

Principles of Investigations¹

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.

¹ 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".

- **Psycho-social** - e.g. to help the witness deal with fear, guilt, shame etc. via access to support groups and/or crisis counselling.
- **Legal/ justice** - the decision to refer to national authorities will hinge on a number of factors and needs to be taken by the designated senior management staff. However, there are a number of potential benefits to the complainant/ witnesses (including recovery) as well as risks and their views should be sought about this.

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

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

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

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

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

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

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

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