

| **Administrative instruction (DRH) No. 34/Rev 1 of 15 November 2017**

Subject: Conflict resolution mechanisms related to discrimination, abuse of authority and harassment

I. Introduction

| 1 The purpose of this administrative instruction is to inform all eligible individuals of the means available to them to address and resolve conflict situations related to discrimination, abuse of authority and harassment, including sexual harassment. Such situations can have a detrimental effect on the working relationships, performance and job security of staff members concerned, and may take place in or out of the workplace, and during or outside working hours.

II. Definitions

2.1 Discrimination is any unfair treatment or arbitrary distinction based on a person's race, sex, religion, nationality, ethnic origin, sexual orientation, disability, age, language, social origin or other status. Discrimination may be an isolated event affecting one person or a group of persons similarly situated, or may manifest itself through harassment or abuse of authority.

2.2 Harassment is any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person. Harassment may take the form of words, gestures or actions which tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another or which create an intimidating, hostile or offensive work environment. Harassment normally implies a series of incidents. Disagreement on work performance or on other work-related issues is normally not considered harassment and is not dealt with under the provisions of this administrative instruction but in the context of performance management.

2.3 Sexual harassment is any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between persons of the opposite or same sex. Both males and females can be either the victims or the offenders.

2.4 Abuse of authority is the improper use of a position of influence, power or authority against another person. This is particularly serious when a person uses his or her influence, power or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion. Abuse of authority may also include conduct that creates a hostile or offensive work environment which includes, but is not limited to, the use of intimidation, threats, blackmail or coercion. Discrimination and harassment, including sexual harassment, are particularly serious when accompanied by abuse of authority.

2.5 For the purposes of this administrative instruction, discrimination, abuse of authority and harassment, including sexual harassment, shall collectively be referred to as "prohibited conduct".

III. General principles

3.1 In accordance with the provisions of article 101, paragraph 3, of the Charter of the United Nations and the core values set out in staff regulation 1.2, paragraph 1, and staff rule 101.3, every staff member has the right to be treated with dignity and respect, and to work in an environment free from discrimination, harassment and abuse. Consequently, any form of discrimination, harassment, including sexual harassment, and abuse of authority is prohibited.

3.2 The Union takes all appropriate measures towards ensuring a harmonious work environment and protects its staff from exposure to any form of prohibited conduct, through preventive measures and the provision of effective remedies when prevention has failed.

3.3 In their interactions with others, all staff members are expected to act with tolerance, sensitivity and respect for differences. Any form of prohibited conduct in the workplace or in connection with work is a violation of these principles and may lead to disciplinary action, whether the prohibited conduct takes place in the workplace, in the course of official travel or an official mission, or in other settings in which it may have an impact on the workplace.

3.4 For the purpose of this administrative instruction, the term "staff member" shall apply to staff members, regardless of the type of their appointment or its duration, as well as non-staff, such as consultants, contractors, seconded staff and interns. Complaints of prohibited conduct may be made by any staff member or by any other person who may have been subject to prohibited conduct on the part of a staff member in a work-related situation.

IV. Duties of staff members and specific duties of managers and supervisors

4.1 All staff members have the obligation to ensure that they do not engage in or condone behaviour which would constitute prohibited conduct with respect to their peers, supervisors, supervisees and other persons performing duties for the Union.

4.2 All staff members shall:

- a respect and work constructively with staff of all cultural, social and educational backgrounds;
- b dissuade other staff against conduct likely to constitute harassment;
- c intervene immediately when alerted to acts of harassment and act promptly to resolve such incidents.

4.3 Managers and supervisors have the duty to take appropriate measures to promote a harmonious work environment, free of intimidation, hostility, offence and any form of prohibited conduct. They must act as role models by upholding the highest standards of conduct. Managers and supervisors have the obligation to ensure that complaints of prohibited conduct are promptly addressed in a fair and impartial manner. Failure on the part of managers and supervisors to fulfil their obligations under this administrative instruction may be considered a breach of duty, which, if established, shall be reflected in their annual performance appraisal, and they will, where appropriate, be subject to administrative or disciplinary action.

4.4 Directors are responsible for the implementation of this administrative instruction in their respective directorates and for holding all managers and other supervisory staff accountable for compliance with its terms.

V. Preventive measures

5.1 Prevention of prohibited conduct is an essential component of the action to be taken by the Union. In the discharge of its duty to take all appropriate measures towards ensuring a harmonious work environment and to protect its staff from any form of prohibited conduct, the following preventive measures will be used.

5.2 The Union shall conduct regular and mandatory awareness programmes for all staff to raise awareness of the Union's zero tolerance of prohibited conduct, to provide guidance on the relevant policy and procedures and to foster the creation of a harmonious working environment, free of intimidation, hostility, offence and any form of discrimination or retaliation.

5.3 Other programmes will be offered, including targeted training for managers and supervisors.

5.4 The Human Resources Directorate shall ensure that new employees are provided with a copy of this administrative instruction upon taking up their appointment. It shall also ensure that these staff members undergo the required training.

5.5 Staff members are responsible for familiarizing themselves with the Union's policy on prohibited conduct and with the various options and internal channels available for addressing such conduct. Staff members are also reminded of the policy introduced by administrative instruction No. 35/Rev 1 on protection of individuals who report misconduct and cooperate with duly authorized audits or investigations.

5.6 In order to resolve problems which could potentially give rise to instances of prohibited conduct, managers and supervisors shall maintain open channels of communication and ensure that staff members who wish to raise their concerns in good faith can do so freely and without fear of adverse consequences.

5.7 If there is a need for confidential guidance or advice on matters which could constitute instances of prohibited conduct, staff members may consult any of the persons listed in section 6.6 below.

VI. Corrective measures¹

6.1 Individuals who believe they are victims of prohibited conduct are encouraged to deal with the problem as early as possible after it has occurred. The aggrieved individual may opt for an informal or a formal process, as explained below. Regardless of the choice made, the aggrieved individual is encouraged to keep a written record of events, noting dates, places, a description of what happened and the names of any witnesses and of anyone who may have information concerning the incident or situation at issue.

6.2 All reports and allegations of prohibited conduct shall be handled with sensitivity in order to protect the privacy of the individuals concerned and ensure confidentiality to the maximum extent possible.

6.3 Managers and supervisors have the duty to take prompt and concrete action in response to reports and allegations of prohibited conduct. Failure to take action may be considered a breach of duty and result in administrative action and/or the disciplinary proceedings.

6.4 Persons accused of prohibited conduct may seek assistance from any of the persons listed in section 6.6 below.

Informal resolution

6.5 Complaints can often be resolved informally. Experience suggests that most staff members who complain of harassment simply want the abusive behaviour to cease. Aggrieved individuals are encouraged to notify the offender of their complaint or grievance and ask him or her to stop as, in some instances, the alleged offender may not be aware that his or her behaviour is offensive. However, disparity in power or status between the parties concerned or other considerations may make direct confrontation difficult, and aggrieved individuals are not required to confront the alleged offender.

6.6 Staff members who feel that they are the target of prohibited conduct may ask for informal assistance from a third party, such as the Ombudsman, the Director of Human Resources, the Ethics Office, a supervisor or director, or a member of the Staff Association Committee.

6.7 In all cases, the medical or social service may be consulted for advice, in accordance with internal memorandum No. 4/2007. Aggrieved individuals may also consult an outside adviser, such as an occupational psychologist or stress counsellor, at their own expense.

6.8 The person from whom assistance has been requested may, with the consent of the aggrieved individual, meet informally with the alleged offender to apprise him or her of the situation and discuss the manner in which it might be resolved to the satisfaction of all concerned.

¹ The mechanism applicable in cases of misconduct by elected officials is governed by Executive Council decision CE 1/1977.

6.9 Everyone involved in the informal resolution process must recognize the need to treat the situation with sensitivity and confidentiality to the greatest extent possible.

6.10 Regardless of the outcome, the persons listed in section 6.6 above shall provide continuing support to the aggrieved party at every stage of the process, in consultation with the appropriate persons, taking into account the positive or negative consequences of the proposed course of action. If the temporary reassignment of the aggrieved party or the alleged offender to another position is proposed, this may not take place without the consent of the individual concerned.

6.11 An unsuccessful attempt to resolve the matter informally does not preclude it from being pursued formally under the following provisions.

Formal procedures

6.12 In circumstances where informal resolution is not desired or appropriate, or has been unsuccessful, the aggrieved individual may submit a written complaint to the official responsible for receiving such complaints, namely the Director of Human Resources, unless he or she is also the subject of allegations, in which case the complaint should be submitted to the Director General. Formal resolution may also be initiated by the submission to the official responsible for receiving complaints of a report of prohibited conduct from a third party who has direct knowledge of the situation. The aggrieved individual or third party shall copy the written complaint or report to the Human Resources Directorate for follow-up purposes.

6.13 In all instances, aggrieved individuals or third parties who have direct knowledge of the situation may report cases of prohibited conduct directly to the Internal Auditor, without the need to obtain authorization or clearance from any official.

6.14 The complaint or report should describe the alleged incident(s) of prohibited conduct in detail, and any additional evidence and information relevant to the matter should be submitted. The complaint or report should include the following:

- a the name of the alleged offender;
- b date(s) and location(s) of incident(s);
- c description of incident(s);
- d names of witnesses, if any;
- e names of persons who are aware of incident(s), if any;
- f any other relevant information, including documentary evidence if available;
- g date of submission and signature of the aggrieved individual or third party making the report.

6.15 The aggrieved individual may ask to be assisted throughout the process by a representative of the Staff Association or a staff member of his or her choice.

6.16 Upon receipt of a formal complaint or report, the official responsible for dealing with the case will promptly review the complaint or report to assess whether it appears to have been made in good faith and whether there are sufficient grounds to warrant a formal fact-finding investigation. If that is the case, the responsible official shall promptly appoint either the Internal Auditor or the investigation unit of the Internal Auditor of an Organization of the UN common system, such as the UN Office of Internal Oversight Services (OIOS) to conduct a fact-finding investigation, after consulting the aggrieved individual.

6.17 At the beginning of the fact-finding investigation, the official to whom the investigation was assigned shall inform the alleged offender of the nature of the allegation(s) against him or her. In order to preserve the integrity of the process, information that may undermine the conduct of the fact-finding investigation or result in intimidation or retaliation shall not be disclosed to the alleged offender at that point. This may include the names of witnesses or particular details of incidents.

6.18 All persons interviewed in the course of the investigation shall be reminded of the applicable rules and procedures resulting from administrative instruction No. 35/Rev 1 on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations.

6.19 The fact-finding investigation shall include interviews with the aggrieved individual, the alleged offender and any other individuals who may have relevant information about the conduct alleged.

6.20 The official to whom the investigation was assigned shall prepare a detailed report, giving a full account of the facts that he or she has ascertained in the process and attaching documentary evidence, such as written statements by witnesses or any other documents or records relevant to the alleged prohibited conduct. This report shall in principle be submitted to the responsible official normally no later than three months from the date of submission of the formal complaint or report.

| 6.21 If he receives the report as the responsible official, the Director of Human Resources shall refer it to the Director General with his recommendations. The Director general shall take one of the following courses of action on the basis of the report:

- a If the report indicates that no prohibited conduct took place, the Director General will close the case and so inform the alleged offender and the aggrieved individual, giving a summary of the findings and conclusions of the investigation.
- b If the report indicates that there was a factual basis for the allegations but that, while not sufficient to justify the institution of disciplinary proceedings, the facts would warrant managerial action, the Director General shall decide on the type of managerial action to be taken, inform the staff member concerned, and make arrangements for the implementation of any follow-up measures that may be necessary. Managerial action may include mandatory training, verbal reprimand, a change of functions or responsibilities, counselling, or other appropriate corrective measures. The Director General shall inform the aggrieved individual of the outcome of the investigation and of the action taken.
- c If the report indicates that the allegations were well founded and that the conduct in question amounts to possible misconduct, the responsible official shall refer the report to the Director General for appropriate action, and shall include a recommendation that disciplinary action be initiated. The Director General may suspend the alleged offender for the duration of the disciplinary proceedings, depending on the nature and gravity of the conduct in question. The proceedings shall be governed by the applicable rules concerning disciplinary measures. The aggrieved individual shall be informed of the outcome of the investigation and of the action taken.

6.22 Should the report indicate that the allegations of prohibited conduct were unfounded and based on malicious intent, the Director General shall decide whether disciplinary or other appropriate action should be initiated against the person who made the complaint.

6.23 Where an aggrieved individual or alleged offender has grounds to believe that the procedure followed in respect of the allegations of prohibited conduct was improper, he or she may appeal pursuant to chapter XI of the Staff Rules.

VII. Monitoring

General

| 7.1 The Human Resources Directorate shall submit an annual report to the Director General containing statistics on the complaints or reports received, as well as information on the action taken in those cases. The annual report shall include an overview of all preventive measures taken with a view to ensuring a harmonious work environment and protecting staff from prohibited conduct, and corrective measures taken under part VI above, as well as any evaluations or assessments relating to such measures and/or activities.

7.2 The Director General shall inform annually to the Council of Administration on the implementation of this administrative instruction, so as to review its application within the International Bureau.

Monitoring during the investigation

7.3 Where a fact-finding investigation is initiated following receipt of a formal complaint of prohibited conduct, appropriate measures shall be taken by the responsible official to monitor the status of the aggrieved party, the alleged offender and the work unit(s) concerned until such time as the fact-finding investigation report has been submitted. The purpose of such monitoring shall be to ensure that all parties comply with their duty

to cooperate with the fact-finding investigation and that no party is subjected to retaliation as a result of the complaint or the fact-finding investigation. Where retaliation is detected, the Ethics Office shall be promptly notified and the matter shall be handled in accordance with the provisions of administrative instruction No. 35/Rev 1 on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations.

Post-investigation review

7.4 Once the investigation has been completed and a decision taken on the outcome, appropriate measures shall be taken by the responsible official to keep the situation under review. These measures may include, but are not limited to, the following:

- a Monitoring the condition of the aggrieved party, the alleged offender and the work unit(s) concerned at regular intervals in order to ensure that no party is subjected to retaliation as a consequence of the investigation, its findings or the outcome. Where retaliation is detected, the Ethics Office shall be promptly notified.
- b Ensuring that any administrative or disciplinary measures taken as a result of the fact-finding investigation have been duly implemented.
- c Identifying other appropriate action, in particular preventative action, to be taken in order to ensure that the objectives of this administrative instruction are fulfilled.

VIII. Final provisions

8.1 This administrative instruction comes into force with immediate effect.

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Director General