AGENCY NAME] needs to be aware of regarding any beneficiary or staff practice.

Interviewers should remind themselves that their task is to conduct a thorough and fair investigation - not to achieve a pre-determined outcome. Non-disclosure of abuse is an acceptable outcome of an interview, either because the individual has not experienced or witnessed any maltreatment, or because they are not ready, able or willing to disclose such information.

Interpreters

When the witness's first language is not the same as the interviewer or the witness communicates using an alternative communication system, then the interviewing team must consider the need for an interpreter. Careful thought must be given to the choice of interpreter. In order to aid confidentiality it may be advisable to obtain an interpreter from out of the region. Cultural norms may make it more or less desirable that the interpreter is known. As a general rule, interpreters should be trained, able to ensure confidentiality and have no interest in the outcome of the investigation. It is best to try to avoid using family members or other close relatives in this role. It is also preferable to have only one interpreter involved in the interview process. In other words, intermediaries should be avoided. For example, and where possible, a local language should be translated directly into English rather than into the official language of the country and then into English.

Discussions with the interpreter at the planning stage should include the arrangements for leading the interview, legal and confidentiality requirements, and the exact role that the

interpreter will take. It is essential that interpreters are able to make themselves familiar with local terminology and slang for body parts and sexual acts. The potentially explicit nature of the topics to be covered should be addressed; it may be that the interpreter will require emotional support post-interview.

Support Person

Deliberations at the planning stage may lead the interviewing team to decide to include a support person in the interview. Parent/carer(s)/ community elder/religious leader/friend should not be automatically excluded from this role. Other options include existing advocacy groups. However, witness/victim safety should not be compromised by the presence of a support person.

Children may require specific support if they are very young or distressed.

Community or religious leaders

Within the boundaries of cultural norms and expectations and depending on the nature of the complaint, it may be appropriate to consult community elders or religious leaders. Where possible, negotiations should attempt to achieve a confidential interview of the witness/victim. Community elders or religious leaders should be able to ensure confidentiality and have no interest in the outcome of the investigation.

Factors relating to the witness

Occasionally, preparing witnesses for an interview might indicate that their needs are not best met by proceeding with a full formal interview (for example, where the victim is too traumatised to proceed).

It is vital that the following information is obtained and taken into consideration in the planning phase.

- The local security situation
 - Any other significant sources of personal stress
- Age of victim
- Race, culture and ethnicity
 - Caste
- Religion
- Any physical and/or learning impairments
- Any specialist health needs
- Cognitive abilities (e.g. memory, attention)

- Linguistic abilities (e.g. how well do they understand spoken language, how well do they use it?)
- Current emotional/ psychiatric state

Race, gender, age, cultural and ethnic background

The victim's race, age, gender, caste, culture, ethnicity and first language should be given due consideration by the interviewing team. It may benefit the interview process if the victim is able to identify with the interviewer through a common factor such as race, gender, nationality, caste, language or religion. However, as constructive as these mutual characteristics might be, they may also act as barriers. The victim may wish to talk to someone with characteristics they believe represent power, are disconnected from their communities to avoid shame or embarrassment, or are considered outside of any local corruption.

Language

Individuals should always be interviewed in the language of his/her choice. This will normally be his/her first language, unless specific circumstances result in the witness's second language being more appropriate.

Gender

Do not assume that it is always best for a female to be interviewed by a female. For example, a refugee woman may feel that women do not have much power and therefore a female interviewer would not be able to act to protect them. A young boy may not feel comfortable talking with a male interviewer if he has suffered abuse at the hands of a man. He may have a difficult time trusting the interviewer or feeling safe in the interviewer's company. Some victims may have very strong views on the preferred gender of the interviewer and these should be accommodated wherever possible.

Religion

Some faiths may not advocate open discussion between males and females concerning intimate personal or sexual activities. It therefore may be more appropriate to have someone of a different religion but the same gender act as the interviewer.

Power Differentials

Other relevant factors include the relationship to authority figures within different ethnic groups. For example, children may be expected to show respect to adults and authority figures, such that they do not refer to these individuals by their first names, and do not correct or contradict them. Caste, gender or power distance, and the position of women within the family are among factors that may constrain adults and prevent them from challenging authority figures.

Cultural Differences

Differences between ethnic groups may include the manner in which love and affection are demonstrated, the degree to which extended family members are involved in the parenting of the child, and the degree of emphasis placed on learning skills in independence and self-care. It may be necessary for the interviewing team to seek cultural advice about particular customs and beliefs the victim may share, including religious festivals or ceremonies.

Preparing the individual for interview

Interviewers should consider whether it is appropriate to prepare the witness before the interview. This may serve to reassure the witness and thus facilitate the formal interview. It may also help the witness to give 'informed consent'. Factors which might militate against such preparation might include undue delay, compromising of confidentiality/ safety or contamination of evidence. If it is determined that the preparation of the witness should take place, it may be helpful for someone other than the interviewer to carry out the preparation e.g. local staff, advocacy groups, or camp focal point representatives.

It is important to be aware that by inviting a witness to a particular setting this may reveal that he/she is making a complaint and immediately compromise his/her personal safety and confidentiality.

Interviewing Children

A specific issue relating to child witnesses is whether or not to inform parents of the investigation. Best practice generally dictates that parents (or guardians/carers) should be informed as they are best placed to support and protect the child. However, there are circumstances where the decision not to inform parents might be best. This might include situations where:

- The parent is suspected to be collusive.
- This might subject the child to retaliation, including physical or emotional abuse, expulsion from home, or otherwise compromise the child's well being.
- Evidence might be lost.
- The child does not want parental involvement and is competent to take that decision.
- The child is unaccompanied/displaced and has no responsible adult around.

Who should undertake the interview?

The investigating team should consider which of the two interviewers should take a lead. Information gained about the witness might help this decision. If the victim has expressed a particular preference concerning the gender, race/culture, caste and/or profession of an interviewer, this should be accommodated as far as possible. However, interviewers should not assume that it is always best for a female to be interviewed by a female. Skills and competence are more important than gender.

Another relevant factor may be attitudes with respect to authority within different ethnic groups. For example, children may be expected to show respect to adults and authority figures, by not correcting or contradicting them. It may be necessary for the interviewing team to seek cultural advice about particular customs and beliefs the victim may share, including religious festivals or ceremonies

The second interviewer has a vital role in observing the lead interviewer's questioning and the victim's demeanour. The second interviewer should be alert to identifying gaps in the victim's account, interviewer errors, and apparent confusions in the communication between lead interviewer and victim. The second interviewer can reflect back to the planning discussions and communicate with the lead interviewer as necessary.

The decision as to who will lead the interview should only be made after a full discussion of the issues raised above.

In exceptional cases, it may be in the interests of the individual to be interviewed by an adult in whom he or she has already put confidence but who is not a member of the investigating team. Provided that such a person is not a party to the sexual abuse/exploitation under investigation, is prepared to co-operate with appropriately trained interviewers, can accept adequate briefing and can keep confidentiality.

In deciding who should undertake an interview consider the following:

- Can you give the victim any choice? How realistic are the choices? Ask the child or individual about whom or what sort of person they would feel more confident in talking to.
- Give some options about who might be available for the interview
- What factors might make the victim feel safe?
- Can the interviewer speak the victim's language or use their communication method? If not will an interpreter be necessary?
- Is the available interviewer competent?
- Is the available interpreter competent?
- Be realistic - record the decisions about who should conduct the interview and interpret. This will counteract complaints of undue process and promote transparency.
- Consider the impact of displacement, war, famine and other factors already suggested.

It is essential that the interview process itself does not reinforce any aspects of racist or otherwise abusive experiences. Interviews have the potential to make things worse, but good planning, sensitivity, training and skill can counter this possibility.

When interviewing children, it is helpful to address the following:

- Assessment of the child's social, emotional and cognitive development
- The risk of children giving 'compliant' answers to please the interviewer
- That the child is able to give an accurate and truthful account (children are not more inclined to lie than adults despite common beliefs to the contrary).

- Use of age-appropriate drawings or toys to help put the child at ease.

Time and place of the interview

The interviewing team should consider:

- **The length of the interview**

It is important to proceed at the same pace as the witness, which will hinge on many factors including age, disability, cognitive development, degree of trauma etc. This may indicate the need for more than one interview.

- **When the interview should take place**

This should take place as soon as is practically possible without compromising the witness's need for information, protection etc. When interviewing younger children it is important to consider daytime routines.

- **The location**

The location should preserve safety and confidentiality.

Planning for immediately after the interview

Although interviewers cannot predict the course of an interview, planning discussions should cover the different possible outcomes and consider the implications for the victim and family, taking into account knowledge about all the circumstances. Interviewees are often left unsupported following an interview and this can be a source of great stress. The interviewing team itself is unlikely to be responsible for continuing support needs: nevertheless early consideration may alleviate some anxieties. For instance, as a result of a sexual exploitation interview, various possible outcomes can be anticipated:

- Interviewers are satisfied that something untoward has happened to the victim e.g. a clear disclosure is obtained, or other forensic evidence is available
- Interviewers are satisfied that nothing untoward has happened
- Interviewees remain uncertain as to whether anything has happened or not

Planning should anticipate these various eventualities. Where a victim is a witness, but not the victim of an alleged crime, rather different sets of outcomes exist, and these too should be considered at the planning stage.

This should all be clearly recorded in the witness protection plan. If any aspects of the witness protection plan change in the course of the interview they should be clearly recorded, and a full explanation of the reasons for the change noted.

The interviewers should plan to complete the relevant paperwork as soon as possible after the interview is completed. A statement dealing with the preparation and conduct of the interview

should be made whilst the events are still fresh in the interviewer's mind. If necessary, diagrams should accompany the report.

Part 2-Interviewing Witnesses and Victims

Introduction

This guidance is based on a *phased approach*. It is informed by professional experience and research into appropriate methods of interviewing children and core principles such as transparency, respect etc. There are naturally specific issues to consider when interviewing children. However, the model can be equally applicable to adults who are vulnerable and/or traumatised as a consequence of sexual exploitation/ abuse.

The interview normally consists of the following four main phases:

1. Establishing rapport
2. Asking for free narrative recall
- ~~2.3.~~ Asking questions
- ~~2.4.~~ Closure

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The phased approach acknowledges that all interviews contain a *social* as well as a *cognitive* element. With regard to the *social* element, witnesses, especially the young and the vulnerable, will normally only divulge information to persons with whom they feel at ease and whom they trust. Hence the first stage of any interview involves establishing rapport with the witness, the final or closure phase requires interviewers to try to ensure that witnesses leave the interview in a positive state of mind. The *cognitive* element attempts to elicit evidence from the witness in a way which is compatible with what is known about the way human memory operates and the way it develops through childhood. A variety of interviewing techniques are deployed, proceeding from free narrative to open and then closed questions. The technique is designed to ensure that, as far as possible, witnesses of all ages provide their own account, rather than agree with suggestions put to them by the interviewer. The techniques of the phased interview are not those of casual conversation; they must be learned and then practised to ensure that they are applied consistently and correctly.

What follows should not be thought of as a checklist which must be rigidly adhered to. Each interview is a unique event, which requires the interviewer to adapt procedures to the developmental age and temperament of the witness and the nature of the complaint.

It is extremely important to avoid reactions, which can be easily misunderstood - such as shock, distaste or distress as the details begin to unfold during the interview. Interviewers might not be familiar with the diversity of children and women they may come into contact with, nor with their personal experiences and trauma. Research has made it clear that when we meet types of people with whom we are unfamiliar our own behaviour changes. Vulnerable people who may view it as a sign of our discomfort often note this unusual behaviour. When planning an interview, interviewers and interpreters should always attempt to monitor their own behaviour.

Vulnerability and trauma may impact upon an individual's emotional and psychological state. It is possible that vulnerable individuals will require that their interviews go at a slower pace. Differences in language, culture and communication may also affect the pace of the interview. It is suggested that interviewers and interpreters might need to:

- Slow down their speech rate.
- Allow extra time for the witness to take in what has just been said.
- Provide time for the witness to prepare a response.
- Be patient if the witness replies slowly, especially if an intermediary is being used.
- Avoid immediately posing the next question.
- Avoid interrupting.

The interview should go at the pace of the victim.

There are particular issues to consider when interviewing children, especially if they are young/ disabled/ traumatised. Interviewers need to bear in mind that the developmental age of the child might be lower than the chronological age. This also applies to adults with learning difficulties. It will necessitate consideration of, for example:

- The pace at which the interview proceeds
- The appropriate length of the interview (shorter for younger children)
- Appropriate terminology
- The need for breaks (toilet, refreshment)

Phase One: Establishing Rapport

The aims of the rapport phase are to:

- Clarify the purpose of the interview
- Explain the ground rules
- Engage with the witness in such a way that the latter has justified faith and trust in the interviewer.

The interviewer should explain that s/he is investigating a complaint and that s/he believes the witness might be able to help. Investigators need to make a judgement about how much information to provide at this point. The guiding principle should be to provide enough so that the witness understands - but to avoid leading the witness in any way. To this end detail about what is alleged to have taken place should not be provided.

Initial discussions should be about events and interests not linked to the details of the complaint. This may require significant consideration for interviewers who are not familiar with the victim's

lifestyle and circumstances. You should use the information obtained at the planning stage to familiarise yourself sufficiently to engage the victim. Neutral topics might be about their family, friends, where they live, likes/dislikes, school lessons, the journey to the interview and so on.

Sometimes, where the victim and the interviewer have had some previous contact, this aspect of the rapport phase can be quite brief. At other times, especially when the person is nervous, or has been subject to threats from the alleged abuser, a much longer period of discussion may be warranted.

Ground rules

The interviewer should also explain the ground rules of the interview. These include confidentiality, the witness being free to leave at any point, how the witness should indicate if he/she needs a break and so on. The witness needs to be advised that the interviewer is going to ask questions (which may well contravene cultural norms) about intimate matters.

It is important to anticipate high levels of witness anxiety/ fear - and that these might be unspoken. Witnesses need to be reassured that this is not an investigation into their behaviour and that they have done nothing wrong. Sensitive probing of whether the witness fears reprisal (and, if so, how he/she is to be protected) is important. Other barriers to the witness giving a full account might include physical/ mental health, severe trauma and intimidation.

Men, women and children, but especially young children will normally perceive interviewers as figures of authority. Research suggests that some witnesses will endeavour to provide the answers they think the interviewer wants to hear. Likewise, when authority figures offer interpretations of events or actions, however misleading, witnesses will agree with them and even elaborate upon them in an effort to please the interviewer. It is necessary for the interviewer not to over-emphasise his or her authority. They should also use the rapport phase to actively combat any tendency toward answers which reflect an eagerness to please. You should state explicitly at the outset that the interviewee does not have to reply if they do not know the answer or understand the question.

Throughout the rapport phase the interviewer should convey respect for and sensitivity towards the witness. This is an important end in itself - but is also essential if trust is to be established. The length of time required to build rapport will differ from case to case. For instance, within some cultures women and children are discouraged from relating to strangers and might require a longer rapport phase.

Should the interviewer fail to establish a rapport with the witness it may be helpful to take a break and discuss with the co-interviewer what the 'blocks' might be. Sometimes it may be appropriate to schedule another interview or even decide not to proceed further with the witness.

Toward the end of the rapport phase, when the purpose of the interview and the ground rules have been explained, the interviewer should advise the victim to give a truthful and accurate account of any incident they describe.

The following example may help to illustrate a way to introduce the purpose of the interview:

‘Today, I am going to be asking you to tell me about things that have happened to you. Now, I wasn’t there when these things happened so I have to rely on you to tell me everything. Do you understand?’

(Pause)

‘So I can understand better what happened I will probably have to ask you some questions. It is important that if I ask you a question and you don’t know the answer, you just say “I don’t know” or “I don’t understand”.

So (refer to a topic brought up in Rapport), if I said to you “What did I have for food last night?” What would your answer be?’

(interviewee responds)

‘Right, you don’t know, do you?’

(Pause)

‘And if you tell me things and I get them wrong, you should correct me’

(Pause)

‘So if I said (refer to a topic already brought up in Rapport) your brother was called Yemi (and the brother is not called this), what would you say?’

(interviewee responds)

‘Right, so I am relying on you to tell me everything that happened, so I can understand what went on’.

(Adapted from M.E. Lamb, K.J. Sternberg, P.W. Esplin, I. Hershkowitz and Y. Orbach, 1999a).

Exploring the difference between truth and lies

In some cultures children are considered or believed to be unable to give informed and truthful accounts of what they have experienced as they are “too young” or “too fanciful”. Whether the victim is a child or vulnerable adult, there may be questions or counter allegations about the competency of the person interviewed to give a credible account. This will give strength to the investigation’s purpose, evidence and outcomes and response to any challenges by alleged perpetrators or third parties (e.g. other agencies, police). What you need to try to demonstrate is that the account you receive is as accurate as possible, not to establish an individual's credibility. A victim’s capacity to provide an accurate account may be affected by traumatic experiences, health, threats, intimidation, and substance misuse.

Phase Two - Free Narrative Account

The purpose of the free narrative phase is to allow the witness to provide spontaneous evidence, this being the most reliable source of accurate information. The interviewer's role during this phase is to facilitate this process, not to interrogate.

Some witnesses will respond more readily than others to this approach. In general, younger children provide less free narrative than older children or adults.

To facilitate free narrative interviewers should:

- Ask very few open questions - *'Can you tell me what happened?'*
- Avoid interrupting the witness or clarifying ambiguities - this belongs in the third phase
- Adopt a posture of 'active listening': letting the victim know that what he or she is saying has been heard by the interviewer.
- Elicit more information by repeating key phrases of the witness - *'You were asked round to his house.'*
- Offer prompts that relate to the witness's account only - not to others' evidence.
- Work at the witness's pace by e.g. tolerating pauses and silences
- Accepting what might appear irrelevant or repetitious information
- Provide neutral prompting (*'And then what happened?'*) as this does not imply positive or negative responses - unlike *'Good'* or *'Are you sure?'*
- Be aware of the danger of intentionally or unintentionally communicating approval or disapproval, through inflexions of the voice or facial expressions.

The interviewer should attempt to enable the child/woman to be the first person to state the details of the offence. Often as an interviewer, knowing what the victim has experienced you may feel awkward with this and want to 'help her out'. However, to establish best evidence and outcomes for the investigation and the victim, it is essential to avoid 'leading'. This does not mean though that you should get 'tied up' and worried about not making statements or asking questions in building rapport and explaining the purpose of the interview.

If the victim has told someone else about the details of the complaint, you can relate to this conversation:

"I know you told Geeta something about what has happened to you..."

But it is important to stress that what you want to talk about is what the individual remembers of the incident(s) which gave rise to the complaint, not the complaint itself

“...it was useful that you told Geeta, but I need to hear from you everything you can remember about what has happened, as Geeta might have got it wrong or you might not have told her everything.”

The situation is less straightforward where the person has made no previous complaint, but where there are legitimate reasons for the interview (e.g. confessions by an alleged abuser) these can be introduced to encourage the victim. However the detail of the sexual acts should not be used. The victim should be given every opportunity to raise the issue spontaneously with the minimum of prompting.

Raising issues of concern

The following is an example of how to introduce the purpose of the interview:

‘Do you know why you are here today?’
(If no response)

‘If there is something troubling you, it is important for me to understand’
(If no response)

‘I heard you said something to your friend last week. Tell me what you talked about’
(If no previous allegation)

‘I heard that something may have been bothering you. Tell me everything you can about that’
(If no response)

‘As I told you, my job is to talk to children about things which may be troubling them. It is very important I understand what may be troubling you. Tell me why you think (carer) has brought you here today’
(If no response)

‘I heard that someone may have done something that wasn’t right. Tell me everything you know about that. Everything you can remember’.

(Adapted from M.E. Lamb, K.J. Sternberg, P.W. Esplin, I. Hershkowitz and Y. Orbach, 1999a).

In many interviews relating to allegations of sexual abuse and exploitation, individuals may be reluctant to talk openly and freely about incidents. Sometimes this can be overcome easily by the interviewer offering reassurance, for example

“I know this must be difficult for you. Is there anything I can do to make it easier?”

Another cause of reticence could be that the individual has been taught that the use of certain terms is 'rude', improper or taboo. If interviewers believe this to be a problem, they can tell the victim

"Perhaps you have been taught that it is wrong to say certain words. Don't worry, during this discussion you can use what words you like. We have heard all of these words before. It's all right to use them here".

The interviewer should not assume that when the individual uses a sexual term, he or she attaches the same meaning to it as the interviewer. This also applies to any other factors that might be raised. However, do not ask for explanation just yet. Any ambiguities can be clarified in the Questioning phase.

Sometimes reticence can reflect the fact that abuser has told the victim that what has occurred is a secret between them or has made physical threats against them or their loved ones. This is particularly common where children have been subject to abuse. Where this is suspected, an appeal to the child's wish to stop the abuse can be effective. The child can be asked directly whether they have been asked to keep a secret. If the child gives a positive indication, it is in order to say

"We need to know about the secret, so we can help you and stop it happening again".

Sometimes children will be happier communicating secret information through indirect means, such as telling a toy or writing down information on a piece of paper. If possible any written material should be kept and documented in the record of the interview.

Some witnesses may be unresponsive during this phase for a number of reasons, including vulnerability, anxiety, intimidation or contravention of cultural norms. The interviewer can help by addressing these concerns.

In exceptional cases the interviewers might decide not to proceed to phase three (questioning). This would be appropriate if the witness gave clear evidence that nothing untoward had taken place.

Phase Three: Questioning

The purpose of the questioning phase is to:

- Clarify/ expand on information raised by the witness during the previous phase
- Help witnesses who have struggled to give a free account to provide relevant evidence.

Interviewers should keep their questions clear and simple. Research has shown that vulnerable victims may well have great difficulty with questions that are too complex, abstract or suggestive.

There are four discrete categories of questions, which vary, in how directive they are and their susceptibility to producing accurate responses. The questioning phase should, whenever possible, follow this sequence of questioning:

1. Open-ended
2. Specific
3. Closed
4. Leading questions (and only as a last resort)

1. Open-ended Questions

- Are worded in such a way as to enable the witness to provide a restricted response
- Allow the witness to control the flow of information
- Minimise the risk that interviewers will impose their view of what happened
- Are the most reliable means of securing accurate evidence

It is, however, highly unlikely that open-ended questions alone will elicit clear evidence from young children or vulnerable witnesses.

2. Specific Questions

- Seek to clarify or expand upon information supplied by the victim.

Examples of specific questions are the so-called ‘wh-’ questions: Who, What, Where, When, Why?

‘Why’ questions should be used with special care in abuse investigations as they may be interpreted by the victim as implying blame, or guilt to them.

If the answer to a specific question is unsatisfactory or confusing it is best not to repeat the question in the same form. Witnesses may interpret this as a criticism of their earlier response and sometimes change their response as a consequence, perhaps to one that they believe is closer to the answer the interviewer wants to hear.

3. Closed Questions

- Pose fixed alternatives and the victim is asked to choose between them,

e.g. “*Were you in the bedroom or living room when this happened?*”

They are useful in eliciting detail provided they relate to evidence already provided by the witness.

4. Leading Questions

- Imply a particular answer

e.g. *“And then he had sex with you, didn’t he?”*

They pose obvious risks of tainting evidence but may help witnesses who would otherwise not be able to give evidence to do so. They should only be used as a last resort, where all other questioning strategies have failed to get any kind of response. Unless there is absolutely no alternative, the interviewer should never be the first to suggest to the victim that a particular act/offence has been committed, or that a particular person was responsible.

When interviewing children or vulnerable adults interviewers should bear in mind that:

- Young children tend to respond best to specific questions
- Specific questions are particularly appropriate with situations of multiple exploitation/ abuse.
- There are particular risks of witness compliance/ acquiescence.

Style of questioning for children

Children vary in how much relevant information they provide in free narrative. However in nearly all cases it may be necessary to expand on the child’s initial account through questions.

Do:

- ask only one question at a time
- allow children sufficient time to complete their answer before asking a further question.
- have patience, particularly with developmentally younger children as they may need more time to respond

Do not:

- be tempted to fill pauses by asking additional questions or making irrelevant comments
- use silence in an oppressive or judgmental way
- interrupt the child when he or she is still speaking. This may disempower the child and also suggests that only short answers are required.

Content of Questions

The matter of vocabulary is particularly important in dealing with allegations of sexual abuse, where children may use terms, which are personal to themselves, their culture or their families. It is always advisable for the interviewer to ensure that they understand what the child means. If

necessary, this can be done by children referring to their own bodies, but the use of a doll or diagram may be preferable where reference needs to be made to the location of sexual acts.

Where a young child uses the appropriate adult terminology, it may still be necessary to check their understanding. The information requested in questions should always take account of the child's stage of development.

Many concepts, which are taken for granted in adult conversation, are only acquired gradually as children develop. Therefore questions which require an understanding of such concepts may produce misleading and unreliable responses from children.

Concepts with which children may have difficulty include:

- dates and times
- length and frequency of events
- height, weight and age estimates

There are a number of techniques for overcoming difficulties of measurement. Height, weight and age can be compared to another person known to the child (e.g. the interviewer or a member of the child's family). Time and date estimates can also be made by reference to events in the child's life (e.g. religious celebrations, moving accommodation). Time of day and the duration of events can sometimes be assisted by questions which refer to routines (e.g. collecting water, rations).

Do:

- keep questions as short and simple as possible
- think about the child's age and cognitive development
- explore with the child understanding of words if you think there is misunderstanding or confusion

Do not:

- use complex questions, such as those involving double negatives ('did Raja not say later that he had not meant to hurt you?')
- involve vocabulary with which the child is unfamiliar. Very young children, for instance, have particular problems with words
- assume you understand words the child uses

Open-ended questions can provide the interviewee with the opportunity to expand on relevant issues raised in their free narrative account. For example, if the interviewee has alleged that Michael touched her breasts the interviewer might say

“So he touched your breasts? Would you tell me more about him touching your breasts?”

This type of question can be used to try to expand on any other salient or relevant parts of the victim’s free narrative. If there has been little said during the free narrative an open-ended question can still be asked to prompt any further information. Do not feel completely bound to follow the interview phases exactly. If your questions distress the victim you can move away from the detailed complaint to a neutral topic of the kind explored in the Rapport phase. You can then return to the detail of the allegation when the victim has regained their composure.

For example, a woman or child in a sexual abuse investigation may have responded to an open-ended prompt by mentioning that a named man had climbed into her bed. A specific but non-leading follow-up question might be,

“What clothes was he wearing at the time?”

If there was still no clear answer, a further, more-explicit question might be:

“Was he wearing any clothes?”

Young children

For some young witnesses, open-ended questions may not assist them in accessing their memories because their abilities to search their memory systematically are insufficiently developed. However, they may well respond accurately to specific questions, which target information they know.

E.g. a young child may provide little information to an open-ended prompt such as:

“What clothes was he wearing?”

But respond readily to a specific question such as:

“What did his trousers look like?”

Care must be taken in framing such questions. Closed questions are likely to produce the response they invite e.g. the child might feel they have to describe a pair of trousers when in fact the man wore a sarong.

Phase Four: Closure

The aim of this phase is to close the interview positively. Closure should occur, irrespective of whether an interview has been completed or been terminated prematurely. Closure should normally involve the following features:

- Checking with the second interviewer, whether there are any outstanding matters

- Summarising what the witness has said in his/her own words
- Answering any questions from the witness
- Checking whether there are any outstanding witness needs, including the need for emotional support, health care or unaddressed fears or concerns.
- Thanking the witness for their time and effort

Where no information has emerged from the interview that is useful to the investigation, it is important that the victim should not be made to feel that he or she has failed or has somehow disappointed the interviewer.

The witness may ask what will happen next. Answers and explanations should be appropriate to the age/understanding of the witness. It is important that promises that cannot be kept should not be made. It is good practice to offer a means of contacting the investigation team, should he/she wish to discuss any matters of concern.

It is particularly important to review the witness protection plan during this phase.

Further Interviews

One of the key aims of early investigative interviews is to reduce the number of times a witness has to provide his/her account. Good pre-interview planning will often ensure that all the salient points are covered within a single interview. However, even with an experienced interviewer and good planning, an additional interview may be necessary in some circumstances. These include:

- Where the victim gives significant new information to someone else after the first interview.
- Where the initial interview opens up new lines of enquiry or wider allegations which cannot be satisfactorily explored within the time available
- Where the alleged perpetrator raises a serious and significant matter not covered in the initial interview
- Where significant new information emerges from other witnesses or sources.

In such circumstances, a supplementary interview may be necessary and this too should be conducted according to guidance. Consideration should always be given as to whether holding such an interview would be in the witness's best interests. More than one supplementary interview is unlikely to be appropriate. Exceptions to this include when interviewing very young or psychologically disturbed individuals or where a case is exceptionally complex or involves multiple allegations. Further specialist advice should always be sought in such circumstances.

Unconventional Interviewing Techniques ('Subterfuge')

There may be particular circumstances when the use of unconventional methods to interview women or children may need to be employed. These would include situations where the safety of the witness would be jeopardised should they be identified as such.

An example of an unconventional approach would be setting up a 'smoke screen' consultative process about an unrelated/spurious topic whereby a broad sample of beneficiaries are interviewed. Whilst this raises evident ethical dilemmas it may well be justifiable in protecting the confidentiality and safety of the witness.

Multiple incidents of exploitation or abuse

If the woman/child has alleged in their free account that they have been the victim of repeated abuse, but have not described specific incidents in any or sufficient detail, specific questions can be employed to try to clarify the point. In considering how best to assist them to be more specific, the interviewer should bear in mind the difficulties particularly children have in isolating events in time, especially when the individual events follow a similar pattern.

A good strategy in isolating such specific events is to enquire about whether there were any which were particularly memorable or exceptional. The questioner can then use this event as a label in asking questions about other incidents

"You told me that he had touched your breasts after the Bola that happened last Saturday. Today is Wednesday, has he touched you since then?"

Alternatively, they can enquire about the first or last time an event occurred, as such incidents are likely to be more accessible in memory. When questioning a child about repeated events, it is always better to ask all questions about one event before moving on to the next.

Another use of specific questions is to explore whether the witness is giving an account of an incident for the first time or whether they have told others beforehand. A classic pattern in abuse disclosures is for incidents to come to the attention of investigating agencies after the victim has first confided in a trusted person, typically a close friend, teacher or relative. This information is valuable in establishing the consistency of any statements made by the victim and tracing the development of the allegation. Where a significant delay has occurred between an alleged incident and the victim reporting it, interviewers should take care that the questions do not seem blaming.

This guidance, written by the NSPCC (National Society for Prevention of Cruelty to Children) draws on the best practice as issued in 2002 by the Home Office- England and Wales from the document 'Giving Best Evidence' A guide on Interviewing Children and Vulnerable Witnesses.

RECOMMENDATIONS FOR IMPLEMENTATION OF COMPLAINTS AND INVESTIGATION PROCEDURES

1. Code of Conduct

- All staff are fully apprised of the IASC Code of Conduct
- A code of practice (policy) is developed to inform staff of appropriate behaviour

2. Recruitment and Vetting

- Recruitment procedures should ensure that all staff are recruited in accordance with agency policy and that agencies obtain references from previous employers

3. Reporting Mechanisms

- Ensure that reporting mechanisms exist that are accessible to women, children, and staff members.

4. Conducting Investigations

- Creation of a “pool” of qualified investigators from internal and/or external sources

5. Training

- Develop a training strategy for staff to ensure awareness of complaints protocol and investigation procedures and of their obligations
- Information on complaints distributed to staff
- Management training for managers/supervisors
- Training for Accredited Investigation Officers

6. Staff Support

- Support provided to complainant and subject of the complaint where concerns are unsubstantiated

7. Monitoring and Evaluation

- Complaint protocol and investigation procedures should be field tested
- Complaint protocol and investigation procedures should be subject to audit and review for lessons learned

8. Human Resources

- Review policy on anonymous complaints, confidentiality, disclosure of information, and staff members who separate from Agency before conclusion of an investigation

9. Other Issues

- Agencies should meet to address issues in the protocol and investigation procedures
- Agencies ensures sufficient resources available to support implementation
- Develop a Child Protection Policy

Appendix I

Terminology

Agency – any Non-government organisation or International Non-government organisation or the United Nations.

Staff member - any person who either works for or represents the (AGENCY NAME), regardless of whether or not they are compensated monetarily for such work or representation.

Partner - agency or organisation executing a project or undertaking any other work in the name of (AGENCY NAME).

Beneficiary - a person who receives assistance as part of either emergency relief or development aid through assistance programmes.

Child -any individual under the age of 18, irrespective of local country definitions of when a child reaches adulthood.

Complainant – the person making the complaint, including the alleged victim of sexual exploitation/ abuse.

Focal point - person designated to receive complaints of cases of sexual exploitation and sexual abuse.

Subject of the complaint (subject) – the person alleged to have sexually exploited or abused the victim.

Victim - the person who is sexually exploited or abused. This term not meant to imply a lack of strength, resilience or capacity to survive.

Witness – any person giving testimony or evidence in the investigation, including but not limited to the victim, the complainant, a beneficiary, a staff member of a partner agency, the subject of the complaint or another (AGENCY NAME) staff member.

Sexual abuse - the actual or threatened physical intrusion of a sexual nature, including inappropriate touching, by force or under unequal or coercive conditions.

Sexual exploitation - the abuse of a position of vulnerability, differential power, or trust for sexual purposes; this includes profiting monetarily, socially or politically from the sexual exploitation of another.