

21105 PROCEDURES APPLICABLE TO CASES OF SEXUAL HARASSMENT

The policy regarding sexual harassment and related information is covered in Chapter I, section 20109. The following subsections, below, cover the procedures to follow for the informal or formal resolution of a complaint of sexual harassment.

1.0 Informal approach to resolve complaints of sexual harassment

1. The informal approach is intended to resolve a complaint of sexual harassment through mediation between the parties involved and by providing advice and counsel on a strictly confidential basis. An individual based at Headquarters or in a country office may bring a complaint to the attention of any member of the Ombudsman Panel or to a staffing officer for informal resolution. The request may be made orally or in writing.

- In cases where an individual at Headquarters selects the informal approach, a member of the Ombudsman Panel or a staffing officer in OHR should review the case and should approach the alleged offender on a strictly confidential basis;

- In cases where an individual in a country office selects the informal approach, a member of the Ombudsman Panel or a staffing officer will, in consultation with the complainant, normally nominate a member of the country office. If there is perceived conflict of interest, a senior manager from one of the United Nations agencies represented at the field level will review the matter and approach the alleged offender on a strictly confidential basis to resolve the situation.

2. The member of the Ombudsman Panel or the staffing officer will notify the nominated party and explain the Sexual Harassment Policy and Procedures and suggest ways of dealing with the situation. The nominated staff member will inform the staffing officer or the member of the Ombudsman Panel of the outcome.

3. No formal record of the complaint will be entered into any official status or other file of the parties concerned.

4. In cases where the situation revealed by the informal approach appears to indicate that misconduct has occurred which may warrant administrative action or disciplinary measures, as described in Staff Rule 110.3 and sections 21104 and 21106 of this manual, the staffing officer will recommend in writing that OHR refer the matter to the Grievance Panel on Sexual Harassment. In making this recommendation, the staffing officer concerned should prepare a report indicating why the matter warrants further examination. In such cases, the complainant and the alleged offender should receive a copy of the report.

2.0 Formal approach to resolve complaints at Headquarters and country offices

1. The formal approach is intended to resolve a complaint of sexual harassment through a process that includes initial investigation and fact-finding conducted by a panel of three staff members.

2. In circumstances where the informal approach is not considered appropriate by a complainant or has not yet yielded a satisfactory resolution, a formal written complaint may be made by the complainant to OHR. In cases where the informal approach was handled by the Ombudsman Panel, the complainant may request the assistance of the Ombudsman Panel in the preparation of a formal complaint to OHR. The complainant may also request that the Ombudsman Panel prepare a report on its findings which should be attached to the complaint to OHR. If the complaint is lodged against a staff member assigned to OHR, the written complaint should be addressed to the Office of the Administrator, UNDP. The written complaint should be referred by OHR to the Coordinator of the Grievance Panel within three business days of receipt.

2.1 Grievance panel on sexual harassment

1. The purpose of the Grievance Panel is to investigate formal complaints of sexual harassment brought by staff members either at Headquarters or in the country offices. Staff members should be assured that all complaints of sexual harassment will be handled promptly and in a full, fair and confidential manner.

2. The Panel is composed of ten staff members who are jointly recommended by OHR and the Staff Council and approved by the CGSM.

- The Grievance Panel should be gender-balanced;

- The members of the Grievance Panel should be appointed for two-year terms. Among the first ten members appointed, five should be appointed for a three-year term in order to ensure continuity in the functioning of the Grievance Panel. Upon expiration of the terms of members appointed for three years, their successors should be appointed for two-year term;

- The members of the Grievance Panel should select a Coordinator;
and

- Members of the Grievance Panel will be specially trained in the sensitive and confidential handling of these complaints.

2.2 Procedures

1. The written complaint should describe the specific act(s) or behaviour(s) which are being objected to, the date(s), time, location(s) and circumstances, and include any other information and evidence relevant to the matter. The complaint should identify the alleged offender, any witnesses, and anyone to whom the incident might have been mentioned. It should be dated and signed by the complainant.

2. At the time a complaint is referred to the Coordinator of the Grievance Panel, a copy of the complaint should be forwarded by OHR to the alleged offender who will be informed in writing of the following: i) the right to respond in writing and to produce countervailing evidence within a specified time (the amount of time allowed for the response should take account of the seriousness and complexity of the matter); ii) the right to seek the advice of another staff member or retired staff member to assist in his or her response; and iii) the right to request that the Ombudsman Panel prepare a report on

its findings, if any, under the informal approach.

3. The Coordinator should appoint a three-member panel to conduct an initial investigation and fact-finding of the case. The panel should be constituted as follows:

- (i) In case of alleged sexual harassment at Headquarters, the Coordinator should designate three members of the Grievance Panel to examine each case;
- (ii) In cases of alleged sexual harassment in a country office, the Coordinator should select at least one member of the panel from the Grievance Panel and the remaining panel members from staff assigned to the duty station. In cases involving senior management, i.e., resident representative, country director or deputy resident representatives, all three members of the panel may be selected from the Grievance Panel;
- (iii) The Coordinator should excuse any panel member from consideration of a specific case if it appears that there may be conflict of interest; and
- (iv) The Coordinator may disqualify a panel member from consideration of a case at the request of either party. The Coordinator may also excuse any member at that member's request from consideration of a specific case

4. When the three-member panel conducts the initial investigation and fact-finding they normally interview the complainant, the alleged offender, any witnesses and others who may be able to provide relevant information.

5. The three-member panel should submit a written report on the initial investigation and fact-finding directly to the Director, OHR within normally one month from receipt of the complaint by the Coordinator. In cases of complaints addressed to the Office of the Administrator (OA) the panel shall submit a written report directly to the Administrator. The alleged offender, the complainant and the Coordinator of the Grievance Panel should at the same time receive a copy of the report.

6. Upon review of the report, OHR or the OA should proceed as follows:

- (i) If the facts established by the initial investigation do not indicate that misconduct has occurred, decide that the case should be closed;
- (ii) If the facts appear to indicate that misconduct has occurred, refer the matter to the Disciplinary Committee for review and recommendation to the Administrator; and
- (iii) If the facts clearly indicate that misconduct has occurred and that the seriousness of the misconduct warrants immediate separation from service, recommend to the Administrator that the alleged offender be summarily dismissed.

7. If the facts established by the initial investigation appear to indicate that the complainant has intentionally made false statements in connection with the lodging of a

formal complaint of sexual harassment, OHR or OA should refer the matter to the Disciplinary Committee for review and recommendation to the Administrator.

8. The complainant and the alleged offender should be informed promptly by OHR or OA in writing of the course of action taken.

9. If a matter is referred to the Disciplinary Committee, OHR or OA will follow the procedures set forth in section 21103.

10. If a staff member is summarily dismissed, the staff member will be informed of the right to have the decision reviewed by the Disciplinary Committee within two months from the date of receipt of the written notification of separation.