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| **STANDARD OPERATING PROCEDURE**  **UNHCR- NGO PARTNER COOPERATION ON INVESTIGATIONS**  **SHARING OF SENSITIVE MATERIALS AND CASE INFORMATION** |

**1. Introduction**

Since its inception UNHCR has been collaborating with a broad range of partners that share common humanitarian principles and commitments for protection of refugees and other persons of concern. UNHCR is presently engaged in an initiative with partner organisations to enhance cooperation on investigations into allegations of misconduct by (specify) that could impact on persons of concern, the credibility of a programme, and on donors.

A central element of partner cooperation is UNHCR-partner contractual Agreements. The new Standard Clause[[1]](#footnote-1) on “Inspection, Monitoring, Audit, Investigation and Ethical Considerations” in the Standard Partner Agreements states, inter alia, that:

***6.03.4 The Partner shall ensure close coordination with UNHCR regarding the planning and conduct of any investigation or administrative action in regard to allegations of such abuse and possible misconduct, and shall share with UNHCR the full investigation report. Where UNHCR deems it necessary and appropriate, UNHCR may conduct the investigation in coordination with the Partner and share the findings with the Partner. The attached Appendix 2 on Standards of Managing Misconduct, setting forth minimum investigation-related standards which partners are expected to have in place, is an integral part of this Agreement.***

Close cooperation between UNHCR’s Inspector General’s Office (IGO)) and UNHCR’s NGO partners may involve the referral of cases of possible misconduct (elaborated in a Standard Operating Procedure[[2]](#footnote-2)). Some case referrals may lead to a joint IGO -NGO partner investigation, and generic Terms of Reference have been developed in this regard[[3]](#footnote-3). Other case referrals may involve the need for sharing of sensitive materials and case information, for possible joint or collaborative investigative action. Such sharing of information will strengthen the trust and partnership that exist between UNHCR and its NGO partner agencies, as well as improve mutual investigative capacity.

The following paragraphs summarize the UNHCR guidelines on confidentiality, case files, and evidence[[4]](#footnote-4), which are all relevant to the sharing of sensitive materials and case information. It is likely that UNHCR partners will have their own guidelines in these areas, in which case early in the investigation there should be discussion by those involved in the investigation on how best to handle the issues of confidentiality, case files and evidence.

**2. Confidentiality**

Confidentiality must accompany the sharing of any sensitive materials and case information. Activities by the IGO and by NGO partners with respect to reports of possible misconduct are to be conducted in a confidential manner. Strong efforts should be put into place to ensure confidentiality during all phases of an investigation, including case information relating to complainants, witnesses and subjects of a complaint. Information about an investigation should only be shared with or communicated to people who have a legitimate need to know (determined on a case-by-case basis). For this reason, and with respect to the rights of all concerned, complainants, witnesses or others are not entitled to demand information about an investigation, its status or its conclusions.

**2.1 Specific aspects of confidentiality**

Utmost precautions will be taken to protect confidential information obtained in the context of an investigation as well as the identities of the person(s) under investigation, the person who reported the allegation and anyone who provides relevant information or documentation. It should be noted that in many cases the source of a complaint / allegation (whose identity is to be protected) is also a witness to the alleged misconduct. While the source will not be identified by name as a source, s/he may be identified in his or her capacity as a witness. With respect to due process requirements, and in exceptional cases (e.g. involving safety or security-related risks), the identity of individuals may be protected throughout the investigation process.

Allegations or evidence of other possible misconduct may be obtained or discovered during the course of an investigation; e.g. by way of witness testimony. The person(s) from whom it is solicited is considered a witness rather than a source. This is, however, without prejudice to the protection from retaliation afforded to individuals who participate in investigations, as per the whistleblower policy of the organization.

In certain cases (e.g. harassment, abuse of authority and sexual exploitation and abuse), the identity of the complainant and/or other investigation witnesses may need to be shared with the alleged perpetrator for purposes of due process. Feedback may be provided to the alleged victim as is deemed appropriate and without prejudice to the rights of others. For legitimate reasons (e.g. to protect the integrity of an investigation and/or the physical safety of a witness or other), steps may be taken to protect an individual’s identity.

**2.2 Confidentiality Agreement**

Staff members and other personnel who have access to confidential information in the course of an investigation are required to respect confidentiality and not disclose information unless authorised by the IGO and the partner. Confidentiality is furthermore protected by an oath signed by all UNHCR staff members, consultants or any other persons whose work or cooperation with the IGO requires access to confidential information (see **ANNEX 1, UNHCR Confidentiality Agreement**). Confidentiality is also protected by provisions in investigation policies and guidelines of the UNHCR partner.

Individuals who are not contractually bound to UNHCR and who cooperate with IGO investigations, including witnesses who are not staff members, are requested verbally and/or in writing to respect the importance of confidentiality, and to sign the Confidentiality Agreement.

**3. Case files**

File management is an important feature of the investigation process. It assists in ensuring the integrity of the investigation and shows that a clear methodology has been followed. UNHCR will create case files according to the procedures summarized below, and when agreed with the NGO partner will share this information with the partner. Case file information relevant to the investigation shall be shared between UNHCR and partner investigators in joint investigations.

An electronic folder will be created by UNHCR and the NGO partner for each investigation case, and will be shared in joint investigations. This folder contains the material relevant to the matter under investigation. It will include, but is not limited to a **Record of Interview** (template found as **ANNEX 2**), Notes to File, email correspondence and other documentation. The electronic file will be accompanied by a physical file where original documents are stored. This will include any original documents, such as signed Records of Interview, Exhibit Receipts and documentary evidence. Scanned copies of these original documents should be included in the electronic file. Data protection will be ensured for all data related to an investigation case.

When assigned an investigation, the investigator shall ensure that the following steps are undertaken:

· A **case folder** is opened electronically; all documents relating to the case are to be uploaded into a Complaint sub folder. The folder will also contain a blank Document Register and Case Sheet.

· **Sub folders** are created. All items are delegated to a relevant sub folder. It is suggested that these sub folders be titled – Complaint, Subject, Witnesses and Email Correspondence. The Email Correspondence folder may be further split into three folders, these being – Witnesses, Complainant and Subject.

· The **Case Sheet** is a chronological log of all steps taken during the investigation process. A brief summary of all steps should be recorded in this. This will outline all persons spoken to during the investigation, the date this was done, and any outcomes. This includes any enquires undertaken, e-mail correspondence or interviews. See **ANNEX 3** for a sample Case Sheet.

· The **Document Register** is a full list of all documents relating to the case. Each document will be allocated its own unique identifying number. These numbers are to be designated in a sequential manner. When additional documents are submitted along with the source document, then they are to be provided with the same unique number but will also include an alphabetic addition.

· At the completion of the investigation a scanned version of any final report will be uploaded into the electronic folder. A template for a Document Register is found as **ANNEX 4.**

**4. Evidence**

Case information may include evidence, in addition to case files. Evidence is any type of proof which tends to establish a fact material to the case. The different types of evidence can be categorized as follows:

1. ***Testimonial evidence:*** Testimonial evidence typically includes the recollection of individuals who actually saw an event or have direct knowledge of something relevant to the issue being investigated.
2. ***Documentary evidence:*** This includes correspondence, forms and all information that may be maintained on paper in official archives, as well as external material such as personal letters, business records, etc. Documents and records may exist in physical and/or electronic form.
3. ***Electronic evidence:*** Electronic evidence includes correspondence, forms and all information that may be maintained on paper in official archives, as well as external material such as personal letters, business records, etc. Documents and records may exist in physical and/or electronic form.
4. ***Physical evidence:*** Physical evidence includes equipment, goods and facilities, and any other tangible objects.
5. ***Forensic evidence:*** Forensic evidence is a general category that could include fingerprints, Deoxyribonucleic acid (DNA) trace material and even scientific analysis of items to establish certain properties or source. It has, therefore, an element of analysis or interpretation that requires special handling and explanation that physical and even electronic evidence may not.

**4.1 Handling documentary and physical evidence**

When handling the original version of documentary or physical evidence, a clear chain of custody record must be maintained. From the moment the investigator takes control of the evidence, a record of its receipt and subsequent handling must be kept, including the dates and the times when it was obtained. The investigator should record the following information to maintain the proper chain of custody (see **ANNEX 5):**

· *Name of the individual or entity providing the evidence (unless the individual or entity providing the evidence requests anonymity);*

· *The source and/or physical location from which the evidence was obtained (unless the individual or entity providing the evidence requests anonymity);*

· *Date and time the evidence was obtained;*

· *Name, identifying number, date of document, if applicable and brief description of the evidence; and*

· *Overall condition of the evidence (e.g. number of pages, missing parts, sections or pages)*.

**4.2 Document identification**

Each document or other written evidence should be allocated a sequential number. Unless the investigator in a case determines otherwise, due to the volume of documentary evidence or other special factors, the original version of any documentary evidence should not be marked and should remain in its original condition throughout the investigation process. The original document should be placed in a secure envelope and the identification number placed on the envelope, not the document itself. This will preserve the integrity and admissibility of the document in the case of an administrative process or legal action, or if forensic examination is required. Copies of original documents may be marked with the identification number, which should be placed in the upper right hand corner of the document whenever possible.

**4.3 Receipt of evidence**

When certain evidence is obtained (e.g. items that are normally used or held by the source), the source is provided with acknowledgement or a receipt listing the evidence that has been given (see **ANNEX 6).** The Chain of Custody Form and Exhibit Receipt form could also be used between UNHCR and partners in joint investigations.

# UNHCR

**March 2013**

# ANNEX 1



# *Inspector General’s Office / Bureau de l’Inspecteur général*

**Confidentiality Agreement[[5]](#footnote-5)**

I, the undersigned, shall exercise the utmost discretion with regard to my involvement in the work of the Inspector General’s Office (IGO). I will keep confidential all information related to IGO investigations to which I have access in the course of my official duties and otherwise, and/or known to me by reason of my assisting the IGO. I shall not use such information for private gain, or to favour or prejudice any third party.

I undertake to carry out my duties in accordance with the provisions of the Inter-Office Memorandum N°009 / Field Office Memorandum N°010/2012 of 7 February 2012 on “The role, functions and *modus operandi* of the Inspector General’s Office”. I have read and understood the said IOM/FOM. If in doubt in the course of my duties, I shall seek the advice of the Inspector General’s Office exclusively.

I understand that this declaration will remain in force after the completion of my assignment with the Inspector General’s Office and/or with UNHCR. I also understand that divulging confidential information to persons who are not authorized to receive it may amount to misconduct, and that the signed original of this declaration will be held by the Inspector General’s Office.

Name & Title: .........................................

Signature: ................................................

Date: ........................................................ Place: ...........................................

**To be filled out by the Officer before whom the oath is taken:**

Name & Title: .................................................................................................................

Signature: ................................................

Date: ........................................................ Place: ...........................................

Reason for taking the oath[[6]](#footnote-6): ……………........................................................................

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**ANNEX 2**



# *Inspector General’s Office / Bureau de l’Inspecteur général*

***Record of Interview***

***This document is protected by the provisions of IOM/009/2012 – FOM/010/2012 of 7 February 2012, concerning the confidentiality of the proceedings related to an investigation***

***conducted by the Inspector General’s Office.***

## Investigation Case Reference Number: INV/xx/xx

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| Interviewee |
| **Name** |  |
| **Title / occupation:** |  |

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| --- |
| **Interviewer / Investigator** |
| **Name** |  |
| **Title** |  |

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| Witness / Investigator |
| **Name** |  |
| **Title** |  |

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| Interpreter |
| **Name** |  |
| **Title** |  |

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| Accompanying person |
| **Name** |  |
| **Title / occupation** |  |

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| Interview details |
| **Date** | Day / Month / Year |
| **Place / location** |  |
| **Time** |  |
| **Language** |  |

|  |
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| **Record of the Interview** |

###### Detailed record (non-verbatim) of questions asked and interviewee’s responses

###### Audio recording reference (if applicable):

Interview starts at: XX:XX hrs

**Introduction**

I am going to be recording this discussion and will seek your consent in one moment. I would like to thank you for attending this interview today. The time is (time / date). This is a Subject / Witness interview in case INV/XX/XX.

I have a few things I must explain before we begin.

My name is < Name> (Title) at the Inspector General’s Office (IGO). I will conduct this interview together with my colleague, < Name> (Title), who is assisting this investigation as an IGO witness and to help ensure that we correctly record your answers.

As you are aware, the IGO is the authority in UNHCR that investigates complaints of misconduct by UNHCR staff members.

**Audio recording (if applicable: e.g. Subject and important witness)**

We are recording this conversation. We are using a digital audio recorder. The reason for the audio recording is to ensure integrity of the process. It is in our respective interests to ensure the conversation that we have today is accurately recorded. We do not plan to prepare a word for word transcript of the entire interview from the digital recording. However, important elements may be transcribed directly. Also, the audio recording can serve a useful reference in the event that there is any misunderstanding about what was actually said at interview. The recording will remain on the IGO file.

Are you agreeable for us to audio record this interview?

Yes (proceed)

No (ascertain why)

**Interpreter (if applicable)**

Please let me also introduce < Name> (Title) who is our interpreter. Do you understand the interpretation so far?

Yes

No (ascertain why / postpone interview if necessary)

**Witness or Subject (select applicable text)**

Witness

You have been informed (date / place) that you are a potential witness in this investigation. That is, the IGO has reason to believe that you might be able to provide us with information that will assist our investigation. You have received the “Witness Notice of Interview”, and the IOM/09/FOM/10 of 2012 on the role of the Inspector General’s Office. Do you confirm receipt of that information?

Subject

You have been informed (date / place) that you are the Subject of this investigation. That is, we have received allegations or information that implicates you in possible misconduct. You have also received the “Subject Notice of Investigation”, and IOM/09/FOM/10 of 2012 on the role of the Inspector General’s Office. Do you confirm receipt of that information?

Yes (proceed)

No (ascertain why / postpone interview if necessary)

**Accompanying staff member/person (select (a) or (b) as may be applicable)**

1. You were offered to be accompanied by another staff member/person in this interview. However, for our records, you have decided not to avail yourself of this opportunity. Is this correct?

“Yes” (proceed)

“No” (ascertain why / postpone interview if necessary)

1. You were offered to be accompanied by another staff member/person in this interview. You selected Mr/s < Name> (Title).

[To the accompanying staff member/person “We would like to remind you Mr/s <Name> that as an accompanying staff member/person you should not respond on behalf of the interviewee or otherwise intervene in the interview process in any manner. At any stage during this interview you may be requested to leave the room. You are bound by the confidentiality provisions applying to investigations conducted by the IGO and have already signed an oath of confidentiality.”]

**Language of interview (if applicable)**

Prior to this interview, you were offered the opportunity to be interviewed in [LANGUAGE] however you have informed us that you can be interviewed in English / French. Nevertheless, please be aware that [NAME] is also available to assist as an interpreter, in case of any need.

The Record of Interview will be in English / French. If necessary, you will be offered the opportunity to review the Record of Interview with interpretation.

**Investigation process (Subject and Witness)**

This interview is part of an on-going exercise to establish facts. The result of this fact-finding exercise may be either a closure report for our file or an Investigation Report on the facts established. If an Investigation Report is prepared, the IGO’s responsibility is to send it to the Director of the Division of Human Resources Management (DHRM) who may take further action, such as initiating disciplinary action against the staff member(s) concerned.

The investigation process is confidential. The IGO Investigation Service will not release details of the investigation outside the IGO, unless such details are needed to initiate a disciplinary proceeding. Likewise, you should not disclose details about the investigation that become known to you through this process or that are already known to you. This includes discussing details of our interview with other colleagues, including your supervisor. Breaches of confidentiality will be taken seriously and can amount to misconduct.

All staff have a duty to cooperate with investigations, including interviews. You are expected to answer the questions completely and truthfully. Please provide detailed answers. If you do not know or cannot remember the answer, please say so. If you do not understand the question, please ask us to repeat or explain it.

A **written record of the interview** will be taken. As soon as practicabily possible you will be provided with the Record of Interview for review (in specific cases this may be done verbally and recorded) and you will be asked to indicate your agreement by signature. In some cases this may be done by email correspondence.

We respect your situation and we understand that an interview with the IGO can be stressful. We want you to be comfortable during the interview, so please let me know if you need anything or if there are time constraints which we have to deal with before we begin. If you need a break at any time during the interview, or if you wish to stop the interview or you feel unwell please let me know. We may also impose a break during the interview.

Do you understand what I have just explained?

Yes (proceed)

No (ascertain why)

**Questions about the interview process (Subject and Witness)**

Do you have any questions about the interview process I have just explained to you?

Yes (question / response)

No (proceed)

**RECORD OF INTERVIEW:**

**Example questions**

1. **Please can you state your full name and position title?**

A1.

**Q2. What are you contact details (residential / phone etc.)**

A2.

**Q3. What are you official and private mobile phone numbers?**

A3.

**Q4. What email accounts do you have?**

A4.

**Q5. How long have you been working for UNHCR?**

A5.

**Q6. Since you began working for UNHCR, what type of trainings have you attended that are relevant to your specific area of work responsibility?**

A6.

**Q7. Have you attended any training or refresher courses on the Code of Conduct? (When?)**

**A7.**

**Q8. Do you have anything else you would like to add?**

A8 .

**Closure**

I don’t have any further questions at this stage. We may contact you at a later time if we have some further questions or to clarify certain facts.

I would like to thank you for your cooperation today during this interview. We will finalize the Record of Interview which will be a summary of the main points you have made, and it will be shared with you as soon as practically possible. You will have an opportunity to check the Record of Interview and suggest corrections to the text in case the record does not accurately reflect what you stated. We will review any suggested amendments before finalizing the record. Then we will sign the document for our official records. You will be asked to sign also.

**Confidentiality**

This interview we have had today is confidential. Please do not tell any other people about this interview. Please do not speak with your supervisor or other staff members about this interview and about this IGO investigation.

Thank you for your cooperation.

**Interview ends at: XX:XX hrs**

This is a true and accurate record of the interview.

1) For the Interviewee:

In accordance with the procedure outlined in IOM/009/2012 – FOM/010/2012 of 07 February 2012, I, the undersigned, declare to understand that my statement may be used in a disciplinary procedure and, in the case of a witness statement, could be shared with staff under investigation, unless the Inspector General advises that this would affect my security.

Date and signature:

2) For the Witness / Interpreter to the Interview:

I, the undersigned, undertake not to divulge any confidential information to which I have access in the exercise of my capacity as witness/interpreter to the present interview, and in particular to respect the confidentiality of information obtained during this interview.

Date and signature:

3) For the Interviewer / Investigation Officer(s):

Date and signature:

**ANNEX 3**

**CONFIDENTIAL**



# *Inspector General’s Office / Bureau de l’Inspecteur général*

***This document is protected by the provisions of IOM/009/2012 – FOM/010/2012 of 7 February 2012, concerning the confidentiality of the proceedings related to a preliminary investigation conducted by the Inspector General’s Office***

**Case Sheet**

**CASE NUMBER:**

**SUBJECT:**

**INVESTIGATOR:**

**Actions:**

**ANNEX 4**



Document Register

IGO - Investigation Service

**COM-..-00XX (XX/XX/2012) INV/…/… (Date/MM/YY)**

| **Doc. #** | **Document descriptions** | **Date** | **Action Officer**  **(Initial)** |
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**ANNEX 5**

# *Inspector General’s Office / Bureau de l’Inspecteur général*

**Chain of Custody / Exhibit Form**

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| The item(s) described below were obtained as evidence by the undersigned during an official investigation: | | | | |
| **Description of Item:** | | | | |
| **Obtained from:** (Name, title, Office, location) | | | | |
| **Printed name of investigator:** | **Signature of Investigator:** | | **Date Obtained:** | |
| **Case Number:** | | | | |
| Temporary disposition of item (s): (where stored) | | | | |
| Released by: (printed name and signature) | | Released to: (printed name and signature) | | Date: |
| Temporary disposition of item (s): (where stored) | | | | |
| Released by: (printed name and signature) | | Released to: (printed name and signature) | | Date: |
| Temporary disposition of item (s): (where stored) | | | | |
| Released by:(printed name and signature) | | Released to: (printed name and signature) | | Date: |
| Temporary disposition of item (s): (where stored) | | | | |
| Released by: (printed name and signature) | | Released to: (printed name and signature) | | Date: |

**ANNEX 6**



# *Inspector General’s Office / Bureau de l’Inspecteur général*

**EXHIBIT RECEIPT**

**Case Number:**

**Date of Receipt:**

**Time:**

**Details of Person:**

**Organization (Department, Office, Unit etc.):**

**Address / Telephone Number / Email:**

**Description of item(s)**

***Provide description of item seized; e.g. make, model, serial numbers, colour, condition, number of pages (if documents) and any other identifying marks. Each exhibit must be supplied with its own unique identification number. Complete a separate receipt for each exhibit.***

**Name of Investigator:**

**Witness** *(If applicable)***:**

**Signature(s):**

**Chain of Custody:**

*(Refers to the chronological documentation of each individual exhibit, showing the seizure, custody, control, transfer, analysis and disposition of evidence, physical or electronic. Every person who takes control of the item is to be recorded in the chain of custody.)*

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| **Exhibit Number** | **Date / Time / Location of transfer** | **Delivered by** | **Received by** |
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1. Bipartite Project Agreement (Governmental or Non-governmental Non-profit Partner), January 2013. [↑](#footnote-ref-1)
2. UNHCR Standard Operating Procedure: UNHCR-NGO Partner Cooperation on Investigations - Referral of Cases of Possible Misconduct, December 2012. [↑](#footnote-ref-2)
3. UNHCR Terms of Reference – Joint UNHCR (Name of NGO Partner) Investigation Team, December 2012. [↑](#footnote-ref-3)
4. From the UNHCR Guidelines on Conducting Investigations and Preparing Investigation Reports, December 2012. [↑](#footnote-ref-4)
5. *To be signed by UNHCR staff members, consultants, translators, and others, required to assist the Inspector General’s Office in the conduct of investigations and/or who have access to confidential information related to the work of the Inspector General’s Office.* [↑](#footnote-ref-5)
6. *Indicate INV Case N° if applicable, or briefly describe the reason for taking the oath.* [↑](#footnote-ref-6)