

Sexual Exploitation and Abuse

Management of Investigations Workshop

PARTICIPANT MANUAL



SEA Sub-Working Group

September 2012

Foreword

Sexual exploitation and abuse (SEA) of beneficiaries by humanitarian personnel is a serious concern of the humanitarian community, and represents one of the most egregious failures of protection. As organizations dedicated to alleviating harm and respecting and honoring the dignity and integrity of everyone, InterAction members have an obligation and responsibility to perform in a manner that is consistent with the fundamental principles of human rights. Given this, we must remain at the forefront of efforts to prevent SEA.

InterAction's SEA Sub-Working Group (SWG) is dedicated to addressing the issue of SEA of beneficiary populations by humanitarian and development assistance staff. The SWG is the advisory body to strengthen InterAction member capacity to respond to and prevent SEA, to advocate for awareness of SEA, and to influence prevention and response capacities on the global level.

The primary objectives of the SEA SWG are: to strengthen InterAction member capacity; to provide a forum to facilitate sharing of information, knowledge, tools, etc., so as to foster cross-agency learning; to advocate for SEA awareness and influence UN agencies, governments, donors, and others on SEA policies and programs at the global level; and to provide training opportunities for InterAction membership related to SEA.

The "InterAction Framework for Strengthening NGO Capacity to Address Sexual Exploitation and Abuse and Gender-Based Violence" is a project of the SEA SWG funded by the US Department of State Bureau for Population, Refugees, and Migration. The goal of this project is to provide InterAction members with the necessary tools and resources to establish a sustainable capacity to prevent and respond to SEA at all levels of staff and to further coordinate gender-based violence activities of InterAction's membership.

While NGOs understand the necessity of protecting their beneficiaries from SEA, it is often challenging to develop the materials and procedures necessary to address this issue with limited technical expertise. This project offers InterAction members an unprecedented opportunity to work together to build capacity to address SEA as individual organizations, as well as an NGO community.

The SEA SWG would like to thank all who contributed to the development of this workshop manual. Much of the content in this manual is drawn from the SEA training and guidelines developed by the Building Safer Organizations initiative now housed within the Humanitarian Accountability Partnership. The training workshop was developed by Beth Vann with review and input from Daisy Francis at Catholic Relief Services and Angela Wiens at International Medical Corps.

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Workshop Overview

Purpose

The Management of Investigations Workshop is aimed at senior management staff who are the 'gate-keepers' for their agency and who have the authority to launch the full investigation process in response to an allegation of sexual exploitation or abuse against a staff member. This workshop will help senior managers understand their oversight role for the entire process which includes

- ✦ Designating an investigation team
- ✦ Supporting the investigation team and the process of investigation
- ✦ Receiving the investigation report
- ✦ Making decisions about actions to be taken

Objectives

Participants will:

1. Identify and explore some of the key challenges in managing SEA investigations
2. Learn the steps needed to ensure a proper investigation
3. Review their own organizations' SEA management policies and protocols with a view to strengthening management of SEA investigation processes.

Participants

This workshop is designed for senior staff who have primary responsibility for overseeing SEA investigations. Specifically, these are managers who may ...

- receive and deal with allegations of staff misconduct, or manages staff with this responsibility
- responsible for deciding whether to investigate an allegation and for overseeing the process as an investigation is carried out
- determine if the conduct warrants termination of staff, other disciplinary measures, or programmatic responses
- have responsibility for risk management
- have management responsibility to protect beneficiaries from harm and to uphold the good reputation and legal standing of the agency.

Agenda

| Timing | Topic |
|---------------|--|
| 8:30-9:00 | <i>Arrivals, registration</i> |
| 9:00-10:30 | Session 1. Opening Welcome, introductions, workshop objectives Experiences and challenges in managing investigations |
| | Session 2. Investigations and Risks Overview of investigation principles, procedures, reporting Managing investigations; practical application |
| 10:30 – 11:00 | <i>Coffee/Tea Break</i> |
| 11:00-12:45 | Session 3. Managing Investigations Case study exercise (small groups) Plenary discussion |
| | Session 4. A Culture of Safety Plenary review of key messages and critical elements Audit your organization – individual or small groups Plenary discussion – next steps for each of you (based on audits) |
| 12:45 - 1:00 | Session 4. Closing Jenny McAvoy – InterAction SEA working group Evaluations Final words |

Legal framework relevant to Sexual Exploitation & Abuse

- ▶ Consider gender and age dimensions of exploitation and abuse when understanding the legal basis for responding.
- ▶ Prevention of and response to exploitation and abuse of people of concern are based on principles enshrined in international and national law.

International law

- ⇒ International law can be defined as “[a] combination of treaties and customs which regulates the conduct of states amongst themselves”.
- ⇒ The highest judicial authority of international law is the International Criminal Court and the administrative authority is the United Nations.
- ⇒ International law is breached when rights of universal application are denied through racism, sexism or on religious or other state grounds.
- ⇒ International law is rooted in acceptance by the states, which constitute the system. The paradox of international human rights laws is that they controlled by the entities they seek to control.

Sources of international law

- Customary law and conventional law are primary sources of international law.
- Customary international law results when states follow certain practices generally and consistently out of a sense of legal obligation. Customary law was codified in the Vienna Convention on the Law of Treaties.
- Conventional international law derives from international agreements and may take any form that the contracting parties agree upon. Agreements may be made in respect to any matter except to the extent that the agreement conflicts with basic standards of international conduct or the obligations binding UN member states under the Charter of the United Nations.

(International) human rights law

“Human rights law is a system of laws, both domestic and international which is intended to promote human rights. Human rights law includes a number of treaties which are intended to punish some violations of human rights such as war crimes, crimes against humanity and genocide. There are also a number of international courts which have been constituted to judge violations of human rights including the European Court of Human Rights and the International Criminal Court.”¹

Examples of human rights law:

¹ Gardner, Bryan (editor). 1999. *Blacks Law Dictionary*. Seventh edition, WestGroup.

1. Universal Declaration of Human Rights (UDHR)

- The General Assembly (GA) adopted the Universal Declaration of Human Rights on 10 December 1958. Participants from all over the world contributed to the drafting of the UDHR. The roots of UDHR can be traced way back. In particular, the relation between the individual and the state was conceptualised within the framework of social contract theory (i.e. Rousseau, Paine, Jefferson) in the 17th century, a time in which movements for freedom and dignity were often met with repression and suffering. However, the immediate background for the drafting was the atrocities of World War II.
- UDHR contains a system of rights, and it places social, economic and cultural rights on the same level as political rights.
- The non-discrimination clause in the UDHR, Article 2, applies throughout the body of human rights law and is based on the belief that *“differential treatment due to the special features of a person or of the group to which a person belongs is not in accordance with the principle of equality in rights”*.
- The UDHR has the status of customary international law, as it is a resolution adopted by the GA. It is not a treaty and is therefore not subject to the requirements (and restrictions) applicable to those instruments. Thus, the UDHR is applicable to the whole world.
- According to UDHR, Article 14, *“Everyone has the right to seek and to enjoy in other countries asylum from persecution.”* (The 1951 Convention Relating to the Status of Refugees gave substance to this Article.)

2. International Covenant on the Elimination of all Forms of Racial Discrimination

- Adopted on 21 December 1965.
- According to Article 6, State Parties shall assure to everyone within their jurisdiction effective protection against any acts of racial discrimination, which violate human rights and fundamental freedoms contrary to that Convention, through the competent national tribunals and other State institutions.

3. International Covenant on Economic, Social, and Cultural Rights

- Article 10 provides that *“The States Parties to the present Covenant recognize that:*
 - 1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.*
 - 2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.*
 - 3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or*

dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.”

- Article 2 contains the main principle for the national implementation of these rights.
- Under Article 3, States Parties undertake to ensure equal rights for men and women.

4. Convention on the Rights of the Child (CRC)

- The Convention on the Rights of the Child was drafted over a ten year period following a Polish initiative in 1979. It is one of the most widely ratified treaties in international law: Somalia and the USA are the only nations not to ratify it.
- Article 3 imposes a pivotal duty in the context of SEA: *“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.”*
- Article 19 further states: *“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”.*
- States are obliged to take effective steps to protect children from economic or sexual exploitation.
- This Convention also requires states to respect the family unit as the most desirable environment for a child’s upbringing and emphasizes that the child should have the right to *“know and be cared for by his or her parents”.*
- These principles are supported by provisions in the European Convention (inhumane treatment).

5. Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the Declaration on the Elimination of Violence against Women (DEDAW)

- CEDAW been ratified by most States, but with reservations that preserve the legal system of Sharia law for Muslim countries (and for the US, the power to deny any woman abortion or paid maternity leave).
- CEDAW confirms that violence against women, including sexual exploitation, constitutes a breach of fundamental human rights.
- According to Article 6, States shall take all appropriate measures, including legislation, to suppress all forms of trafficking in women and exploitation or prostitution of women.

6. Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment

- Adopted in 1975. By 2001, 123 States had ratified or acceded to the Convention. However, the Convention remains one the least ratified of the core international human

rights treaties, despite the fact that torture is one of the most serious human rights violations.

7. African Charter on Human and Peoples' Rights

- The African Charter on Human and Peoples' Rights of June 1981 contains a clause on the elimination of every form of discrimination against women and requires for the State to ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions (Article 18).

Refugee law

Refugee law is the branch of international law which deals with the rights and protection of refugees. The 1951 Convention and its 1967 protocol relating to the Status of Refugees introduced a general definition of the term "refugee" and formulated standards for the treatment of Refugees by States. Refugee law is related to, but distinct from, international human rights law and international humanitarian law.

Humanitarian law²

- International humanitarian law ("the laws of war") deals with the conduct of war in relation to non-combatants. It aims to protect persons who do not, or no longer, take part in the hostilities (i.e. are not bearing arms). Further, it regulates or restricts the methods and means of warfare according to the concept of "humane treatment".
- The main treaties of international humanitarian law are:
 - the four Geneva Conventions of 1949
 - (Protocol I) relating to the Protection of Victims of International Armed Conflicts
 - (Protocol II) relating to the Protection of Victims of Non-International Armed Conflicts
- International humanitarian law also applies when the conflict occurs on the territory of a single State, usually between government and dissident forces (internal conflicts). Specifically, Common Article 3 of the four Geneva Conventions, obliges all parties to a "non-international" armed conflict, including dissident armed factions, to respect certain minimum humanitarian rules with regard to persons who are not, or are no longer, taking part in hostilities, including women and children.⁴ The Fourth Geneva Convention deals specifically with the protection of civilians and therefore has the most relevance and importance to refugee and displaced populations.
- Furthermore though, GA Resolutions are not binding and not recognised as a source of international law, they have been admitted as evidence before the International Court of Justice as *opino juris*. Through such devices, progressive claims, such as those regarding the right and protection of women and children, may be advanced more forcefully.

² Under international humanitarian law, both during international and internal armed conflicts, children and certain women benefit from protection as members of the civilian population in general, and as a vulnerable category of person deserving specific protection. Article 38 paragraph 5 of the Geneva Convention IV states that, "while protected civilians should in principle receive the same treatment as aliens in time of peace, children less than fifteen years are to benefit from any preferential treatment accorded to the corresponding categories of the native population." Additionally, Articles 76 and 77 of Protocol I make specific reference to the protection of women and children. The Parties to the conflict are to provide them with the care and aid they require.

National law

- Criminal, civil, and employment laws vary widely. Organizations must be familiar with all relevant national laws and policies.

The Secretary General's Bulletin³

- The SG's Bulletin sets out the standards protecting vulnerable populations from exploitation and abuse. The Bulletin defines sexual exploitation and abuse, specifically prohibits certain behaviour on the part of UN and NGO staff and outlines the duties of managers.
- The Bulletin is not a legally binding instrument; however it creates a legally binding obligation on UN officials to make sure that the standards of conduct as specified in section 3 are accepted in writing when entering into cooperative arrangements with NGOs partners. It then becomes contractually binding for implementation partners. Thus, **through contractual relationships, NGO partners are bound to the same principles as the UN and are obliged to enforce the same standards for their staff.**
- According to section 6.2 of the Bulletin, there are legal consequences for the "entity" if it does not:
 - take preventive measures against sexual exploitation and abuse
 - investigate allegations thereof
 - take corrective measure when sexual exploitation and abuse has occurredThose consequences may include termination of cooperative arrangements with the UN.
- The SG's Bulletin states the following:

"Section 3.2 In order to further protect the most vulnerable populations, especially women and children, the following specific standards which reiterate existing general obligations under the United Nations Staff Regulations and Rules, are promulgated:

 - (a) **Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal;**
 - (b) **Sexual activity with children (persons under the age of 18) is prohibited** regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defence;
 - (c) **Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited.** This includes any exchange of assistance that is due to beneficiaries of assistance;
 - (d) **Sexual relationships between United Nations staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the United Nations and are strongly discouraged;**
 - (e) **Where a United Nations staff member develops concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker, whether in the same agency or not and whether or not within the United Nations system, he or she must report such concerns via established reporting mechanisms;**
 - (f) **United Nations 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.**

³ United Nations Secretariat. 9 October 2003. *Secretary General's Bulletin on Special Measures for Protection from Sexual Abuse and Sexual Exploitation, 2003/13 (ST/SGB/2003/13)*. United Nations.

Section 3.3 The standards set out above are not intended to be an exhaustive list. Other types of sexually exploitive or sexually abusive behaviour may be grounds for administrative action or disciplinary measures, including summary dismissal, pursuant to the United Nations Staff Regulations and Rules.”

- There is a positive obligation on all staff members to create and maintain an environment that prevents sexual exploitation and sexual abuse.
- Managers are singled out as having a specific duty to support and develop systems that maintain this environment and that prevent abuse and exploitation.

InterAction PVO Standards

Intended to ensure and strengthen public confidence in the integrity, quality, and effectiveness of member organizations and their programs, InterAction's Private Voluntary Organization (PVO) Standards were created when the overseas work of PVOs was dramatically increasing in scope and significance. Defining the financial, operational, and ethical code of conduct for InterAction and its member agencies, these high and objective standards, self-applied, set InterAction members apart from many other charitable organizations. ***Reproduced below is the section of the PVO Standards that describes specifically the responsibility of InterAction members in regard to sexual exploitation and abuse.***

7.9 Protection from Sexual Exploitation and Abuse in Humanitarian Crises

- 7.9.1 A member has a responsibility to ensure that beneficiaries are treated with dignity and respect and that certain minimum standards of behavior are observed. In order to prevent sexual exploitation and abuse, the following core principles shall be incorporated into a code of conduct that will be adopted by a member agency. It shall be recognized that the adoption of a code of conduct that incorporates these core principles is a first step and that all additional action necessary to ensure that beneficiaries are protected should be taken.
- 7.9.2 Sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination of employment.
- 7.9.3 Sexual activity by a humanitarian worker and a beneficiary who is a child (person under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defense. The sole exception in applying this principle may be in the instance where a staff member is legally married to a person under the age of 18.
- 7.9.4 Exchange of money, employment, goods, or services, including assistance that is due to beneficiaries, for sex, sexual favors, or other forms of humiliating, degrading, or exploitative behavior is prohibited.
- 7.9.5 Sexual relationships between humanitarian workers 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.
- 7.9.6 Where a humanitarian worker develops concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, whether in the same agency or not, s/he must report such concerns via established agency reporting mechanisms.
- 7.9.7 Humanitarian workers are obliged to create and maintain an environment that prevents sexual exploitation and abuse and promotes the implementation of their code of conduct. Managers at all levels have particular responsibilities to support and develop systems that maintain this environment.

Principles of Investigations⁴

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 the agency 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 subheadings:

- **Safety** - this is crucial for reasons outlined above. Whilst the agency 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 the agency'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

⁴ IASC (2004). *Model Complaints Model Complaints and Investigation Procedures and Guidance Related to Sexual Abuse and Sexual Exploitation*. Geneva: IASC Task Force on Protection from Sexual Exploitation and Abuse. Also known as the "IASC Protocol".

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.

Investigation Planning Tool⁵

The investigation team is responsible for developing an investigation plan. The designated senior manager reviews the plan and provides management level support and oversight. This document is designed to guide development of an investigation plan. Every investigation is different, however, so this tool should be expanded and/or adapted as needed.

Consider the following:

A. What is/are the allegation/s? Is an investigation needed?

- i. What breach of the Secretary General's Bulletin or your organisation's Code of Conduct does the allegation refer to? Rewrite the allegation to reflect the breach in the language of the Code of Conduct/SG's Bulletin.
- ii. Is further information required to decide whether the complaint is appropriate within your organisation's procedures?
- iii. Does the complaint meet the criteria for investigation under IASC *Model Complaints and Investigation Procedures*? [Yes, No, why?]
- iv. In what order should the allegations be addressed?

Table 1

| Allegation | Is an investigation needed? | Priority |
|------------|-----------------------------|----------|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |

B. What rule(s) is/are violated by the alleged misconduct?

- i. Staff Code of Conduct (reference).
- ii. United Nations Secretary General's Bulletin (section).
- iii. What elements must be proven to establish violation?
- iv. Illegal act → host country
→ country of origin

Identify specific elements of the rule that must be shown to have occurred to state the rule has been violated

| Alleged violation | Law | Specific elements to be proven |
|------------------------|-----------------------|--------------------------------|
| e.g., Sex with a child | SG Bulletin | Victim is under 18 |
| | Staff Code of Conduct | Sex occurred |
| | | |

⁵ Planning Tool from *BSO Handbook: Training materials on receiving and investigating allegations of SEA by humanitarian workers* (ICVA). This tool is useful as a companion to the Investigation planning tools in Annex B of the *BSO Guidelines: Receiving and investigating allegations of abuse and exploitation by humanitarian workers* (ICVA).

C. Timeframe?

1. When did the incident/alleged abuse occur?
2. When was the incident first reported?
3. When did the investigator receive the complaint?
4. Are these timeframes relevant to the investigation? For example, has a significant amount of time passed that will make the investigation difficult? Are the allegations of extremely recent events?
5. Set timeframes for each stage of the investigation to ensure completion (without prejudice of quality) at the earliest opportunity.

D. What documents will the investigating team need to gather?

- i. As background information on the investigation?
 - o contract of service
 - o alleged subject of complaint job description
 - o description of project
 - o organigram/staffing table
 - o correspondence between agencies
- ii. As evidence?
 - o work logs/rosters, leave requests
 - o e-mails, photographs
 - o stockpiles of rations, ration books

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.

E. Confidentiality

It is essential that the plan address how to preserve the confidentiality of the identity of the victim and the subject of complaint. This includes:

- i. Only disclosing identities to those who "need to know".
- ii. Accessing interpreters in such a way as to maximise confidentiality.
- iii. Carefully considering 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.
- iv. The subject needs to know the details of the allegation if s/he 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.

F. Who will have to be interviewed?

- i. Availability of witnesses: Are the witnesses available?
- ii. Who is to be interviewed?
- iii. In what sequence? Be flexible as interviews might reveal the identities of other witnesses who should be interviewed. As a general rule the sequence should be:
 - o complainant
 - o victim(s) – if different from above
 - o witnesses – if any exist
 - o subject of complaint (SOC)

The following table offers a way to view and organize who needs to be interviewed. For each witness, complete the following as part of the plan:

| Name | Role in Complaint | Age | Language | Interpreter needed | Health needs | Protection needs | Location | Priority order |
|------------|-------------------|-----|----------|--------------------|--------------|------------------|----------------|----------------|
| John Smith | Victim | 12 | English | No | ✓ | ✓ | School Nairobi | 2 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

G. Record keeping

- i. All records and reports being made anonymous via the removal of names and substitution of witness A, witness B, subject A etc.
- ii. All records should be kept in a locked filing cabinet accessible only by investigators. Files should not be taken out of the office. If an investigator wants to work on documents at home or in another location, it is good practice to take a copy of the relevant document, note the copy on the file and destroy the copy once the report is written.
- iii. Documents should not be shared with anyone outside the investigation team.
- iv. Whenever possible an investigation report should be written up within 28 days of the completion of the fact finding phase. If this is not possible, a note to the file should outline the reasons.
- v. Avoid using abbreviations in the report unless these are explained. The language of the report must remain neutral.
- vi. An investigation report must be signed and dated by the investigator and co-investigator/observer. However the organisation for whom the investigator works will be considered the author of report.

- vii. Organisations must take a policy decision on how long to keep records related to investigations. If an investigation finds misconduct was not proved, then the documents can be discarded after seven years (similar to obligations regarding financial documents). However, if the investigation finds that misconduct has occurred a record of that finding should be maintained until the subject of complaint reaches retirement age.

H. Prepare and record interviews – (complete 1 for every interviewee)

Name:

Role in complaint:

Child/adult/age if known:

Use of interpreters:

- i. Is an interpreter required?
- ii. How will an interpreter be found?
- iii. Who will it be?
- iv. How can the confidentiality of witnesses and the subject be maintained?
- v. Any other communication needs?

Witness protection – Are there immediate safety needs of the victim/s to be considered?

- i. Is witness protection needed?
- ii. What are the risks?
- iii. What resources are available to meet these needs?

Health needs:

- i. Is urgent medical attention indicated?
- ii. What other health needs are there?
- iii. Is a forensic medical examination possible/needed?

Other witness needs:

- i. Additional support or counselling?
- ii. Help to understand the criminal justice implications and make an informed view as to whether s/he wishes to make a complaint.
- iii. How will this interviewee be kept informed of the progress and outcome of the inquiry?

Subject of complaint (SOC) needs:

- i. What “duty of care” responsibilities does the agency have?
- ii. Should the SOC be suspended, with or without pay, or moved to other duties, while the investigation is underway?
- iii. How will the SOC be kept informed of the progress and outcomes of the inquiry and the expected time frame?

Location of interview:

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

I. Who will be the investigating team?

It is best practice to always conduct investigations with a co-investigator. Who will this be? If it is not possible, it is crucial to have an observer at all interviews.

- i. manager
- ii. interviewer 1
- iii. interviewer 2
- iv. interpreter (if necessary)
- v. specialists i.e. it technician, legal advisor

J. Resources

What will the investigation cost in terms of:

- i. people
- ii. money

K. Strategy discussions and meetings

- i. Who needs to be involved?
- ii. How will this happen?

Investigation Report Outline

Executive summary

An executive summary is a very concise overview of the investigation from inception through to the report. It should only contain information, which is in the main body of the report.

Introduction

- Name(s) or case reference number of subject(s) of complaint
- Date
- Confidentiality statement
- Nature of the complaint and which stipulations of UN rules and Code of Conduct are alleged to have been breached
- Scope of the investigation (how many complainants, witnesses, subjects etc)
- Brief contextual information e.g. country, refugee camp etc

Methodology

- The process used during the investigation
- Evidence required
- Interviews conducted
- Any impediments to the investigation i.e. lack of cooperation by subject or unwillingness to be interviewed by any witnesses

Findings

- Take each complaint in turn (if there is more than one) and summarise the evidence given by all interviewees in respect to each complaint in turn
- Describe other evidence – photos, work logs, emails etc
- Impartially state evidence to support or refute the complaint(s)
- Draw logical and fair conclusions based on the evidence

Conclusions and recommendations

The findings should be clearly stated for each complaint according to the following:

- established by reasonable inference
- not established/substantiated – insufficient or unclear evidence
- not established/substantiated – based on evidence to clear the complainant or to establish a malicious complaint

Possible outcomes

- Allegations established/substantiated:
 - The organisation's appropriate disciplinary procedures should be pursued by the disciplinary decision maker – not the investigator
 - Investigation report written
 - Note in SOC's human resources file

- Allegations not established/substantiated:
 - Inform the subject of complaint.
 - Managers are encouraged to inform other staff on a need to know basis only (i.e. inform those aware of the allegations, that the person has been cleared.)
 - Investigation closure report written.
 - If investigation finds that a malicious complaint was made by another staff member, sanctions should be pursued against that member of staff.
- Management implication report – make recommendations if the investigation indicates poor practice or negligence (i.e. training, supervision, policy changes).
- Any particular concern about possible reprisals against witnesses should be noted.

Example of an executive summary:

1. On 12 December 2005, the Human Resources Director received a written complaint of sexual exploitation filed by Ms Victim, a refugee from W country in camp 1, country Y, against Mr. Offender, Protection Officer. Ms Victim claimed that in 2003, she had sexual relations with Mr. Offender who subsequently promised to help her with her resettlement case.
2. In her complaint, Ms Victim further claimed that Mr. Accomplice, Senior Protection Officer covered up Mr. Offender's misbehaviour and discouraged her from filing a complaint by also promising to resettle her.
3. On 10 January 2006, upon request from the Human Resources Director, Ms Victim was interviewed in Town A by the Sexual Exploitation and Abuse (SEA) focal point for Country Y.
4. From 20 to 27 January 2006, an Investigation Officer conducted inquiries in Town A. On 13 February 2006, Mr. Offender was interviewed by the Investigation Officer in Town B, Country Y.
5. As regards to the allegations made by Ms Victim, the organisation is satisfied that the evidence gathered during the investigation supports a finding of misconduct against both Mr. Offender and Mr. Accomplice. Whilst there is no direct evidence of Mr. Offender's improper relations with Ms Victim, nor of Mr. Accomplice's subsequent involvement, the evidence analysed together as a whole, supports Ms Victim's account. This evidence includes:
 - testimony obtained from six witnesses, including four women, who stated that Ms Victim had confided in them in 2003 and 2004 about her relationship with Mr. Offender
 - the accurate details Ms Victim provided about Mr. Offender's bedroom and cologne
 - the fact that Ms Victim's case is the only case that Mr. Offender ever referred to resettlement
 - Mr. Offender's confused explanation as to why and how he referred Ms Victim's case for resettlement
 - the fact that Mr. Offender's written referral disappeared from Ms Victim's file and that neither he nor Mr. Accomplice made any records of their meetings with Ms Victim
6. In the organisation's view, this body of consistent testimonial and circumstantial evidence supports Ms Victim's credibility and raises a reasonable inference that her allegations against Mr. Offender and Mr. Accomplice are founded.

Example modified from an example investigation report prepared by the Inspector General's Office of the United Nations High Commissioner for Refugees (UNHCR)

Outcome of Investigations

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

1. Allegations Founded/Established/Substantiated

- 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. Found by reasonable inference is sufficient grounds to recommend disciplinary action.
- 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.
- 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.
- 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.

2. Allegations Unsubstantiated

- If the allegations are 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. While there is no legal requirement to inform the complainant, it may be appropriate to do so as long as confidentiality and safety concerns can be adequately addressed. Should the investigation indicate that the allegations have not been substantiated, the case will be closed.

3. Allegations Unsubstantiated, but indication of poor practices or programming issues

- If there is an indication of poor practice, negligence, or programming implications which does not amount to abuse or exploitation, steps might be recommended specifically for the subject of the complaint and/or other staff (e.g., training, supervision, programmatic changes).

4. Malicious Complaint

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

Managing an Investigation

1. Follow Procedures

- It is important that managers know and understand the procedures themselves. Managers are accountable for ensuring that investigators follow procedures.
- Have a written plan completed with or by the investigator(s) and any other participating investigatory body. Devise potential strategies to deal with difficulties i.e. problematic interviews.
- As a manager, you should share the contents of the investigation plan appropriately. Remind all involved of the need for confidentiality.
- Be clear with investigators about what the procedures are and that you expect them to be followed.
- Agree on the method of report back to the manager
 - Who the manager will then inform (HR, directors, etc) and on what aspects of the investigation
 - How the complainant will be informed

2. Initial Action

- Safety is the ultimate priority of all involved. Accountability for safety is the responsibility of managers. Safety of staff including investigators, SOC and their colleagues needs to be considered.
- As a manager you need to ensure that the thresholds for an investigation have been met, that is, that there are sufficient grounds to launch an investigation. This needs to be clear as it helps explain why the investigation is taking place, establish the authority of the investigation and allows for realistic outcomes (e.g. dismissal, management implication report).
- Determine the level of the investigation i.e. has a criminal act taken place? What are the responsibilities for joint investigating and reporting? Do the national authorities need to be informed or involved in the investigation?
- The appropriate legislation must be complied with, including criminal, civil and employment law. Any internal policy must be adhered to. Procedure should include the IASC Protocol and any internal procedure relating to child protection, disciplinary action etc.
- To ensure the integrity of the investigation, documentation should be secured at the earliest stage possible.
- Identify the resources that will be required to complete the investigation.
- It is important to ensure that the initial processes have been appropriately followed; any errors in this process are more likely to be resolved at an early stage and therefore protect the integrity of the ongoing investigation.

3. Planning the Investigation

- Match the skills of the potential investigators to the case. Skills matching will have resource implications. Where a subject of complaint is a senior member of staff, an individual with the appropriate skills, knowledge and status is less likely to be intimidated. Skills matching are essential to the credibility and integrity of the investigation.
- Establish with the investigators which witnesses need to be interviewed. This will assist in skills matching and will give some idea of the scale of the case and therefore how many investigators will need to be involved.
- Establish what documentation needs to be secured to assist in identifying which tools or systems can be used for managing the data so that it can be analysed effectively and confidentially.
- It is important to establish a timeline in order to manage resources such as staff time and workload. It also helps all involved, especially victims, witnesses, SOCs, families, communities and colleagues to have some understanding of how long the process will take. Investigations are very stressful for their participants; understanding that there will be an ending is important in assisting them to cope with the process.
- Develop a provisional budget.

4. Interviews

- Consider how the investigation team will conduct the interviews in a way which preserves and promotes safety of all participants: victims, witnesses, the subject/s of the complaint, colleagues and families of those involved.
- Speak to the referrer/complainant to clarify the referral and add any other relevant information.
- When to interview the victim or the witnesses depends on the investigation plan and the individual situation. If the victim is the primary complainant, s/he should normally be seen first. If a witness has specific information, this should be assessed in order to establish the interview schedule.
- The SOC must be interviewed last. The interviewers must have all the available information to be able to structure the interview and the SOC needs to know what the evidence is against them in order for them to exercise their right to respond properly to the allegations.

5. Timeline and Structure

- How many interviews will the investigation team need to do? Are there travel requirements for those involved? Do you need to wait for other action e.g. police, medical etc? Do you need to seek professional advice?
- Include sufficient time for supervision of the case, report writing and review time.
- Use an institutional and/or organisational organigram to help the investigation team understand the structure of the organisation and how this may have impacted on the behaviour that led to the allegation. A successful investigation requires an understanding of the context in which alleged abuse occurred. Without this knowledge

the investigator cannot draw management implications which may assist agencies to make their organisations safer in the future.

- Remember that offenders may “groom” environments, e.g. colleagues.
- Where issues concern more than one authority there can be a number of different laws, policies and procedures. Agreement must be reached as to how the investigation proceeds.
- Meeting communication needs is vital to the success of the investigation. If complaints and responses to complaints are not understood, then the investigation has little or no chance of success.
- Have there been previous allegations? In some cases there may be both current and historical concerns. A decision will have to be taken as to whether to concentrate on the current concerns or look at all allegations concurrently. For example, if there are safety issues, it might be appropriate to limit the investigation initially to current concerns. Alternatively, it may be essential to thoroughly investigate all the matters, however long ago they occurred, e.g. where a pattern of behaviour needs to be established.
- There may be a need to access specialist assistance medical, social, technological or legal. Medical examinations should not be repeated for the purposes of an investigation and you should be clear about the usefulness of any potential evidence, e.g. where sexual assault has not involved penetration there may be no evidence gathered from medical investigation.
- A joint investigation with a similar agency (another NGO) or with police or other law enforcement bodies including international bodies may be necessary. Maintain focus on the aims of your investigation but be aware of a need to work closely with others to achieve the overall aims of justice and protection. Where there is a joint investigation it is essential to have a common and agreed plan. The more complex an investigation, the more likely it is that a number of different organisations will be involved.
- Make sure you have a plan for dealing with press and the media.

6. Expertise and Independence of Investigation Team

- Matching the skills and expertise of investigation staff is important. A more complex case will require investigators to have the appropriate skills and experience. As a manager, it is your responsibility to ensure adequate training, development and support. It is important for managers to take account of their responsibilities in terms of staff care. If staff is not adequately supported during investigative work, they can suffer detriment to their health, particularly in terms of stress. Using investigators without the necessary skills and knowledge may undermine the investigation.
- It is essential to the integrity of the investigation that staff are independent. If it is not possible to ensure complete independence, you should record the reasons for this fully in your plan and state how you have attempted to secure that the investigation is as independent as possible.

- You may wish to consider using people with very specific expertise. This would be essential where specific evidence is required. However, if an expert is needed you must be absolutely clear about why they have been called in.

7. Use of Contracts

- The employment contract of a staff member will inform you if an investigation can be undertaken within the complaints procedure. For example, as an employee of the organisation they have to abide by Code of Conduct and the SG's Bulletin.
 - Agreements with contractors will detail the expectations, roles and responsibilities of a staff member.
 - Staff working for your organisation has agreed to abide by the Code of Conduct. The contractual arrangement may allow you to consider whether or not to maintain the contract.
- Existing contracts or working agreements may be written or verbal. It may be that things such as confidentiality or information sharing protocols have never been discussed and that practice is "just the way it is done". When managing an investigation these informal arrangements are likely to change. For example, a staff member who you might usually have a close and open relationship with becomes a SOC.
- If an expert is engaged in an investigation, an explicit written contract should be drawn up. This should include a description of their role, the purpose of their involvement, confidentiality, data protection, any payment agreements, clarity about tasks and activities.

8. Concluding an Investigation

- If complaint substantiated outcomes may include:
 - a. disciplinary action
 - b. training/ monitoring/ shadowing (to address poor practice)
 - c. risk assessment (of risks inherent in the post)
- If complaint unsubstantiated:
 - a. support to SOC and staff
 - b. training/monitoring/shadowing (to address poor practice)
 - c. risk assessment (of risks inherent in post)

Sample Management Worksheet

| Issue | Who | What | When | Where |
|---|-----|------|------|-------|
| 1. victim and witness support | | | | |
| 2. sharing of information | | | | |
| 3. skills matching – selection of appropriate investigators and experts (if needed) | | | | |
| 4. staff safety | | | | |
| 5. safety and support of SOC | | | | |
| 6. media issues | | | | |
| 7. current risks to victims | | | | |
| 8. integrity of the investigation | | | | |
| 9. inter-agency management | | | | |
| 10. providing resources | | | | |
| 11. legal advice | | | | |
| 12. recording of evidence | | | | |
| 13. review of final report | | | | |

Case Study Exercise

Share the Peace

Share the Peace is a new NGO working with refugees and displaced populations in 32 countries. Share the Peace developed its Code of Conduct in 2004 and trained its entire staff on the Code in 2005. The Human Resource and Administration staff are responsible for ensuring that all staff are familiar with the Code. After a meeting of field staff in which the Code was discussed, Roseanne, the camp Gender Based Violence (GBV) Coordinator, realised that some staff were breaking the Code of Conduct by taking photographs of the beneficiaries. She believed that many of the staff have been doing this with the best of intentions and will see any challenge to the practice as unnecessary, as “we have always done this”.

Roseanne decided to discuss it with the Camp Manager. On hearing Roseanne’s concerns, the Camp Manager responded that although taking photos is in “theory” breaking the Code of Conduct, he does not really see the harm in it. He suggested that unless Roseanne has hard evidence that the beneficiaries are being harmed or exploited in some way, there is not much he can do.

Roseanne wanted to get a better understanding of what was going on and to see if the beneficiaries were being exploited. She spoke to Doctor Matthew and Wambui the nurse, who have both been in the camp a long time. Doctor Matthew explained that the only photos taken are for calendars or brochures to promote events or raise funds. He told Roseanne that many people will be upset if she “rocks the boat” and the beneficiaries themselves will not thank her for it. He asked her not to worry and promised to discuss it with the Camp Manager.

After Roseanne left Doctor Matthew, Wambui came to see her. Wambui requested that her statement remain confidential and explained she believes the Camp Manager and Doctor Matthew are heavily involved in taking photos of women and children and make a lot of money from them. She said she had been told directly by some of the women that they and their children were asked to pose naked for the photos. Wambui also said that the doctor has “special relationships” with some children. He claims that he is a father figure or mentor to these children and spends a lot of time alone with them. Wambui is suspicious that “inappropriate physical contact” takes place and pleads with Roseanne to take the complaint further as this behaviour is wrong. She gives Roseanne a photograph of a naked child, claiming that she took it from the doctor’s desk.

Roseanne went straight to the Camp Manager, told him what Wambui had told her and gave him the photo. The Camp Manager recognised the girl as Yemi and claimed that she is a known trouble maker and prostitute amongst the beneficiaries. He telephoned the Regional Manager in front of Roseanne. The Regional Manager instructed the Camp Manager to undertake an investigation under the IASC Protocol. Roseanne was reassured that the matter was being dealt with.

The Camp Manager has never done an investigation before but has been on some training a year ago. He reviewed the document and decided that at this point the information is very vague and he doesn't really believe Doctor Matthew would have done anything abusive or exploitative. The Camp Manager talked to Doctor Matthew who explained that he provides physiotherapy for some children who have disorders which affect their mobility. He thought that this is probably the physical contact referred to. Doctor Matthew also informed the Camp Manager that he has treated Yemi for sexually transmitted diseases. Doctor Matthew explained that he has had difficulty with Wambui recently being late for work and having time off and thinks she has probably taken advantage of the situation to get back at him. The Camp Manager then went to see Yemi, the girl in the picture. Yemi's father informed the Camp Manager that he is going to discipline her for her promiscuous behaviour.

The Regional Manager, the Camp Manager and Doctor Matthew then met to discuss the issues raised by Roseanne. The Regional Manager is satisfied that there has been no misconduct but advised Doctor Matthew to try and make sure someone is always present when undertaking physiotherapy sessions. They agreed that Wambui should be moved to a camp maintenance job as this is more flexible if she is late and resolves the obvious break-down in relationship between her and Doctor Matthew.

The Camp Manager also met with the leaders of the beneficiary community and staff to explain that if anyone is unhappy with anything or has a complaint that they can go straight to him at any time. Yemi's father beat her, threw her out of the family shelter and the community ostracised her. Roseanne is trying to arrange Yemi's relocation.

Cast of Characters:

| Name | Position | Employer |
|----------------|----------------------------------|-----------------|
| Roseanne | GBV Coordinator | Share the Peace |
| (no name) | Camp Manager | Share the Peace |
| Doctor Matthew | Doctor (and Wambui's supervisor) | Share the Peace |
| Wambui | Nurse | Share the Peace |
| Yemi | Young girl | Beneficiary |
| (no name) | Regional Manager | Share the Peace |
| (no name) | Yemi's father | beneficiary |

Case Study Worksheet

| Issue | | Who | What | When | Where |
|-------|--|-----|------|------|-------|
| 1. | victim and witness support | | | | |
| 2. | sharing of information | | | | |
| 3. | skills matching – selection of appropriate investigators and experts (if needed) | | | | |
| 4. | staff safety | | | | |
| 5. | safety and support of SOC | | | | |
| 6. | media issues | | | | |
| 7. | current risks to victims | | | | |
| 8. | integrity of the investigation | | | | |
| 9. | inter-agency management | | | | |
| 10. | providing resources | | | | |
| 11. | legal advice | | | | |
| 12. | recording of evidence | | | | |
| 13. | review of final report | | | | |
| | | | | | |

Audit Your Organization

Determine to what level your organisation has implemented each of the “checkpoints” below. Mark the appropriate column to the right with a ✓ or x indicating:

- a. implemented
- b. partially implemented
- c. not implemented
- d. do not know

Checkpoint 1: philosophy and principles

- An organisation providing services or activities for people living in crisis operates within wider society and within an existing legal framework.
- Women and children living in those communities have fundamental rights, reflected in legislation and guidance.
- Organisations have a duty to protect those rights and comply with the principles enshrined in legislation and the UN Conventions.

| | | a. | b. | c. | d. |
|----|---|----|----|----|----|
| 1. | The organisation’s duty of care for all beneficiaries is explicitly written in recruitment and policy materials. | | | | |
| 2. | The organisation’s policies on protecting beneficiaries is well publicised to all staff. | | | | |
| 3. | Statements that the welfare of all children must be the paramount consideration of the organisation are built into all policies. | | | | |
| 4. | Statements that women have equal rights and should be treated with dignity and respect feature in all relevant policies. | | | | |
| 5. | All beneficiaries, including women and children are aware of their rights through publicised material and/or awareness raising measures. | | | | |
| 6. | Disrespectful, abusive, exploitative and discriminatory behaviour is actively discouraged and measures are taken to deal with such incidents. | | | | |
| 7. | The organisation works in active partnership with the community of beneficiaries and specifically takes measures to engage with women, children and young people. | | | | |
| 8. | Managers and senior staff promote a culture of mutual respect between staff and beneficiaries, including women and youth. Senior staff model good practices. | | | | |

Checkpoint 2: conduct and good practice

- A code of conduct for staff is valuable to beneficiaries, including vulnerable adults and children, as it can contribute to the minimisation of abuse.
- A code of good behaviour and practice is valuable to staff of the organisations as it can help to prevent false allegations of misconduct.

- In considering the questions below, you need to distinguish between a code of conduct for the behaviour of staff towards other staff and a code of conduct for the behaviour of staff towards beneficiaries.
- For organisations in a partnership agreement with the UN or that are implementing programmes for UN partners, the code must reflect the elements of the SG's Bulletin.

| | | a. | b. | c. | d. |
|-----|---|----|----|----|----|
| 1. | The organisation has a staff code of good behaviour that regulates staff behaviour towards beneficiaries and that includes a process for dealing with complaints. | | | | |
| 2. | The code is endorsed by senior management and well publicised. | | | | |
| 3. | Staff are fully aware of the code and required to sign it. | | | | |
| 4. | Discriminatory, violent, disrespectful or inappropriate behaviour by staff/volunteers is actively discouraged and measures are taken to deal with such incidents. Beneficiaries, including young people, are provided with information on where to go for help. | | | | |
| 5. | There are specific guidelines relating to responding to children's reports of abuse or unacceptable behaviour. | | | | |
| 6. | The code prohibits sexual abuse and exploitation of beneficiaries. | | | | |
| 7. | The code prohibits sexual activity with children under the age of 18 regardless of the local age of consent. | | | | |
| 8. | There is training and awareness-raising for all staff and volunteers on the code. | | | | |
| 9. | The consequences of breaching the code of behaviour are clear and linked to organisational disciplinary and grievance procedures. | | | | |
| 10. | There is guidance for staff and managers on managing prohibited behaviour. | | | | |
| 11. | There are guidelines for care of children or young people, or relating to appropriate or inappropriate touching, specifically for teachers and medical staff. | | | | |
| 12. | The organisation generally promotes high standards of personal behaviour, conduct and language. | | | | |

Checkpoint 3: IASC Protocol

- Any organisation providing services or activities for beneficiaries including women and children should have safe, accessible complaints procedures to enable beneficiaries and staff to inform management when the code of conduct has been breached.
- Organisations must have the IASC Protocol in place. These procedures provide a benchmark of intent and a reference point, should good protection practice be challenged or compromised.
- A statement on how beneficiaries and staff lodge complaints must be clear and simple. It should describe safe, accessible and practical methods for staff and beneficiaries to lodge complaints.

- Investigation procedures should cover all the measures by which the organisation intends to raise awareness of protection and how to respond to any allegations of sexual abuse or exploitation. They should be developed within the context of the SG's Bulletin.
- Procedures should include a clear appeals process for any party to a complaint.

| | | a. | b. | c. | d. |
|----|--|----|----|----|----|
| 1. | The organisation has complaints procedures that are safe and accessible for staff, volunteers and beneficiaries and are endorsed by management. | | | | |
| 2. | The organisation has a complaints mechanism and investigation procedures and staff and beneficiaries are aware of them. | | | | |
| 3. | The policy and procedures are reviewed every three years or whenever there is a major change in the organisation or in legislation. | | | | |
| 4. | There is a designated person/focal point known to everyone in the organisation, who is responsible for receiving complaints. | | | | |
| 5. | There are several complaints mechanisms in place suited to various elements of the beneficiary population. | | | | |
| 6. | Complaints and investigation policies are widely available to staff and form part of an induction process for new staff. | | | | |
| 7. | There is a disciplinary and grievance policy that staff are aware of. | | | | |
| 8. | The organisation is aware of how its guidelines fit into international guidelines for child protection and responding to sexual abuse and sexual exploitation of women and children. Contact details for local services are readily available. | | | | |
| 9. | Processes for dealing with complaints are fair and open to challenge through an appeals process. | | | | |

Checkpoint 4: staff and volunteers

- In an organisation providing activities or services for beneficiaries and children, the creation of a "safe culture" depends entirely on the quality and integrity of its staff and volunteers.
- Sound recruitment practices and vetting of potential staff is of prime importance.
- An organisation that expects its staff and volunteers to be able to respond appropriately to complaints of sexual abuse and exploitation must provide training, supervision and support for staff who encounter concerns in the course of their work.

| | | a. | b. | c. | d. |
|----|---|----|----|----|----|
| 1. | The organisation has clear policies and procedures for all staff involved in the recruitment and selection of staff and volunteers. Human resource staff are trained in these policies and procedures. | | | | |
| 2. | There is a staff/volunteer induction programme that includes awareness of the code of conduct, the complaints system and investigation procedures related to sexual abuse and sexual exploitation and the consequences of non-compliance. | | | | |

| | | a. | b. | c. | d. |
|----|---|----|----|----|----|
| 3. | Designated managers have access to specialist advice or training on investigations and handling staff misconduct. | | | | |
| 4. | Staff, volunteers, coaches or leaders are easily identifiable as belonging to the organisation and known to beneficiaries, including children and young people. | | | | |
| 5. | All staff and volunteers who have contact with vulnerable populations and children have all had criminal records checks. | | | | |
| 6. | There is a well-publicised “whistle blowing” policy to promote the disclosure by a staff member of confidential information relating to unacceptable behaviour by another member of staff or external contacts. | | | | |
| 7. | There are complaints, disciplinary and grievance policies in place that all staff are aware of and those responsible for dealing with them receive suitable training. | | | | |
| 8. | There is a policy on providing support and supervision for staff or volunteers who encounter protection concerns within their work. | | | | |
| 9. | Opportunity for ongoing training about sexual abuse and exploitation is available and resources are identified as part of a staff development program | | | | |

IASC Protocol