

# Investigation Training

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# HANDBOOK

Training materials on receiving and investigating  
allegations of exploitation and abuse  
by humanitarian workers



2nd edition — July 2008



# How useful is the HAP/BSO HANDBOOK to you?

Please share your reactions to the training HANDBOOK by answering the five questions below. Your comments are confidential and will only be read by the Complaints Handling Unit of HAP.

## (1) What do you think of how the HANDBOOK is organised?

*(Highlight one box below)*

Format is very user-friendly
Format is reasonably easy to follow and user-friendly
No particular reaction to the format
Format was confusing
Format was difficult to understand or follow

## (2) Which of the HANDBOOK supporting materials is not relevant for organising and facilitating Learning Programme workshops?

*(Highlight all of the following that you found relevant)*

- a. Introduction to workshops
- b. Pre-workshop assignments
- c. Agenda and course summary
- d. Facilitator's notes
- e. Handouts
- f. PowerPoint presentations
- g. CD-ROM
- h. DVD

## (3) Did you use or are you planning to use the HANDBOOK materials to facilitate a sexual exploitation and abuse (SEA) related training?

*(Highlight one)*

YES / NO

If you answered "YES", which training did you or are you planning to facilitate?

*(Highlight all of the following that apply)*

- a. Investigations workshop
- b. Investigations Follow-up workshop
- c. Management workshop
- d. Adapted the materials for a different SEA related training

## (4) What information is missing that you would recommend we include in a future edition of the HANDBOOK? *(Write your comments here)*

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If you would prefer to contact us directly with your specific concerns or requests for changes in a future edition, please email us at: [secretariat@hapinternational.org](mailto:secretariat@hapinternational.org)

## SIX QUESTIONS IN SIX MINUTES – GUIDELINES Feedback Form

Please assist us with just **six minutes** of your time by answering the following six questions about your reactions to the GUIDELINES.

### (1) When you picked up the GUIDELINES, were you...

*(Highlight all of the following that apply)*

- a. Preparing to conduct an investigation into alleged sexual exploitation and abuse (SEA) of persons of concern by NGO staff?
- b. Preparing to manage an investigation of alleged sexual exploitation and abuse?
- c. Exploring how to set up complaints mechanisms?
- d. Exploring background information in order to establish policies to prevent or respond to SEA within your workplace?
- e. Generally seeking to familiarise yourself with how to conduct an investigation into alleged staff SEA?

### (2) Within your organisation, are you...

*(Highlight all of the following that apply)*

- a. designated to investigate allegations of SEA
- b. designated to manage an investigation into staff having committed SEA
- c. serving as a protection officer
- d. serving as a human resources officer
- e. in charge of staff or human resources policies
- f. just interested in how to respond to allegations of SEA
- g. other, please specify: \_\_\_\_\_

### (3) Did the GUIDELINES provide you with...

*(Highlight all of the following that apply)*

- a. key elements to consider when planning an administrative investigation into SEA
- b. how to safeguard confidentiality of all participating in an investigation
- c. specifics of how to conduct an interview including special considerations
- d. how to document evidence gathered
- e. essential information to include in writing up an investigation report
- f. other, please specify: \_\_\_\_\_

### (4) Will you use or adopt the sample forms offered? *(Highlight one)*

YES / NO *(Feel free to comment below if your organisation already has similar forms or if you have any specific concerns about the ones offered.)*

### (5) Did you find what you were looking for in the GUIDELINES?

*(Highlight one)*

YES, I'm satisfied. / NO, I'm not satisfied.

### (6) What information is missing that you would recommend we include in a later edition of the GUIDELINES?

Let us know at: [secretariat@hapinternational.org](mailto:secretariat@hapinternational.org)

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## INTRODUCTION

### *Accountability to disaster survivors*

“A commitment to serve” is the most common vision articulated by most humanitarian agencies in their vision or mission statements. However, the transformation of aspirational statements into systems that hold agencies and their staff accountable to the communities they work with has been proven challenging. Nevertheless, humanitarian agencies have begun to explore how to improve accountability to beneficiaries as part of enhanced quality management systems.

Recurring reports of sexual misconduct by humanitarian staff remind us the consequences of failures of accountability can impact on all aspects of an agencies work and that sexual exploitation and abuse is the predictable result of a failure of accountability by humanitarian agencies to the communities they work with. Given that potential clients of humanitarian services are at a structural disadvantage based on the inherent imbalance of power in the relationship, the potential for abuse and exploitation is magnified in humanitarian crisis. Redressing this imbalance requires a series of actions from humanitarian agencies and their staff in partnership with beneficiaries of aid.

In late 2004, the creation of the Building Safer Organisations project by NGOs was one such action. After three years of assisting NGOs to strengthen their capacity to receive and investigate complaints of sexual exploitation and abuse, the project merged with HAP in April 2007. The move was in recognition that actions by humanitarian agencies to prevent and respond to allegations of sexual exploitation and abuse could only have traction within organisations when grounded in overall accountability mechanisms that respect the dignity of the people who are the intended beneficiaries of humanitarian action.

### *The revised Investigation Training Handbook - information for trainers and participants.*

In recent years, these training materials on receiving and investigating allegations have assisted organisations to build skills in developing safe effective complaints response mechanisms and creating a capacity to conduct investigations into staff misconduct. This Handbook is a revision of the first edition of materials that includes information, resources and an informal syllabus for learning programme facilitators and participants. The HAP team is grateful to the workshop participants, guest facilitators and disaster survivors who have provided input and advice on how to improve the materials during the course of over 20 learning programmes.

The Handbook opens with core documents regarding the prevention of sexual exploitation and abuse of beneficiaries by humanitarian aid workers. These are followed by the pre-workshop assignments, course materials, facilitator’s notes and power point presentations. It is important that the workshops are run by experienced facilitators who are closely familiar with the Facilitator’s Notes in each Learning Programme which contain information on resources, content, schedule and preparation.

Trainers and participants are asked to read the various resources on which the materials are based, including the Guidelines on conducting investigations and the United Nations Secretary General’s Bulletin of October 2003 on preventing sexual exploitation and abuse. Other useful materials are noted in the biography or available by contacting HAP via the website at [www.hapinternational.org](http://www.hapinternational.org). HAP is happy to see these materials used as widely as possible at appropriate learning events and we ask that facilitators credit HAP when using them and give us feedback on how the materials are received.

### *Using the handbook to run a workshop – information for trainers*

An independent evaluation of the HAP run training of trainers for the Investigation workshops concluded that investigation workshops are most effective when at least one HAP staff is present to ensure consistency of messages and specific guidance related to the conduct of investigation. If organisations decide to run Investigation Workshops without HAP participation, the following approach has been successful.

Once facilitators are thoroughly familiar with the content and structure of the course, they should distribute the application forms. The application form helps facilitators to select appropriate participants from qualified staff with similar levels of experience and knowledge. Experience suggests that this creates the

best learning environment and thereby increases the likelihood of ongoing engagement of participants and their organisations after the completion of the learning programme.

The pre-workshop assignments are a crucial element of the learning programme. As they ensure that participants join the workshop with a similar level of knowledge about sexual exploitation and abuse. Of equal importance, they give insight to facilitators on areas that need particular emphasis during the workshop. Facilitators should ensure that pre workshop assignments are distributed 8 weeks in advance of the Investigations workshop, 6 weeks in advance of the Follow up workshop and 4 weeks in advance of the management workshop. In each case participants should be given at least 10 days to complete and return their responses. Facilitators should read and consider the responses of participants when preparing the workshop sessions.

These materials are intended to be flexible and facilitators should experiment with alternative methods of presenting the materials that are appropriate for the location in which the materials are being presented. However, some policies and procedures cannot be changed, and these are referred to in the materials.

It is HAP's goal to constantly improve this resource, so any comments, criticisms or suggestions for modifying or enhancing these materials are welcome at [secretariat@hapinternational.org](mailto:secretariat@hapinternational.org).





**PRE-WORKSHOP MATERIALS FOR INVESTIGATION  
LEARNING PROGRAMME**

INTRODUCTION TO PRE-WORKSHOP MATERIALS ..... p. 8  
UN SECRETARY GENERAL’S BULLETIN ..... p. 9  
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## HAP/Building Safer Organisations Pre-workshop materials for Investigation Learning Programme

The pre-workshop materials are comprised of three documents, which are integral to the Investigation Learning Programme. These are the SG's Bulletin<sup>1</sup>, the Draft Guidelines to the SG's Bulletin<sup>2</sup> and the HAP/BSO Guidelines. These documents outline the policies and procedures relevant to receiving and investigating allegations of sexual exploitation and abuse. Specifically:

1. The SG's Bulletin sets out the standards that protect vulnerable populations from exploitation and abuse. The Bulletin defines sexual exploitation and abuse, prohibits certain behaviour on the part of staff, outlines the duties of managers, and extends the reach of the Bulletin to all organisations and individuals working for agencies that have cooperative arrangements with the UN.
2. The Draft Guidelines to the SG's Bulletin provide guidance on particular issues relating to the implementation of the SG's Bulletin and offers specific examples of prohibited behaviour.
3. The BSO Guidelines specify the steps to be taken when exploitation and abuse is allegedly perpetrated by a UN staff member or staff of a partner agency, including NGOs. It includes a description of the essential elements of a complaints protocol.

Learning Programme facilitators must be well-versed in the materials and participants are expected to be familiar with these documents prior to the start of the workshop. Each of the three workshops has pre-workshop assignments and all of the pre-workshop assignments require participants to use the pre-workshop materials as reference documents. Moreover, the materials are referred to and discussed in all of the workshops.

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<sup>1</sup> 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.

<sup>2</sup> Draft Guidelines on the application of ST/SGB/2003/13. 4 October 2005.



United Nations

Secretariat

ST/SGB/2003/13

9 October 2003

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## Secretary-General's Bulletin

### Special measures for protection from sexual exploitation and sexual abuse

The Secretary-General, for the purpose of preventing and addressing cases of sexual exploitation and sexual abuse, and taking into consideration General Assembly resolution 57/306 of 15 April 2003, "Investigation into sexual exploitation of refugees by aid workers in West Africa", promulgates the following in consultation with Executive Heads of separately administered organs and programmes of the United Nations:

#### Section 1

##### Definitions

For the purposes of the present bulletin, the term "sexual exploitation" means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, the term "sexual abuse" means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

#### Section 2

##### Scope of application

2.1 The present bulletin shall apply to all staff of the United Nations, including staff of separately administered organs and programmes of the United Nations.

2.2 United Nations forces conducting operations under United Nations command and control are prohibited from committing acts of sexual exploitation and sexual abuse, and have a particular duty of care towards women and children, pursuant to section 7 of Secretary-General's bulletin ST/SGB/1999/13, entitled "Observance by United Nations forces of international humanitarian law".

2.3 Secretary-General's bulletin ST/SGB/253, entitled "Promotion of equal treatment of men and women in the Secretariat and prevention of sexual harassment", and the related administrative instruction<sup>1</sup> set forth policies and procedures for handling cases of sexual harassment in the Secretariat of the United Nations. Separately administered organs and programmes of the United Nations have promulgated similar policies and procedures.

<sup>1</sup> Currently ST/AI/379, entitled "Procedures for dealing with sexual harassment".

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**Section 3****Prohibition of sexual exploitation and sexual abuse**

3.1 Sexual exploitation and sexual abuse violate universally recognized international legal norms and standards and have always been unacceptable behaviour and prohibited conduct for United Nations staff. Such conduct is prohibited by the United Nations Staff Regulations and Rules.

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.

3.3 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.

**Section 4****Duties of Heads of Departments, Offices and Missions**

4.1 The Head of Department, Office or Mission, as appropriate, shall be responsible for creating and maintaining an environment that prevents sexual exploitation and sexual abuse, and shall take appropriate measures for this purpose. In particular, the Head of Department, Office or Mission shall inform his or her staff of the contents of the present bulletin and ascertain that each staff member receives a copy thereof.

4.2 The Head of Department, Office or Mission shall be responsible for taking appropriate action in cases where there is reason to believe that any of the standards listed in section 3.2 above have been violated or any behaviour referred to in section

3.3 above has occurred. This action shall be taken in accordance with established rules and procedures for dealing with cases of staff misconduct.

4.3 The Head of Department, Office or Mission shall appoint an official, at a sufficiently high level, to serve as a focal point for receiving reports on cases of sexual exploitation and sexual abuse. With respect to Missions, the staff of the Mission and the local population shall be properly informed of the existence and role of the focal point and of how to contact him or her. All reports of sexual exploitation and sexual abuse shall be handled in a confidential manner in order to protect the rights of all involved. However, such reports may be used, where necessary, for action taken pursuant to section 4.2 above.

4.4 The Head of Department, Office or Mission shall not apply the standard prescribed in section 3.2 (b), where a staff member is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship.

4.5 The Head of Department, Office or Mission may use his or her discretion in applying the standard prescribed in section 3.2 (d), where beneficiaries of assistance are over the age of 18 and the circumstances of the case justify an exception.

4.6 The Head of Department, Office or Mission shall promptly inform the Department of Management of its investigations into cases of sexual exploitation and sexual abuse, and the actions it has taken as a result of such investigations.

#### **Section 5**

##### **Referral to national authorities**

If, after proper investigation, there is evidence to support allegations of sexual exploitation or sexual abuse, these cases may, upon consultation with the Office of Legal Affairs, be referred to national authorities for criminal prosecution.

#### **Section 6**

##### **Cooperative arrangements with non-United Nations entities or individuals**

6.1 When entering into cooperative arrangements with non-United Nations entities or individuals, relevant United Nations officials shall inform those entities or individuals of the standards of conduct listed in section 3, and shall receive a written undertaking from those entities or individuals that they accept these standards.

6.2 The failure of those entities or individuals to take preventive measures against sexual exploitation or sexual abuse, to investigate allegations thereof, or to take corrective action when sexual exploitation or sexual abuse has occurred, shall constitute grounds for termination of any cooperative arrangement with the United Nations.

#### **Section 7**

##### **Entry into force**

The present bulletin shall enter into force on 15 October 2003.

*(Signed)* Kofi A. Annan  
Secretary-General

## Draft Guidelines (4 October 2005)

PWM2

### Guidelines on the application of ST/SGB/2003/13

1. As international civil servants entrusted to realize the noblest aspirations of the international community, United Nations staff members have the duty and the obligation to perform their responsibilities in a manner that is fully consistent with the fundamental principles of human dignity and human rights. Service with the United Nations is a privilege which imposes on staff members the obligation to conduct themselves in accordance with the highest standards of integrity at all times. Secretary-General's bulletin ST/SGB/2003/13, entitled "Special measures for protection from sexual exploitation and sexual abuse", clarifies the Organization's standards relating to sexual exploitation and sexual abuse and outlines the duties and obligations of staff, and particularly of managers and heads of offices and departments, to prevent and address such abuses. These guidelines address some frequently asked questions regarding the implementation of the bulletin:

#### To whom does ST/SGB/2003/13 apply?

2. The bulletin applies to all internationally-recruited and locally-recruited staff of the United Nations, including staff of separately administered organs, funds and programmes of the United Nations.
3. The bulletin also applies to all categories of UN peacekeeping personnel, as affirmed by General Assembly resolution 59/300 of 22 June 2005, such as:
  - Military members of national contingents
  - Experts on mission, including police officers, members of national formed police units, correction officers and military observers
  - Personnel or employees of Non-United Nations entities or individuals who have entered into a cooperative arrangements with the United Nations, including interns, international and local consultants, and individual and corporate contractors
  - United Nations Volunteers
4. The categories of persons to which ST/SGB/2003 applies shall be referred to in these guidelines as "UN staff and UN-related personnel".

#### Where and when does ST/SGB/2003/13 apply?

5. The bulletin is not location-specific and applies to all UN staff and UN-related personnel at all times, including while they are off duty or on leave.
6. UN staff and UN-related personnel are obliged to comply with the standards of the bulletin as well as with local laws. Where the bulletin establishes a higher standard than local laws, the standards of the bulletin will prevail.
  - Example: A staff member engaging the services of a prostitute – whether in a peacekeeping mission, in New York (where prostitution is illegal) or in the Netherlands (where prostitution is legal) – is in violation of ST/SGB/2003/13 which prohibits the exchange of money for sex.

#### What is the difference between sexual harassment vs. sexual exploitation and sexual abuse?

7. In the UN Secretariat, ST/AI/379 (Procedures for dealing with sexual harassment) defines "sexual harassment" as any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature, when it interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. Similar definitions exist in the UN funds and Programmes.

8. ST/SGB/2003/13 defines the term “sexual exploitation” as any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. It defines the term “sexual abuse” as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.
9. There is often confusion about whether a particular action or conduct would constitute sexual harassment, sexual exploitation or sexual abuse. If an action or conduct is believed to fulfill the definition of sexual exploitation or sexual abuse, it should be treated as such, even if it may also constitute sexual harassment. Since sexual harassment, sexual exploitation and sexual abuse are all prohibited, all concerns or suspicions should be reported.

## Do sexual exploitation and sexual abuse constitute serious misconduct?

10. Yes. Sexual exploitation and sexual abuse are considered acts of serious misconduct (section 3.2(a) of the bulletin) and constitute a basis on which:
  - All staff members, whether internationally or locally recruited, may be summarily dismissed by the Secretary-General (staff regulation 10.2 and ST/AI/371 (Revised disciplinary measures and procedures), paragraph 9(c)).
  - A cooperative arrangement with a non-United Nations entity or individual, including contractual arrangements with an intern, international or local consultant, or individual or corporate contractor, may be terminated.
  - A military member of a national contingent, an expert on mission (including police officers, corrections officers and military observers), a member of a national formed police unit or a United Nations Volunteer may be repatriated.

## Are there any exceptions to the prohibition on sexual activity with children?

11. Sexual activity with persons under the age of 18, regardless of the age of majority or age of consent locally is prohibited (section 3.2(b) of the bulletin). Mistaken belief in the age of the child does not constitute a defence.
12. The prohibition on sexual activity with children does not apply where the member of the United Nations staff or UN-related personnel is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship (section 4.4 of the bulletin). The legality of a marriage for the purposes of ST/SGB/2003/13 is to be determined by reference to the law of nationality of the member of the United Nations staff or UN-related personnel.
  - **Example:** A UN staff member is married to someone under the age of 18. According to the law of the UN staff member’s nationality, the marriage is legal. Sexual activity in such a relationship would not be prohibited by ST/SGB/2003/13.

## What does it mean to “strongly discourage” sexual relationships with beneficiaries of assistance?

13. Sexual relationships between United Nations staff or UN-related personnel and beneficiaries of assistance are “strongly discouraged” (section 3.2(d) of the bulletin). The interpretation of the term “beneficiaries of assistance” should be guided by and adjusted according to the particular mandate of the United Nations office, peacekeeping operation, political or peace-building mission or humanitarian operation in question. Where a UN peacekeeping operation has a mandate to serve the population at large, “beneficiaries of assistance” should be broadly interpreted cover the local population.
14. The bulletin does not impose a blanket prohibition on all sexual relationships with beneficiaries of assistance. By discouraging such relationships, the bulletin does require vigilance on the part of a member of UN staff or UN-related personnel to ensure that a relationship with a beneficiary of assistance is not sexually exploitative or abusive. Any relationship that is sexually exploitative or sexually abusive is prohibited by the bulletin. The determination of whether a relationship with a beneficiary of assistance is sexually exploitative or sexually abusive is made by the employing organization on a case by case basis.

## When are staff members and UN-related personnel obliged to report sexual exploitation or sexual abuse?

15. Staff members and UN-related personnel are obliged to report concerns or suspicions regarding sexual exploitation or sexual abuse to the appropriate office within their organisation or the OIOS. It is for the appropriate UN authorities, and not the individual, to investigate and confirm those concerns or suspicions.
16. The submission of allegations with knowledge of their falsity constitutes misconduct. Persons who report allegations which subsequently prove to be untrue will not face repercussions where the reports were made in good faith.



## INTRODUCTION

### 1. Who are these Guidelines for and are they for you?

These Guidelines are designed to assist our colleagues in non-governmental organisations (NGOs) who conduct and manage investigations into sexual exploitation and abuse (SEA) of people of concern by humanitarian staff.

#### What are sexual exploitation and sexual abuse?

Section 1 of the Secretary General's Bulletin issued in 9 October 2003 (SG's Bulletin) defines sexual exploitation and abuse as follows:

**Sexual exploitation** means any actual or attempted abuse of a position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, sexually or politically from the sexual exploitation of another.

**Sexual abuse** means the actual or threatened physical intrusion of a sexual nature whether by force or under unequal or coercive conditions.

These Guidelines have been written for use in a wide variety of NGOs, regardless of size, nationality, and area of expertise. However, to get full value out of these Guidelines, readers will need some experience with SEA investigations and a familiarity with the key international standards on protecting people of concern from SEA as well as their organisations' policies on protection, SEA and misconduct.

If you feel you would benefit from further training, please contact us at HAP on [secretariat@hapinternational.org](mailto:secretariat@hapinternational.org).

### 2. What these Guidelines do and what they don't do

These Guidelines provide an overview of the key steps and issues organisations should consider when responding to allegations of SEA of people of concern by staff. They summarise the 'who, what, when, why, where and how' of establishing effective complaints mechanisms, managing and investigating complaints and reporting on findings. They also identify potential difficulties and offer practical responses and solutions.

These Guidelines do not describe everything investigators need to know about handling complaints of SEA of people of concern by NGO staff. In particular, they do not:

- discuss in detail the meaning of SEA or why it is a problem
- contain all the steps for establishing a complaint mechanism or investigating complaints
- address every possible scenario which could arise during an actual investigation
- substitute for experience, training and adequate supervision
- provide advice on investigating allegations of sexual harassment by one staff member of another staff member.

### 3. How to use these Guidelines

The Guidelines are divided into four chapters, each of which considers the special issues associated with different stages in the complaints resolution process:

- Chapter 1 – Before the allegation: designing and implementing effective complaint mechanisms
- Chapter 2 – From allegation to investigation: steps for ensuring an appropriate initial response
- Chapter 3 – From investigation to report: conducting an effective and legally enforceable investigation
- Chapter 4 – From report to outcome: report writing and complaints follow-up

There will be overlap between these Chapters as some basic principles and issues can arise in all stages of the investigation.

## 4. Who has contributed to these Guidelines?

These Guidelines were developed by the BSO project team:

Katharina Samara-Wickrama (Coordinator)  
Coleen Heemskerk (Assistant)  
Radha Ivory (Editor and Legal Advisor)

with input and assistance from the:

International Council of Voluntary Agencies (ICVA)  
International Rescue Committee (IRC)  
Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse (IASC)  
Terres des Hommes (TdH)  
United Nations High Commissioner for Refugees (UNHCR)

These contributions were gratefully received and are greatly appreciated.

Cover photograph by Tracey Buckenmeyer.

**Revised July 2008**

## ► CHAPTER 1

# Before the allegation: designing and implementing an effective complaint mechanism

### 1. What is a complaint mechanism?

The phrase ‘complaint mechanism’ has two meanings, one broad and one narrow. On the broad definition, a complaint mechanism is all steps and processes an organisation adopts from the time the allegation is made up to the time the investigation report is finalised. The narrow definition only encompasses procedures that allow a complainant to alert an organisation to allegations. We use the narrow definition in these Guidelines so we can identify the special considerations in the time before the investigation starts.

### 2. Why is an effective complaint mechanisms important?

In the past, some organisations have suggested that they do not need formal complaint mechanisms as they have never had a SEA problem or received SEA complaints. They are often surprised that, once they have effective mechanisms, they receive complaints of exploitation and abuse.

Hence, effective complaint mechanisms promote accountability as people of concern are better able to report abuse and access additional protection through deterrence. Effective mechanisms also help organisations become less attractive to potential abusers as work environments. Even subjects of complaints (SOCs) benefit, as clear procedures are more likely to result in fair and impartial investigations.

### 3. Who is responsible for complaint mechanisms and how?

Though all staff share an obligation to prevent and respond to SEA, management has a particular responsibility for developing and implementing mechanisms to prevent abuse<sup>1</sup>:

*“... 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”<sup>2</sup>.*

In practice, this means that managers are primarily responsible for designing, implementing and monitoring complaint mechanisms. Other staff (especially investigators and field workers) should contribute to monitoring by seeking regular feedback from the communities concerned. Ideally, organisations will have systems in place to regularly evaluate the effectiveness of their complaint mechanisms.

### 4. What is an effective complaint mechanism?

A complaint mechanism is ‘effective’ when it is safe, confidential, transparent and accessible.

<sup>1</sup> See Annexure A for a Checkpoints for managers.

<sup>2</sup> UN Secretariat. 9 October 2003. Paragraph 3.2 (f) in “Secretary General’s Bulletin on Special Measures for Protection from Sexual Abuse and Sexual Exploitation, 2003/13 (ST/SGB/2003/13)”. UN

## Characteristics of an effective complaint mechanism

### Safety

A safe complaint mechanism will consider potential dangers and risks to all parties and incorporate ways to prevent injury or harm. This will include ensuring confidentiality, offering physical protection when possible, and addressing the possibility of retaliation against witnesses.

### Confidentiality

Confidentiality is an ethical principle which restricts access to and dissemination of information. In SEA investigations, it requires that information is available only to a limited number of authorised people for the purpose of concluding the investigation. Confidentiality helps create an environment in which witnesses are more willing to recount their versions of events.

### Transparency

A mechanism is 'transparent' when members of the affected community know it exists, have had input into its development, and possess sufficient information on how to access it and ensure it is adhered to. For example, people of concern should be able to speak to NGO staff regularly about the operation of the complaint mechanism. Information about the complaint mechanism should be freely available and all communities should know who in the organisation is responsible for handling complaints and communicating outcomes.

### Accessibility

A mechanism is accessible when it is available to be used by as many people as possible from as many groups as possible in all places where an organisation is operational. Communities must be told how to complain and be actively encouraged to make complaints when problems arise.

## 5. How to create complaint mechanisms that are effective for all participants

### a. How to create a complaint mechanism that is effective for people of concern

#### i. Ask people of concern how they would be most comfortable reporting exploitation and abuse

There is no magic formula for designing a safe, confidential, transparent and accessible mechanism. What will help people of concern report abuse in one environment may not help people of concern in another environment. This is because barriers to reporting vary greatly from place to place depending on factors such as the nature of the humanitarian crisis, how people are vulnerable and local social norms, including gender norms. It is therefore essential that organisations develop policies in consultation with people of concern as well as staff. Policies used in a number of environments should be flexible and require staff to investigate local circumstances before and during implementation.

#### ii. Consider including some basic features

Nevertheless, most mechanisms that *are* effective include these basic features:

- designated focal points, often trusted members of the local community<sup>3</sup>
- multiple 'entry points' for lodging complaints, catering to the most at-risk in the population, including methods that can be used by people who cannot read or write
- clearly explained roles for all the parties to the complaint
- clear rules regarding disclosure of information about the complaint
- safe spaces for witnesses who may be in danger as a result of the complaint
- clear, published and well understood timelines
- procedures for making complaints by proxy (i.e. that allow one person to complain for another) and/or that allow people to make anonymous complaints

<sup>3</sup> It is important not to make assumptions about who this may be. Ask various community stakeholders, including women, young people and the disabled, who they would prefer as focal points.

### Complaints brought by someone other than the survivor of abuse

A complaint can be made by anyone who is concerned that a staff member has engaged in exploitation or abuse of a person of concern. So, the complaint does not have to be made by the alleged survivor. Indeed, in some cases the survivor will not agree to provide testimony or may want the investigation to be discontinued. While the survivor's wishes should be considered, particularly when there is risk of physical, emotional or social harm, s/he does not 'own' the allegation. S/he is a witness just as others are witnesses. Ultimately, it will be a question for the investigation management team whether and how to proceed, considering issues such as the wishes of the survivor, the potential for future abuse and harm, the reputation of the organisation, the organisation's responsibility to create a safe and abuse-free environment, national law and the ability of the investigators to reach a conclusion on the available evidence.

#### iii. Make sure people of concern are aware of their rights and the mechanisms to enforce them

A mechanism will only be effective if people of concern know their rights and how they can enforce them. At a minimum, people of concern need to know:

- the definition of sexual exploitation and abuse as per the SG's Bulletin and the organisation's Code of Conduct
- that they have a right to be free of sexual exploitation and abuse, including specific details of their food and non-food entitlements
- how they can complain, including the stages, timeframes, rules, decision-making processes, participants and responsibilities involved in a complaint
- to whom they can complain and where that person is located (i.e. contact details of the organisation's focal points)
- what steps they can take to ensure confidentiality and what steps the organisation will take to ensure safety and confidentiality

Organisations will communicate these messages most effectively if they consider:

- their **audience/s** – what is the gender, age, physical ability, language, level of literacy and ethnicity of the target population?
- the available **communication tool/s** – it is better to advertise through posters, dramas, focus groups, local action and/or community groups?
- the **core message** – what does the target population really need to know?
- the **budget** – how can they reach the widest cross-section of the community within budgetary constraints?

#### b. How to create complaint mechanisms that are effective for staff

Staff members will also learn of exploitation and abuse when working with people of concern. And they too experience barriers to reporting, such as lack of knowledge about SEA, fear of criticism from colleagues and fear of damage to their careers. Specialised staff complaints procedures can help address these issues and are part of effective complaint mechanisms.

##### i. Raise staff awareness of SEA

Organisations cannot assume that staff members are any more aware of SEA issues than other members of the community. Staff induction manuals should contain the organisation's SEA policies. Those policies should then be discussed in inductions sessions and be available in all duty stations. Staff should also be reminded of standards of conduct, complaint procedures and early-warning signs regularly during their service.

##### ii. Make reporting mandatory

Once staff are aware of and understand SEA, mandatory reporting requirements may help overcome their fears of sharing concerns about colleagues. Mandatory reporting makes individual staff members less responsible for the 'trouble' they may be perceived as causing, since they remove discretion to report.

Effective mandatory reporting mechanism will tell staff unambiguously:

- when to report
- to whom to report
- how to report
- what will happen if they do not report (including possible disciplinary measures)

### iii. Institute policies to protect whistle-blowers (and punish malicious or vexatious complainants)

Mandatory reporting mechanisms work best in conjunction with whistle-blowing policies which enable organisations to discipline staff members for retaliating against a colleague who reports concerns of SEA or otherwise cooperates with an investigation. Effective whistle-blowing policies clearly identify the type of prohibited conduct and the consequences of engaging in conduct that breaches the policy. They also make clear that deliberately reporting false or misleading allegations is itself misconduct and grounds for dismissal.

#### c. How to create complaint mechanisms that facilitates interagency cooperation

Organisations may handle SEA complaints that involve personnel from other agencies, whether as complainants, witnesses or SOCs. This can create a number of issues, including:

- How and to whom should people of concern complain?
- How can investigators access information in the control of other agencies without compromising confidentiality?
- How can investigators avoid re-interviewing witnesses?
- How can organisations and managers supervise a process which is at least partially outside their control?

Though organisations have their own cultures and strategies for dealing with their operating environments, they can minimise the potential problems by developing frameworks for joint investigations and information sharing<sup>4</sup>.

#### i. Steps for developing and implementing effective collaborative complaint mechanisms

Presuming that there is no existing collaborative mechanism in the region, organisations should consider which agencies, teams and personnel they are *most likely* to have contact with and *in what ways* they may need to cooperate<sup>5</sup>. Having identified possible partners, they should take feedback from local people and design their mechanism together. Key questions for partners are:

- How will the organisations alert each other to complaints while maintaining confidentiality?
- What are the potential partners' systems regarding confidentiality?
- Who will know about the complaint within each organisation? How much will they know?
- What are each organisations' responsibilities and reporting obligations?
- Who will manage the investigation?
- How will partners choose investigators?
- How will they organise and fund a joint investigation?
- How will they deal with problems that might arise between organisations?
- Who should receive the report?
- If there are multiple SOCs from multiple agencies, how will organisations ensure that penalties/responses are consistent?

Organisations that address these questions when developing their complaint mechanisms will avoid compromised investigations due to inter-agency conflicts.

<sup>4</sup> One such framework was recently developed in Kenya. Fourteen agencies working with refugee populations in Kenya developed inter-agency protocols for preventing and responding to SEA. This programme relied on the BSO materials and trainings to develop agreed standards and safeguarding strategies.

<sup>5</sup> For example, is it more likely that you will be conducting joint investigations or sharing information about former personnel?

## ► CHAPTER 2

# From allegation to investigation: steps for ensuring an appropriate initial response

## Receiving the allegation<sup>6</sup>

This next section covers the key steps for processing complaints from the time they are received by an organisation until the time the organisation decides to investigate.

### 1. Making contact with the complainant

The initial complaint to the organisation may be made in writing<sup>7</sup> or in person. In either case, it should give basic information about who the complainant is and what they allege, i.e. what happened (roughly), who did it, when, where, who else was there and how the complainant can be contacted again.

#### Anonymous complaints

Anonymous complaints are complaints in which the victim/complainant is not known. It may be possible to investigate anonymous complaints, if there is sufficient background information and/or good leads to witnesses who can give strong testimony about the alleged abuse. It is important to treat anonymous complaints seriously because of the potential for future abuse and harm, and your organisation's responsibility to create a safe and abuse-free environment.

### 2. Identifying and responding to immediate safety risks

At the initial contact, the investigator should find out whether the complainant or anyone else is immediately at risk. S/he should then prioritise those risks and refer any security concerns to a competent colleague.

#### a. Identifying the risks – who could be at risk and how?

Identifying risks means thinking broadly about what has happened and could happen to everyone involved in the investigation, including the survivor, the complainant, the witnesses and the SOC. Some risks are physical and may be obvious (e.g. pregnancy, injuries from attack by the SOC or relatives etc). Other risks may not be so obvious e.g. sexual infections, psychological trauma and economic loss. All of these are harmful and reduce a person's quality of life and may inhibit her/his ability (or desire) to contribute to the investigation.

#### b. Prioritise the risks – which are most urgent?

After the investigators have identified the risks, they need to rank them by person, type of danger and likelihood of those risks occurring i.e.: which risks are most pressing for each person and, between people, whose needs are most urgent? (Generally, the complainant's needs come first because s/he is most vulnerable).

#### c. Minimise risks – how to respond

Finally, the organisation has a responsibility to reduce the likelihood that anyone involved in the investigation will suffer harm. Mostly this means referring people at risk to specialists who have the expertise to help (e.g. doctors, trauma counsellors, housing agencies or security specialists). Those experts then takes steps to minimise the risks under the supervision of the investigation manager. Exceptionally, when a person is in immediate physical danger, investigation teams may need to take a more active role, for example, by helping the person relocate. Do not underestimate the complexities of ensuring people's safety. Covering the

<sup>6</sup> We talk about 'complaints' rather than 'allegations' in this section even though one of the questions investigators will need to consider is whether there is in fact a 'complaint'.

<sup>7</sup> An example is a complainant made via a complaints box.

immediate safety needs of survivors, family members and in some cases the SOC can be difficult and costly and may require working in partnership with other organisations.

Once the investigators have formulated a response to all the risks, they should design a protection plan and agree on this with the investigation manager.

### 3. Securing the evidence

How can evidence be preserved pending the investigation?

#### i. Witness testimony

The first step in preserving witness testimony is to interview witnesses as soon as possible after receiving the allegation using the interview techniques discussed in Chapter 3. In this way, it may be possible to capture information while the witnesses' recollections are fresh.

In some cases, it may be necessary to protect witnesses from intimidation or interference by the SOC. Usually, it will be sufficient to tell the SOC that s/he must not contact witnesses nor speak to anyone about the case. If there are particular concerns that the SOC may try to intimidate witnesses, the investigator should tell the witnesses to alert the investigators immediately if the SOC makes contact. In the very rare cases that a witness is in immediate danger, the organisation may need to offer to relocate that witness (and her/his family). Managers may also consider suspending the SOC (on full pay) pending the outcome of the investigation if this will prevent him/her from coming into contact with witnesses.

#### ii. Physical evidence

Physical evidence should be collected, photographed, photocopied and/or described in detail. We recommend investigators conduct a site visit soon after receiving the complaint as part of the investigation and photograph any relevant objects, locations or items.

To prevent tampering with documents or records, investigators should:

- secure the SOC's office computer
- back up (completely) her/his computer hard drive
- remove, for the duration of the investigation, all data storage devices (floppy disks, CD-ROMs, Zip drives, etc) that s/he has used and that belong to the organisation
- obtain office records such as financial records, payment vouchers, contracts and individual case files
- obtain all official telephone records, including mobile phone records
- place records in a secure environment such as a locked cabinet with access limited to the investigation team

#### iii. Medical evidence

It is rare to use medical evidence in workplace SEA investigations, given that in most cases it will not help establish whether exploitation or abuse occurred. It is more common for the initial contact person to note any obvious physical signs of abuse when s/he first meets a witness and to record these details in the file. If they consider it to be absolutely necessary, the investigators may ask the witness whether they have seen a doctor or other medical personnel and seek their permission to talk to that medical officer. Investigators should only speak to medical personnel about a witness if they have first sought the witness' permission.

### 4. Ensuring confidentiality

Once the participants in the investigation are safe and the evidence secure, the issue of confidentiality will become a primary focus for the investigation team.

#### a. What is 'confidentiality' and why is it important?

Confidentiality means that information about the complaint and investigation can only be disclosed to a limited number of specified people and in a narrow range of circumstances.

Confidentiality is important because it protects the privacy and safety of all the people involved in the complaint. All witnesses may fear retaliation from the SOC, community or co-workers. Moreover, for survivors, the experience of abuse can be very intimate and a matter of shame for them, their family and/or community; it may even lead others to reject or harm them. Even the SOC has an interest in confidentiality



– her/his reputation will suffer if people know about the complaint and s/he may be targeted in revenge attacks. Therefore, breaches of confidentiality undermine everyone’s confidence and trust in the investigation, and the investigators’ ability to find out what happened.

#### b. What is ‘confidential’?

In most cases, the fact and nature of the complaint, the identity of the key participants (the complainant, the victim, the SOC and witnesses) and the investigation records are confidential. That said, all aspects of the complaint are sensitive since there is a risk that outsiders will be able to deduce important information about the case from small, seemingly insignificant details.

#### c. How is confidentiality breached and how can unauthorised disclosure be prevented?

Confidentiality is breached by unauthorised disclosure, accidental or intentional.

##### i. Accidental disclosure

Accidental disclosure occurs when key details about the complaint are inadvertently revealed, generally in casual conversation or by documents ‘falling into the wrong hands’. To minimise the risks of accidental disclosure, investigators should develop an action plan, which identifies the risks to confidentiality, defines who is responsible for addressing those risks in each stage of the investigation and identifies ways to prevent disclosure. Investigators should also require anyone in the organisation who knows about the complaint to sign a confidentiality oath<sup>8</sup>. More generally, investigation units should have separate document management systems including separate servers and printers.

##### ii. Intentional disclosure

Intentional disclosure is more difficult to prevent – by definition it involves someone who is trusted with information disregarding the rules and telling others. Organisations can reduce the risk by limiting the number of people who know about the complaint, choosing team members carefully and after extensive background checks, remaining alert to conflicts of interest and taking strong action against anyone who knowingly broadcasts confidential information about the case.

## 5. Making (limited) disclosure

Generally, disclosure is allowed when:

- it is required or permitted by law or an organisation’s policy or procedures
- it is required by management in the best interests of the organisation and the parties
- it is needed to obtain specialist help for the survivor or advice on the evidence

Otherwise, most policies will require disclosure of confidential information to key internal stakeholders on a ‘need-to-know basis’. Who ‘needs to know’ about the complaint should be clearly defined in the policies. Generally, it will be the focal point<sup>9</sup> (usually the most senior manager in duty station), the leader of the mission of the place affected by the allegation and manager of the office affected by the allegation.

Note: a survivor’s identity should only be disclosed when it is in her/his best interests, the complainant has been told of the disclosure and the CEO approves the disclosure.

### What if someone who ‘needs to know’ is untrustworthy or is implicated in the allegation?

If someone who would normally ‘need to know’ is not trustworthy or may misuse information, the complaint mechanism should identify the alternative contact (commonly the director of human resources, global or local).

If the policy does not offer an alternative contact, then the response will depend on the size and structure of the organisation. In larger, international organisations, the international head of human resources or international head of protection may take on that role. In smaller organisations, it may be appropriate to approach the CEO. If the CEO is implicated or suspect, investigators may need to contact someone in another organisation with ‘influence’ e.g. a partner organisation or donor. This of course, is a **high risk strategy** and something that should only be done after very careful consideration and discussions with a trusted advisor.

<sup>8</sup> That oath forbids the person from discussing the complaint in any way with outsiders – including spouses and family members. Annexure D is a sample Oath of Confidentiality.

<sup>9</sup> The people named in your organisation’s mechanism as the first person to contact for SEA allegations.

## 6. Giving the complainant a formal confirmation

Once the right people know about the complaint, the final step is to get back to the complainant with a formal confirmation.

### a. What is confirmation?

Confirmation is generally a letter to the complainant telling her/him that the organisation has received the complaint and is taking action. It states:

- when and how the organisation received the complaint
- how the organisation has responded to the complaint so far
- what it will do next
- who is responsible for the complaint
- who the complainant should contact with questions or feedback

### b. Why do you need to confirm the complaint?

The confirmation is important for reasons of accountability and transparency. It shows the complainant that the allegation is taken seriously and it gives her/him the information they need to ensure that the organisation is responding properly. For the organisation conducting the investigation, it is a record that it has received the allegation and has handled it properly in the initial stage. This may be important if the investigation is audited.

### c. How should you confirm receipt?

Your confirmation should be in writing, discrete and clear.

#### i. In writing

As the confirmation is part of the accountability ‘paper trail’ it should be in writing. If the complainant does not want a letter, or you believe that creating a written record will put the complainant or others at risk, it is possible to confirm receipt orally. However, investigators should keep a detailed file note of the conversation, including time, date, attendees, matters discussed, decisions taken and any steps identified for follow-up.

#### ii. Discrete

All confirmations – whether oral or written – should be made discretely. Letters should be delivered in ways that do not alert others to the complaint e.g. given directly to the complainant or sent in an unmarked envelope. Oral confirmation should be given in a private location which is not automatically associated with SEA complaints. If the investigator or local focal point are themselves associated with SEA complaints, it may be necessary to ask someone ‘neutral’ but trustworthy to deliver the confirmation instead.

#### iii. Clear

Finally, in communicating confirmation of receipt, investigators should use language that the complainant will understand i.e. that is simple and non-technical and appropriate to the complainant’s age, level of development and education. They should use short words and sentences when possible. Diagrams (e.g. of where the complaint will go) may also be useful.

### d. Who should give confirmation and when?

The confirmation letter should be signed by the most senior person on the investigation management team. It should not be signed by an investigator or members of the investigation team. The complainant should receive the letter of confirmation no more than 5 working days after the organisation receives her/his complaint.

## Deciding whether to investigate

These initial steps, whilst essential, only preserve the status quo until the investigation begins. The next step is to decide whether to investigate this allegation. This means asking three questions:

1. Does the complaint relate to a breach of SEA policy?
2. Is there a ‘complaint’?
3. Is there enough information to investigate?

## 1. Does the complaint relate to a breach of SEA policy?

The first issue is whether the allegation involves sexual exploitation or abuse of a person of concern by staff. If yes, there is the basis for an investigation under SEA policy. If no, there may be other forms of misconduct which should be dealt with under different policies.

## 2. Is there a complaint?

The second issue is whether there is a complaint as defined by the organisation's complaint mechanism. In most mechanisms, it is an official complaint that triggers the investigation. So how should an organisation respond if the complaint is manifestly defective or there are rumours of abuse but no formal complaint?

### a. Formal deficiencies in the complaint

Some allegations may not satisfy the formal requirements of 'complaints' as they lack crucial information. In this situation, the organisation's SEA focal point should help the complainant to make the complaint correctly (s/he should also consider if and how the mechanism can be improved). Importantly, **an allegation should never be rejected just because it does not meet all the procedural requirements for a 'complaint'**.

### b. How to deal with rumours – i.e. allegations that have not been formulated into formal complaints

A more difficult issue is how to deal with rumours, such as allegations that are common knowledge but have not been submitted as formal complaints. Acting without a complaint may invalidate an investigation if there is a challenge to the termination of the SOC's contract. On the other hand, failing to act when there is a suspicion of exploitation or abuse may be a breach of the organisation's duty of care to the person of concern.

As usual, the way to resolve these problems is ahead of time in the complaint mechanism. Some of the features we have already discussed will help (e.g. mandatory staff reporting, whistle-blowing policies and policies allowing complaints by proxy). But it can also be useful to empower investigators to begin investigations on their own initiative in specified circumstances.

Alternatively, it may be appropriate for the investigators to make informal inquiries with the person/s who originally alerted them to the possible abuse and to try to trace the allegation back to its source. They may be able to find a victim or witness to talk to about the possibility of bringing a complaint. They should be very careful, however, that they do not compromise their impartiality by acting both as prosecutors and investigators.

## 3. Is there enough information to investigate?

The third issue is whether the organisation can investigate, given the information it has about the alleged exploitation or abuse. Complaints that do not specify what happened (roughly), when it happened, where, to whom, by whom and who saw or heard it or about it, may be impossible to investigate.

If, during the investigation, it is quickly determined that there is no basis for proceeding, the manager should only notify the SOC that s/he has been investigated and that the investigation has been discontinued if the SOC was already aware of the investigation.

## Appointing the investigation team

If the organisation decides to investigate, senior management will need to appoint an investigation team. The investigation team generally comprises managers and investigators and, in some cases, observers, interpreters and outside experts. In choosing the individuals to undertake these tasks, a senior manager (usually the Country Director or International Director of Human Resources), will need to consider the size of the team, their qualifications, and Terms of Reference (TORs) and the budget for the investigation.

### 1. Managers

#### a. Number of managers

Every investigation team has at least one manager directly supervising the case. We will refer to him/her as the investigation manager. S/he will then report to other more senior managers on a 'need to know' basis. (It is not necessary for every manager in the hierarchy to know about the investigation.)

## b. Responsibilities of investigation managers

The investigation manager's responsibilities are to oversee the investigation, take strategic decisions and create the conditions for investigators to do their work. This includes:

- making the key decisions about the direction of the investigation, such as whether to investigate or whether to suspend or redeploy the SOC during the investigation
- ensuring that safety and confidentiality plans are implemented and that the investigation is conducted according to key principles and procedures
- liaising with external institutional stakeholders, such as national authorities and other agencies
- appointing personnel to the investigation team and managing the relationship between the investigation team and the rest of the organisation
- receiving the final investigation report on behalf of the organisation and, if the complaint is substantiated, determining if disciplinary measures are appropriate
- ensuring that investigators are trained, supervised and referred for emotional/psychological support when necessary

## c. Qualifications of managers

Managers should be chosen on the basis of their integrity, appreciation of SEA issues, knowledge of human resource practice and ability to negotiate conflicting interpersonal and institutional interests.

## 2. Investigators and observers

### a. Number of investigators

Ideally two investigators will work on every investigation. If only one investigator is available, the investigation manager should also appoint an independent observer to sit in on interviews and provide the investigator with feedback and support.

### b. Responsibilities of investigators

Investigators are responsible for the day-to-day conduct of the investigation, as defined by TORs. Normally, their responsibilities include:

- developing the investigation plan
- assessing and making recommendations on safety, confidentiality
- securing evidence
- making recommendations on the work status of the SOC for the duration of the investigation
- gathering evidence
- preparing and submitting the report
- making a finding on the evidence
- making recommendations on the policies and practices that may have enabled the exploitation/abuse to occur

### c. Qualifications of investigators

#### i. Basic qualifications

At minimum, investigators must be:

- **professional** – exercise sound judgement and exhibit skill
- **responsible** – trustworthy, dependable and personally accountable for the decisions they take throughout the investigation
- **qualified** – experienced in interviewing and (at least) trained in SEA investigations
- **independent** – have no material, personal or professional interest in the outcome of the complaint and no personal or professional connection with any witnesses (especially the complainant and SOC).

Investigators will be drawn from a variety of backgrounds both professional and academic. It is extremely important that they have extensive experience in conducting interviews – even in the course of other duties (for example, as legal advisors, human resource specialists, counsellors etc). Moreover they should be extremely knowledgeable about the organisation's policies in relation to SEA, human resources and protection.

## ii. Witness preferences

It is always best to focus on the right skill set over witness preferences when composing the team as there is no rule that each member of the investigation team must meet the preferences of all witnesses involved. Nevertheless, the investigators should try to make sure that the survivor and any vulnerable witnesses feel comfortable with whoever is interviewing them. One way to do this is to ensure that an investigation team includes both a man and a woman. Other considerations, when feasible, are ethnic background and religion, though investigators should ask the survivor if s/he has a preference rather than assume that s/he will prefer investigators who share some of his/her characteristics.

## 3. Interpreters

Ideally, investigators will speak the language of most of the potential witnesses. If this is not possible, they should choose an interpreter who, like them, is competent, discrete, independent and appropriate. In addition, the interpreter must understand the nuances of witnesses' language, including local slang and veiled allusions to sex. Moreover, interpreters must sign an oath of confidentiality and should be relied on to maintain that agreement. Interpreters must be instructed to interpret directly what witnesses say without comment or inference.

## 4. Other experts

Sometimes, managers should consider taking expert advice or assistance from outsiders. Commonly, these will be computer specialists, lawyers with in-country legal expertise and specialists in interviewing children or people with disabilities.

## Preliminary considerations for the investigation: goals, constraints and questions

The stage between appointing the team and starting the investigation is dedicated to planning. It is an opportunity to refocus on the purpose of the investigation, its constraints and the questions under investigation.

### 1. What are the goals of the investigation?

The main goal of the investigation is to gather information that proves or disproves the allegation. Investigators are not prosecutors. Their job is not to look solely for information that will 'convict' the SOC but to gather all relevant evidence so as to determine objectively whether the exploitation or abuse occurred.

In addition to this, their goal is to conduct an investigation which demonstrates the following key principles:

- Confidentiality
- Anonymity
- Health and welfare
- Safety
- Legality
- Professionalism
- Thoroughness
- Independence
- Planning and reviewing
- Respect (for all concerned)
- Timeliness
- Working in partnership (with all interested parties)

**Confidentiality** – Confidentiality is an ethical principle that restricts access to and dissemination of information. In SEA investigations, it requires that information is available only to a limited number of authorised people for the purpose of conducting the investigation (i.e. disclosure of information only on a need-to-know basis).

**Anonymity** – an anonymous complaint does not imply that the allegation is of less substance. Investigating anonymous complaints is challenging. For this reason, some organisations will only investigate anonymous complaints when the allegations refer to evidence available from an additional source. Anonymous complaints should however be treated as seriously as “named” complaints.

**Health and welfare** – the health needs of survivors are paramount. NGO staff assigned to conduct investigations should not undertake to address these concerns themselves, but have an obligation to ensure that these matters are referred to the manager of the investigation who can attend to these needs in a confidential manner throughout the investigation process. This includes medical care, psycho-social support, counselling, etc.

**Safety** – in some situations, witnesses will fear reprisals, including physical attacks. While an organisation may not be in a position to guarantee the safety of a witness, it is essential that a plan is developed and reviewed throughout the investigation for how best to keep witnesses safe. Witnesses must be honestly apprised of the limits of the organisation’s capacity to protect them.

**Legality** – investigations should be initiated, conducted, and reported in accordance with all applicable rules, regulations, and guidelines including due respect for the rights and privacy of those involved. Consideration should be given to local law, as it relates to gathering evidence outside the organisation’s premises and when interviewing non-staff witnesses. If a crime appears to have been committed, consideration must be given to informing national authorities. Organisations should have a policy on how and when to involve national authorities. Given the risks and benefits of informing national authorities, the victim’s view should be sought before taking a decision.

**Professionalism** – staff undertaking investigations must have adequate skills, training and knowledge. The methodology and techniques used in the investigation must be appropriate for the objectives and circumstances of each investigation.

**Thoroughness** – investigations must be conducted in a diligent, complete and focused manner to ensure that relevant evidence is obtained to **establish or not establish** the allegation(s).

**Independence** – investigations must be conducted in a fair and equitable fashion. Evidence must be gathered and reported in an unbiased and independent manner to determine the validity of an allegation. Investigators must be free, both in fact and in appearance, from any influence that could impair their judgment. Investigators should make their manager aware of any potential conflicts or influence in order to take action to resolve these issues before commencing the investigation.\*

**Planning and reviewing** – investigations must be planned, systematic and completed as soon as possible. Investigation reports and conclusions must be supported by adequate, accurate records and documentation.

**Respect (for all concerned)** – investigators must be seen to be respectful of all parties to an investigation. **An investigation is into an allegation, not a person.** The SOC must be treated with respect and afforded the right of response. Investigators must not pass judgment on the behaviour the victims, witnesses or SOC throughout the investigation. Investigations should be conducted with due consideration and sensitivity to the culture and customs of the local population when interacting with local members.

**Timeliness** – subject to the resources available, investigations must be conducted and reported in a timely manner. Organisations should implement a policy on length of time an investigation can reasonably take, for example 28 days.

**Working in partnership (with all interested parties)** – in some cases NGOs may receive complaints against staff working for a different NGO. Organisations must have a policy on how they will deal with such complaints. In addition, when allegations are made against staff of separate NGOs there should be plan for joint investigations to avoid repeated interviews.

## 2. What are the constraints on the investigation?

### a. Legal constraints – authority

Organisations should give investigators a mandate to initiate and conduct investigations on the organisation’s behalf. Usually, TORs empower investigators to collect evidence without hindrance or prior clearance, to access staff promptly and to require the full cooperation of anyone working for the organisation. However before commencing an investigation, investigators should review their TORs to identify the extent of their authority to investigate in this case.

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\* Independence and impartiality can be compromised by professional, personal or financial relationships that may affect or weaken the investigation. Pre-conceived opinions on individuals or groups and previous involvement in a management capacity can affect the operations of the person/entity or programme under investigation. External impediments can also adversely affect the work of investigators. These may include: interference by third parties, undue restriction on resources needed to conduct the investigation, use of authority to overrule or influence the investigation, or findings of the investigation report and denial of access to sources of information, including relevant documents and records.

## b. Legal constraints – procedural rules

Provisions in national employment laws, the organisation’s policies and the SOC’s contract will at least influence (possibly determine) how the investigation is conducted.

### i. National employment laws

National employment laws commonly include rules about dismissal that, if not followed, may lead to the reinstatement of the dismissed employee or an award of damages. Potentially relevant employment laws are those from the place where the person was hired, the place s/he works or the place where s/he and/or the organisation are nationals. It is good practice for organisations to find out, when developing complaint mechanisms, which laws would apply to their local and international staff as different laws may apply to each.

### ii. National criminal law

In some countries there is a legal obligation to report allegations of child abuse or sexual assault to the national police. In other places, reporting will be voluntary. If so and it seems that a crime may have been committed, management should consider whether, how and when to inform national authorities. The survivor’s view should be sought, as people who report abuse may be at risk from the police in some places. If the organisation refers the case to national authorities for criminal prosecution, it should also discontinue its internal workplace SEA investigation.

### iii. Organisational policies and procedures

Procedural rules are also found in many organisations’ policies and procedures on dismissal for misconduct and SEA. In organisations with no such procedures or policies, we suggest using the IASC Protocols<sup>10</sup> as a guide to best practice in the humanitarian sector.

### iv. Contracts between the organisation and the SOC

Finally, the employment contract between the SOC and the organisation will usually regulate the termination of employment. Most contracts say that employees can be summarily dismissed for misconduct or in other situations with notice. Contracts also may deem human resources policies (as they exist from time to time) as terms of the employment contract, giving legal effect to many relevant policies, procedures and standards e.g. Codes of Conduct.

## c. Practical constraints – team capacity

Investigators and investigation managers need to consider together the resources available for this investigation. Resources do not determine whether they should investigate, but will shape the investigation priorities. Key questions include:

- How much time and money can they spend on the investigation?
- Who (from the organisation) will be contributing to the investigation?
- What are their skills? Is the team able to access outside experts to supplement their skills?
- What facilities are available for ensuring the participants’ safety (e.g. safe houses, security etc)?

## 3. What are the substantive questions for the investigation?

To conduct the investigation itself, investigators need to be absolutely clear about the substantive rules allegedly breached and the composite elements of those rules. They then need to identify the evidence that is relevant to the elements and to consider how they can gather that evidence safely and efficiently.

### a. What substantive rules have allegedly been breached?

Substantive rules are rules that tell staff what they may (and may not) do as employees of your organisation. They are standards of conduct and are found in national employment laws, the SOC’s employment contract and the agency’s Code of Conduct. If the agency is an implementing partner of the UN, those codes will generally incorporate all or part of the SG’s Bulletin<sup>11</sup>. For example, if an organisation’s applies the SG Bulletin as its Code of Conduct, and a complaint was made that one of your staff members engaged in

<sup>10</sup> Inter-Agency Standing Committee (IASC) Task Force on Protection from Sexual Exploitation and Abuse. March 2004. *Draft Model Complaints and Investigation Procedures and Guidance Related to Sexual Exploitation and Abuse*. IASC Task Force on Protection from Sexual Exploitation and Abuse.

<sup>11</sup> UN Secretariat. 9 October 2003. Paragraph 3.2 (f) in “Secretary General’s Bulletin on Special Measures for Protection from Sexual Abuse and Sexual Exploitation, 2003/13 (ST/SGB/2003/13)”. UN.

sexual activity with a 17 year old, the allegation is: the SOC is engaged in sexual activity with a child; a violation of the SG Bulletin, section 3.2(b).

#### b. What are the elements of each rule?

The elements of each rule are the individual facts that have to be proved to show that there was a breach of a standard of conduct. If we continue with the example in point a. above, the elements of the SG Bulletin<sup>12</sup> standard 3.2 (b) are:

- the SOC is a staff member
- actual or threatened sexual activity<sup>13</sup>
- with a person under 18 years of age

#### c. What evidence is relevant to that breach?

Evidence is information that is relevant to deciding if an allegation is true or not i.e. information that makes an element more or less likely. It comes in a number of forms, the most common being:

- witness testimony (e.g. statement about what someone saw, heard, smelt, etc)
- documentary evidence (e.g. forms, photographs, videotapes, computer files)
- physical evidence (e.g. examinations of the site of the alleged abuse)
- expert evidence (authoritative opinions about whether something is likely to have occurred).

To complete the investigation, it is necessary to gather evidence on each of the elements. We recommend that the investigators begin by making a checklist of the elements, the type of evidence that could be relevant to each element, where and from whom they may find it.

## ► CHAPTER 3

# From investigation to report: conducting an effective and legally enforceable investigation

## Investigating the complaint – gathering documentary evidence

Throughout the investigation, investigators will need to consult documents – in hard copy and electronic form – to identify documentary evidence.

### 1. What is documentary evidence

Documentary evidence is all information that is relevant to the complaint and that is recorded in some way in physical form. It includes staff records, rosters, photographs, diagrams, handwritten notes and information stored electronically.

### 2. Why is documentary evidence important to investigations of SEA

Documentary evidence will vary in importance between SEA investigations. Generally, it does not prove that the SOC sexually exploited or abused the victim. However, it may establish the age of the survivor or the role of the SOC in the organisation (e.g. employee, contractor, employee of contractor etc). Moreover, it can corroborate witness' accounts, provide leads for questioning, support witness testimony and/or give investigators a better understanding of the background to the complaint.

### 3. Who has relevant documentary evidence and who can access it

The organisation and its related entities will hold most relevant documents on their premises. If investigators cannot find relevant materials there, they should check whether documents have been moved, destroyed or

<sup>12</sup> UN Secretariat. 9 October 2003. Paragraph 3.2 (f) in “Secretary General’s Bulletin on Special Measures for Protection from Sexual Abuse and Sexual Exploitation, 2003/13 (ST/SGB/2003/13)”. UN.

<sup>13</sup> See definition of sexual abuse.



archived. Otherwise, if they have good reason to believe documents are in the possession of a staff member, the investigators may ask for access to those materials. Note: staff may withhold documents that they created in their private capacity using their own equipment.

## 4. When to collect documentary evidence

You should begin collecting documentary evidence as soon as possible in the investigation as it may give you ideas about whom to interview and what questions to ask.

## 5. Where to collect documentary evidence

Whenever possible, documents should be reviewed on site. If this is not possible, the manager should designate a trusted staff member to find, copy and send the documents to the investigator. Alternatively, if original materials are removed from the premises, the Head of the Office should be told of this and given a signed inventory and receipt for the materials. The receipt is a record that materials have been handed over to the investigation team as well as the investigators' record of the documents reviewed. It should include a description of the materials, the name of the person who supplied or accused them, the name of the office where they were kept, the date and time they were removed and the place they were removed from. A copy of the inventory receipt should be kept in the investigation file and another given to the relevant person at the office where they were found.

### Special considerations for collecting electronic 'documents'

Computerised information (such as codes, saved files, digital photographs) may also be 'documents' relevant to the investigation. When handling electronic documents, investigators should:

- ensure that whoever obtains the electronic evidence has sufficient computer skills to completely and safely extract the data
- if seizing a computer to avoid the destruction of evidence, make a list of the computer's components, including the make, model and serial number of the monitor, computer, disk drives, cables and speakers
- store seized equipment in a safe and secure location
- only ever log onto or browse computer directories and files with the relevant staff member present (though usually network drives and e-mail servers can be reviewed without the staff member)
- record the 'chain of custody' including the names of those present when information is accessed, the time of log-on and filenames and pathways.

## 6. How to review and manage documentary evidence

### a. Managing documentary evidence

Managing documentary evidence means taking steps to ensure that documents are not lost, that all relevant documents have been reviewed and that all relevant documents can be accessed and shown to be reliable. For every document, it should be possible to establish:

- 1) who provided it (name and contact details)
- 2) where it was located (address and details of how it was kept)
- 3) when it was retrieved (date and time)
- 4) what it is called (title, identifying number and date created)

This information should be recorded on the receipt given to the owner or custodian of the document. A copy of the receipt should be kept on the investigation file.

### b. Reviewing documentary evidence

Before reviewing documents, investigators should re-read and consider the relevant parts of the IASC protocol<sup>14</sup>. They should also prepare a list of questions or a checklist of issues to be addressed.

<sup>14</sup> Annexure B is a tool to assist investigators with the planning and preparation for an investigation

### Best practice tips for reviewing documents

**Be systematic** – before the review, investigators should devise a process for analysing documents and then apply that process to each document. They should include a system for making notes as this helps with concentration and saves time when preparing for interviews and writing the report.

**Be analytical** – the purpose of reviewing the documents is to determine whether they prove or disprove the allegation. It is helpful to write down the elements of the allegations and keep it in a prominent place while conducting the review.

**Be suspicious** – when reviewing the documents, investigators should be alert to internal inconsistencies and to references to other relevant evidence. It is particularly important to check dates, addressees, carbon copies and attachments. Investigators should look for postdating and consistency with other dates in the investigation. If the document refers to attachments, investigators should make sure they are enclosed or can be located.

**Be impartial** – investigators should review documents with an open mind as to their significance so as to avoid missing important information.

## 7. Returning documents after the review

Investigators should return original documents to their owner/custodian as soon as possible to minimise interruptions to work at the agency.

### Investigating the complaint – gathering evidence from witnesses

Witness testimony is information about a person's experience of an event as retold in an interview. Witness testimony is particularly important in SEA investigations as sexual exploitation and abuse are often only reported after corroborating physical evidence of the exploitation or abuse has disappeared. Moreover, if not conducted properly, witness interviews can compromise confidentiality and the welfare of the participants.

#### 1. Who should be interviewed?

In almost every investigation<sup>15</sup>, the complainant and the SOC will be the key witnesses. In addition, investigators should speak to anyone with information relevant to the complainant's or SOC's account. For example, if the complainant says s/he ran from the SOC's house, was this seen by anyone else? Or if the SOC says s/he was with a driver on the day of the alleged abuse, can this be confirmed by the driver?

Once investigators have identified the people to interview they should prepare a list of witnesses and experts, including their titles and notes on how their testimony might be relevant.

#### Does a witness have a 'right' to bring a lawyer or support person to the interview?

The short answer to this question is no: no witness has a 'right' to bring a third party – lawyer or otherwise – to an interview in a workplace SEA investigation. As this is not a criminal investigation, a third party can only attend if your organisation gives consent. Moreover, consent should only be given if the third party is not themselves a witness, s/he agrees to remain silent during the interview and to sign an Oath of Confidentiality. (Note: you will only be able to enforce the Oath if the other person is also a contractor or employee of your organisation.)

#### 2. Who should interview the witnesses?

As said above, interviews are generally conducted by investigators. If there are two investigators on the team, they should decide before the interview, who will conduct the interview and who will take notes.

If there is only one investigator, s/he will have to do both tasks or ask the observer to take notes, if that is more effective. Interviews should always be conducted with two people present, either two investigators or an investigator and an observer.

<sup>15</sup> The only exception would be if the complaint has been made anonymously.

### 3. When should witnesses be interviewed?

#### a. Order of the interviews

Once the investigators know whom to interview, they should consider the order of the interviews. The general principles are to interview the complainant first and the SOC last. This means that the general order of witnesses is:

- 1) complainant or original survivor
- 2) other potential survivors
- 3) witnesses with indirect knowledge of the misconduct
- 4) witnesses with direct knowledge of the misconduct
- 5) SOC

If the complainant and survivor of the alleged abuse are different, the complainant should be interviewed first. The order may change if the witnesses are leaving the organisation or place of the investigation.

#### b. Re-interviewing

The general principle is to avoid re-interviewing witnesses whenever possible. However, if interviewees provide conflicting information or you find new information relevant to their testimony, it may be appropriate to seek a second interview, if this does not compromise the witness' health or well-being.

### 4. Where should witnesses be interviewed?

The location of the interview will depend on the organisation's protocols, facilities and how, in the circumstance, it can best ensure that the complaint remains confidential.

It is generally better to conduct interviews in person. If this is not possible (e.g. because the witness has left the location or the organisation), investigators may arrange an interview by telephone, video-conference or e-mail exchange. They should make sure to include a note in the record on how the interview was conducted and why.

### 5. How should witnesses be interviewed?

There is no recipe for conducting a successful interview. The questions and interview techniques always depend on the facts of the case and the interviewer's style. Even so, there are some basic techniques that can help elicit the relevant information.

#### Do's and Don'ts of good interviewing

##### DO:

- be courteous, objective and professional
- ask direct and simple questions
- regularly confirm information provided by the witness
- ask the witness to clarify ambiguous terms or information
- conduct the interview at the pace of the witness
- give the witness time to think and to answer questions without interruption
- record the time the interview begins and ends, any breaks in the interview and any absences of participants from the interview room

##### DON'T:

- use vague language, jargon, acronyms or euphemisms
- use long, leading or compound questions
- give feedback on the witness' testimony, even unintentionally through face expressions and voice inflexions
- make moral or legal judgements
- make promises you cannot keep

## a. The four stages of interviewing

### i. Establishing rapport

The purpose of the ‘rapport’ stage is for the interviewer to introduce her/himself and to tell the witness why s/he is being interviewed. The rapport stage is also important for gaining the witness’ trust and enabling the witness to feel like they can give a full and frank account.

To establish rapport, the interviewer should:

- introduce him/herself, the co-investigator and anyone else present at the interview
- give the witness a business card with contact details
- explain the roles of everyone at the interview
- clarify the purpose of the interview, without giving details of the allegations
- clarify the ground rules
- ensure the witness knows her/his rights and obligations
- offer the witness refreshments and inform her/him that s/he is entitled to reasonable breaks and refreshments during the interview
- make small talk on neutral subjects such as the witness’ work, hobbies, etc to put him/her at ease.

### ii. Free narrative

The purpose of the ‘free narrative’ stage is to get a witness’ uninterrupted account of events. To stimulate free narrative, the interviewer should:

- ask very open questions e.g. “Can you tell me about your duties?”
- use neutral prompts that relate to the witness’ account (without referring to other witness’ testimony) e.g. “And then what happened?”
- repeat key phrases
- ask for further clarification
- adopt an “active listener” posture

The interviewer should not interrupt or clarify ambiguities at this stage. If unsure of something, the interviewer should make a note to return to it in the ‘specific questions’ phase.

### iii. Questioning

In the ‘specific questions’ phase, the interviewer clarifies the information the witness has already given and to help the witness give relevant information s/he was unable or unwilling to give during the free narrative.

Types of questions are:

- open ended questions (e.g. “Tell me more about your teachers”)
- specific questions (e.g. “What happened after you went back to the school?”)
- closed questions (e.g. “What was he wearing when you went back to school?”).

Interviewers should avoid asking leading questions (e.g. “Was he wearing a red shirt?”) as these may distort the witness’ testimony.

### Dealing with intentionally obstructive witnesses

Sometimes witnesses will resist or refuse to co-operate. The interviewer’s response will depend on how and why the witness is resisting and whether they are staff members of the organisation.

**Staff witnesses** (including staff of organisations contracted to the investigating NGO) who are being intentionally and overtly obstructive, can be ‘reminded’ that they are contractually obliged to cooperate with the investigation, to tell the truth and to maintain confidentiality and that they may be disciplined for failing to do so (this is a matter for managers). Otherwise, any hostile behaviour should be recorded in the Record of Interview.

**Non-staff witnesses** are not legally obliged to answer questions or even attend the interview. That said, the interviewer can still stress the importance assisting the investigation, and of being truthful, accurate and discrete.

### iv. Closure

To end, the interviewer should:

- check with the co-investigator if there are outstanding matters

- summarise what the witness has said
- ask if the witness has anything to add
- answer any questions s/he has
- remind the witness how to make contact with the interviewer
- note the time on the Record of Interview
- thank the witness for her/his time.

If the witness provides more relevant information after the summary, the investigator should clarify and confirm the new information and then summarise it to the witness.

## b. Special considerations for dealing with vulnerable witnesses

### i. Who is a vulnerable witness?

In general, all people of concern to humanitarian organisations have experienced or witnessed traumatic events that can make them vulnerable. Equally many adults and children living in those communities are resilient and have developed personal and community-based coping strategies. For the purpose of this section, reference to vulnerable witnesses is to **children, youth and some people with disabilities or serious illnesses**.

### ii. What is the purpose and principle of interviews with vulnerable witnesses?

The primary consideration when interviewing children and other vulnerable witnesses is how to elicit relevant information without causing (more) harm.

### iii. Who should conduct the interview?

Whenever possible, a specialist with specific training and experience should interview children and other vulnerable witnesses. However, if no specialist is available, the generalist investigator can conduct the interview.

If the interviewers do not speak the witness' own language, they should ensure that the witness feels comfortable with the interpreter, as it is particularly important to interview a vulnerable witnesses in his/her own language.

### iv. Where should vulnerable witnesses be interviewed?

A vulnerable witness should be interviewed in a place where s/he feels safe and that is confidential.

### v. How to interview vulnerable witnesses

Often, vulnerable witnesses such as children will feel more comfortable if a trusted adult (e.g. a parent or family member) is present during the interview as a supporter. The supporter's role is to enable the witness to feel safe and comfortable in speaking to people s/he does not know.

The supporter should only attend if:

- the witness wants her/him to be present (i.e. the witness has given informed consent)
- the supporter will not retaliate against the witness if the witness reveals details of the alleged exploitation or abuse
- the supporter is not involved in the alleged exploitation or abuse
- the supporter has been properly briefed on her/his role

### vi. Where to interview a vulnerable witness

The witness should be interviewed in a place where s/he feels safe and that is confidential.

### vii. How to interview a vulnerable witness

The four stages of interviewing are a useful guide for interviewing vulnerable witnesses. However, investigators should incorporate some additional to their interview plans:

As part of the preliminary conversation, interviewers should:

- reassure the witness that s/he has not done anything wrong
- explain to the witness, in a way the witness understands:
  - why s/he is being interviewed (though not the nature of the complaint)
  - the role of the interviewer/s and any observer, supporter or interpreter
  - what confidentiality means and why it is important
- explore the witness' ability to participate in the interview, her/his general comprehension and understanding of truth versus lies (this is most relevant to children and people with developmental difficulties)

- tell the witness that s/he should say if:
  - s/he does not understand something the investigator has said
  - the investigator has said something that is not correct
  - s/he does not know the answer to a question

When prompting the witness' free narrative or asking specific questions interviewers should:

- use short and simple questions and words that the witness knows
- stay focused (i.e. gather all the information on one topic before moving onto another)
- avoid repeating questions (this can give the children in particular the impression that the first answer was incorrect)
- avoid asking about things that the witness does not understand such as time, height, weight, age etc
- avoid leading question unless it is absolutely necessary (e.g. if not asked the child's safety or the integrity of the investigation would be compromised)
- revert to open or specific questions where the child responds to a leading question with information not previously known or referred to

Finally, during closure, interviewers should ensure that the witness is safe and knows who s/he can speak to if s/he has any problems after the interview.

#### **viii. How to assess an evidence from a vulnerable witnesses**

Vulnerable witnesses can behave in unexpected ways. Consequently, it is important that investigators do not rely solely on the child's or witness' behaviour as an indication of his/her reliability. Instead, investigators should consider whether their account fits with the other information or evidence gathered. Then, s/he should determine if any action needs to be taken to ensure the witness' safety and double check her/his testimony.

#### **c. Special considerations for interviewing the SOC**

##### **i. Why interview the SOC?**

The SOC, like all other participants in the investigation, is entitled to a fair and impartial process. This means that s/he should be able to respond to the allegations by hearing the evidence brought against him/her and by having the opportunity to refer the investigators to further evidence in his/her favour.

##### **ii. Who should interview the SOC?**

The most experienced interviewer on the team should interview the SOC in the presence of another investigator or observer (this helps avoid accusations of investigator misconduct and allows you to corroborate the SOC's testimony). Generally, the SOC should not be allowed to 'veto' interviewers according to his/her personal preferences.

##### **iii. Where to interview the SOC?**

The venue for the interview should be confidential as well as safe for the SOC and investigators.

##### **iv. When to interview the SOC?**

As a rule, the investigators should only interview the SOC **after** speaking to **all** other witnesses. This gives the investigators maximum opportunity to check the SOC's evidence against the other accounts.

##### **v. How to interview the SOC?**

The SOC should be interviewed like all the other witnesses (see part 5(a) above). However, given the potential consequences of the investigation for the SOC, it is particularly important to cover the following points at the beginning of the interview:

- the purpose of the interview
- the roles of the participants in the interview
- the process and potential consequences of the investigation
- any internal avenues of appeal
- his/her rights and duties in the interview

### What are the SOC's rights and obligations during the interview?

The SOC's has the **right** to address, in her/his own words, every piece of evidence in support of the allegation and to raise new evidence in support of her/his account. The SOC is not entitled to know the name of the complainant or the source of the evidence brought against him/her. The investigators have corresponding duties to follow-up on relevant evidence identified by the SOC and to give the SOC an opportunity to respond to the complaint. Until this is done, there can be no findings.

The SOC's **duties** in the investigation are to maintain confidentiality, to tell the truth, cooperate with reasonable requests from the investigators and to refrain from talking to other witnesses about her/his evidence in the investigation.

## 6. How should you record the information given in the interview?

### a. Taking notes during the interview

One of the two investigators should take notes for the entire interview. These notes should be detailed (almost verbatim) for the most relevant parts of the interview and in summary form for less relevant parts.

### b. Records of Interview<sup>16</sup>

The information collected in note form should be recorded as soon as possible after the interview in a Record of Interview.

A Record of Interview is the formal document that contains the details of the interview (the 'who, what, when, where and how') and the information asked for and provided. It should:

- be clear and concise
- be presented in a question-and-answer format
- include documents referred to and/or shown to the witness during the interview
- include the facts obtained from the interviewee as well their relevant opinions and impressions (Note: the investigator's own opinions, conclusions or analyses should not be included).

The Record of Interview should be written by the interviewer in his/her language.

The witness should be given the Record to review as soon as possible after the interview. S/he should be given sufficient time to read the Record and suggest changes. S/he can make changes or corrections by marking the document and signing her/his amendments. Alternatively, the interviewer can immediately enter the corrections in an electronic version of the Record, indicating changes suggested by the witness, and reprinting the Record for signature.

After the witness has reviewed the statement and made any changes, s/he should be asked to sign the Record in the presence of both investigators. Staff witnesses are obliged to sign the Record once they have been given the chance to make changes. Non-staff witnesses cannot be required to sign the Record of Interview, though it is preferable that they do. If they refuse to sign the Records, the investigators can prepare a Record of Conversation instead – this document is the same as the Record of Interview in content but is signed by the investigators rather than the witness.

### Disagreements between interviewers and witnesses regarding the witness' testimony

If, immediately after the interview, there is a disagreement about the witness' testimony, the second investigator/observer can usually clarify the point or the parties can note their different opinions on the Record. However, it is more common that interviewees will disagree with the Record some time after the interview took place. If this occurs, the investigator should record the specifics of the dispute (what both parties believe what was said, when and to whom), before asking the observer for her/his recollection. The investigator should try to remain open minded, as it is always possible that one of the parties was mistaken or simply misunderstood.

<sup>16</sup> Annexure C is a sample Record of Interview form.

It is best practice **not** to give a copy of the Record of Interview to the witness, as this increases the likelihood of disclosure. However, if a copy of the Record is given to the interviewee this should be noted on the original (along with the reason for the giving her/him a copy) and signed by the interviewee. The interviewee should be informed that s/he is responsible for unauthorised disclosures.

If the Record is sent to the witness by post, the investigators should enclose two copies with a cover letter asking the witness to review, sign and return one copy by registered mail. Electronic copies should be in a format that cannot be amended or that allow a reader to identify any changes to the text. If the Record is returned by e-mail, the witness' covering e-mail should state that it is a "true and accurate Record of the Interview".

#### **i. Audio and video Records of Interviews**

Most investigators do not tape or video interviews. If the investigator does intend to tape the interview s/he must tell the witness beforehand. Afterwards, a Record should be prepared from the tape as for any other interview and steps taken to ensure the tape is secure and not disclosed to unauthorised recipients. It should be stored with a note from the investigator with details of the participants to the interview, the place, date and time of the interview, and any other relevant information about the circumstances in which the recording was made, such as why an electronic recording was thought necessary.

## **Investigating the complaint – gathering physical evidence and conducting site visits**

Site visits are inspections of the place/s where the alleged incident or its component parts occurred. Site visits are useful, especially at the beginning of the investigation, to determine whether the alleged exploitation or abuse was possible in the manner described and to gather physical evidence relevant to the witnesses' accounts.

Before conducting site visits or searching for evidence, investigators should review their TORs to ensure that they have the relevant authority. They should then arrange a time to visit each site and conduct the search in the company of at least one other investigator or an independent observer. After the visit, they should write a file note recording who was present, in what condition they found the site, what objects (if any) they gathered there and the date and time of the visit. If possible, they should attach photographs or sketches of the site or relevant objects.

## **Validating evidence**

As information is collected, it should be evaluated for consistency and reliability. Investigators determine consistency by comparing each new piece of evidence to each piece of existing evidence. If there are inconsistencies, the investigators seek further evidence or make a judgement as to which source is more reliable. There are no particular rules about reliability in workplace SEA investigations. However, investigators should avoid relying solely on hearsay or testimony from people who are obviously biased.

## **► CHAPTER 4**

### **From report to outcome: report writing and complaint follow-up**

#### **Reporting on findings**

##### **1. What is the investigation report**

The investigation report is the document which contains the investigators' conclusions on whether, on the available evidence, there has been a breach of the relevant standards of conduct. It sets out in narrative form how the alleged misconduct was discovered, to whom it was reported, the steps taken to gather the evidence, the investigators' conclusions and the evidence supporting those conclusions.

##### **2. Who prepares and who reads the investigation report**

The investigators are jointly responsible for preparing the report. The investigation manager checks the finalised report to ensure that conclusions are rational, prudent and supported by reliable, consistent and relevant evidence.



The investigation report is submitted to the organisation's disciplinary decision-maker/s.

### 3. How to write an investigation report

#### a. Separate reports for each SOC

The investigators should prepare separate investigation reports for each SOC as this will facilitate the initiation of disciplinary proceedings, if misconduct is established. Investigators should ensure that the reports are consistent.

#### b. Report structure

Report pages should be numbered consecutively, beginning with the title page.

The Report should be structured in the following way:

- Title page
- Table of contents
- Executive summary
- Introduction and preliminary remarks
- Methodology
- Investigative findings
- Conclusions and recommendations
- Annexes

##### i. Executive summary

The Executive summary provides the reader with a concise overview of the investigation from the time the organisation received the allegation, through to the writing of the report. It should not contain any information, which is not in the main body of the report.

##### ii. Introduction

The Introduction contains:

- the name/s or case reference number of SOC/s
- date of the report
- a confidentiality statement
- information about the nature of the complaint and references to the standards allegedly breached
- information about the scope of the investigation (number of complainants, witnesses, SOC's etc)
- brief contextual information (e.g. country, refugee camp etc)

##### iii. Methodology

The Methodology sets out:

- the process used during the investigation
- the evidence required
- the interviews conducted
- any impediments to the investigation (i.e. lack of co-operation or unwillingness by any witness to be interviewed)

##### iv. Investigative findings

The Investigative findings summarise the evidence relevant to each alleged complaint; they will be used to draw conclusions.

##### v. Conclusions and recommendations

The Conclusions and recommendations tell the reader whether or not the evidence supports each complaint as alleged. It is important that the Conclusions are clearly stated for each alleged complaint.

The investigation will result in one of the following three Conclusions:

- "found by reasonable inference"
- "not found due to insufficient or unclear evidence"
- "not found based on evidence to clear the SOC or to establish a malicious complaint"

##### vi. Management implication report (MIR)

Finally, investigators may decide to make other recommendations regarding training, supervision, or organisational policies. The MIR will be especially relevant if the investigation findings are that the organisation's practices are sub-standard with respect to protecting people of concern from SEA.

The MIR should also record any concerns about possible reprisals against witnesses or other participants.

### c. Attachments or annexes

The Report should attach documents that support the investigation's conclusions and which are in the investigation file. If the SOC allegedly violated national laws, a copy of those laws should be included.

#### General rules for writing investigation reports

**Be clear** – write in short, simple and direct sentences and paragraphs; avoid unnecessary, obscure and confusing terms.

**Be concise** – keep the report as short as possible without sacrificing clarity, completeness or accuracy.

**Be logical** – address each allegation, and each element within each allegation, in turn.

**Be factual** – base all your conclusions on facts not opinion; avoid theories, moral or psychological analysis and speculation.

**Be impartial and fair** – address facts and evidence supporting the SOC's position as well as the facts and evidence supporting the allegations.

**Be thorough** – answer all the questions raised in the investigation and the complaint and clearly record or reference all relevant interviews.

## 4. How to keep the report confidential

Investigation reports are sensitive internal documents. As such, their status, substance and recommendations are strictly confidential. They may only be disclosed by the organisation's CEO on a 'need to know' basis or to an organisation which has legal authority to request them.

#### Best practice tips on keeping the investigation report confidential

Managers should:

- limit the number of printed copies
- number each copy and keep a log of which copy is given to whom
- not issue electronic copies unless there is no alternative
- choose the most secure and confidential way of transmitting investigation reports to the disciplinary decision-maker

## 5. When to deliver the report

The time for delivering reports will differ between organisations – it is a management decision that should be set out in the organisation's policies. However, most organisations require reports to be filed within 28 days of the time the complaint was brought, unless there are extenuating circumstances.

## Follow-up after the report

### 1. Disciplining the SOC

If the complaint is substantiated, the report will be sent to the disciplinary decision maker/s.

#### a. Who makes decisions about discipline?

Disciplinary decisions are **never** taken by **anyone** involved in the investigation, including investigator/s, investigation managers and observers. Rather, they are taken by senior management as defined in the organisation's policies (usually policies nominate the human resources department).

The policy will also determine the decisions-maker's role and authority. Generally the disciplinary decision-maker is required to accept the conclusions in the report, though s/he has absolute discretion as to how the organisation will respond, subject to any avenues for internal appeal.

### b. What is appropriate discipline?

Discipline implies that the subject of a substantiated complaint suffers some kind of negative consequence as punishment for her/his misconduct. Those consequences can range from verbal and written warnings to dismissal and referral to national authorities for prosecution. Where the complaint involves sexual exploitation and abuse, serious disciplinary measures will always be appropriate.

## 2. Updating the human resources file

The investigation manager is responsible for ensuring that the outcome of the report, whatever it is, is recorded on the SOC's human resources file.

## 3. Informing participants of the outcome of the complaint

### a. The SOC

The investigators' manager is also responsible for informing the SOC of the outcome of the investigation in writing (usually by letter). If the complaint is not substantiated, the clearance letter must not disclose the name of any witness, informant or complainant.

The manager should not notify the SOC if the allegation has been referred to the national authorities for criminal prosecution as further action will be taken by the national prosecuting authority.

### b. Complainant

The complainant does not 'own' the complaint so, strictly speaking, s/he has no 'right' to know the outcome of the investigation. It will generally be sufficient to say that the complaint has been substantiated (and referred to management for a decision on discipline) or that the complaint is not substantiated. When giving this explanation, the identities or the evidence of other witnesses should never be disclosed.

### c. Other staff and witnesses

Other staff who are aware of the investigation should also generally be informed of its outcome.

### d. Head of Office

When the SOC's supervisor is aware of allegations or of the ongoing investigation, s/he must be advised of the outcome in general terms; the name of any complainant or witness should not be disclosed.

### e. External people and organisations

During an investigation, requests from external individuals or entities for information should be handled by the investigation manager. Generally, the manager should not disclose any information about the investigation, including whether an investigation is underway. However, if the allegations and investigation become a matter of public record, then management within your organisation may formulate a standard response to media and public inquiries. That response should be adhered to strictly.

## ➤ ANNEXURE A: Checkpoints for managers<sup>17</sup>

### Mark the most appropriate answer for each statement:

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

<sup>17</sup> The original 'Checkpoints' concept was developed by George Varnava with the former Forum on Children and Violence, National Children's Bureau, UK. It was adapted in consultation with the NSPCC for use at the Building Safer Organisations workshops.

## Checkpoint 1: philosophy and principles

		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 a 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 people of concern and specifically takes measures to engage with women, children and young people.				
10.	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	b	c	d
1.	The organisation has a staff code of good behaviour that regulates staff behaviour towards people of concern with 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 towards people of concern 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 exploitation and abuse 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: Complaints & Response Mechanism

		a	b	c	d
1.	The organisation has complaints procedures that are safe and accessible for staff, volunteers and beneficiaries and is 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

		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 is 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.				
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 the 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 exploitation and abuse is available and resources are identified as part of a staff development programme.				

## ➤ ANNEXURE B: Investigation planning tools

### Tool 1: What is/are the allegation/s? Is/are investigation/s needed?

Allegation	Is an investigation needed?	Priority
1. e.g. sex with a child	Yes	1
2. e.g. marital infidelity	No	
3. e.g. sexual harassment of other staff member	Yes but not using SEA complaints mechanisms	
4.		
5.		

### Tool 2: What are the elements of the alleged breach?

Alleged violation	Law	Specific elements to be proven
e.g. sex with a child	SG Bulletin Staff Code of Conduct	actual or threatened physical intrusion sexual nature by force or under unequal or coercive conditions victim under 18 years of age.

### Tool 3: Who will have to be interviewed

Name	Role in complaint	Age	Language	Interpreter needed	Health needs	Protection needs	Location	Priority order
John Smith	Victim	12 years	English	No	✓	✓	School Nairobi	<b>2</b>

## Tool 4: What information do you have? What information do need?

Information about witness	Information known:	
	YES	NO
1. age		
2. preferred name		
3. race, culture, ethnicity, religion, and first language		
4. gender and sexuality		
5. disability and impairment, cognitive ability, linguistic ability		
6. health needs		
7. current emotional needs		

### Circumstances

Additional information on the victim	Information known:	
	YES	NO
1. family members, carers and nature of relationships		
2. routines (attendance at school, work, care for children)		
3. aid provision (what they are receiving, who provides it, is it still accessible)		
4. recent changes in circumstances contributing to vulnerability and/or reliance on others		
5. previous allegations of abuse		
6. whether witness is currently safe		

### Alleged incident

	Information known:	
	YES	NO
1. what type of and how many alleged incident(s)		
2. what happened immediately before incident		
3. what happened during incident		
4. what happened immediately after incident		
5. how did the subject of complaint come into contact with the victim		
6. how did the complaint come to the attention of investigators		

### Details of exploitation/abuse

Information about witness	Information known:	
	YES	NO
1. survivor's relationship with any protective adult and their reaction to complaint i.e. spouse, parent		
2. frequency and duration of abuse		
3. co-existence of different forms of abuse		
4. single or multiple subjects of complaint		
5. degree of violence and aggression used		
6. level of threat to life (e.g. withholding of food, water or essential items from victim or others on behalf of victim)		
7. form of coercion		
8. who the victim has told		

## Considerations

	Questions asked:	
	YES	NO
1. initial investigative findings (full record to be kept)		
2. need for support and/or intermediary/interpreter		
3. potential blocks to communication and methods for dealing with them		
4. willingness to talk to investigators		
5. the witness is currently in a safe environment		

## Planning the interview

Set objectives for interview and decide:	Decision made:	
	YES	NO
1. has the objective of the interview been set		
2. who will be present and who will lead the interview		
3. where the interview will take place		
4. when the interview will take place		
5. how long will the interview last and the need for breaks		
6. what is likely to happen after the interview		

## Identification of vulnerable and/or intimidated witnesses

	Questions to ask before:	
	YES	NO
1. does the witness have a physical/learning impairment		
2. does the witness have an identified mental health difficulty		
3. what is the witness's current emotional state		
4. what is the relationship between the witness and the subject of complaint		
5. how the nature of the offence, i.e. levels of violence and aggression may impact on witness accounts		
6. does the subject of complaint have access to the witness		
7. is there evidence of previous intimidation by the SOC or any other party towards the witness		
8. is the witness also a victim		

## ► ANNEXURE C: Example Record of Interview<sup>18</sup>

This document is protected by the provisions of (name of organisation) concerning the confidentiality of the proceedings related to an investigation into an allegation of sexual exploitation and abuse.

Investigation Case Reference Number: INV/05/001

Investigation Officers	
Investigation Officer:	
Investigation Officer:	
Observer:	
Interpreter:	

<sup>18</sup> Based on the United Nations High Commissioner for Refugees Interview Statement.



Person Interviewed	
Name of the person:	
ID verified (Yes/No):	
Nationality:	
Occupation/Title:	

Interview Details	
Date:	
Language of interview:	
Place of the interview	
Explained to the interviewee:	<ul style="list-style-type: none"> <li>• Duty to cooperate and obligation to tell the truth.</li> <li>• Obligation to refrain from communicating with other persons interviewed in the framework of the same investigation case.</li> <li>• Purpose of note-taking.</li> <li>• Acceptable to state when answer not known.</li> <li>• Right to ask for short break.</li> <li>• Consequences of lack of cooperation, fraud, malicious reports, concealment of fact/evidence.</li> <li>• Confidentiality of the investigation procedure.</li> </ul>

## Transcript of the Interview

Detailed record of questions asked and interviewee’s responses

**The interview starts at:** *(time)*

**Q1. Do you have any preliminary questions?**

**Q2. Are you ready to start the interview?**

*Please formulate as many questions as you might need to gather sufficient information from this witness. Add extra sheet if necessary.*

**Q3.** -

**Q4.** -

**Q5.** -

**Q6.** -

**Q7.** -

**Q8.** -

**Q9.** -

**Q10.** -

**The interview ends at:** *(time)*

This is a true and accurate record of the interview.

1) For the Interviewee: In accordance with the procedure outlined in (name of organisation) reporting procedures, I, the undersigned, declare to understand that my statement may be used in a disciplinary procedure and could be shared with staff under investigation, unless management advises that this would affect my security.

Date and signature:

2) For the Witness/Interpreter to the interview: I, the undersigned, undertake not to divulge any confidential information to which I have had access in the exercise of my capacity as witness/interpreter to the present interview.

Date and signature:

3) Date and signature of the Investigation Officer/s:

## ► ANNEXURE D: Example Oath of Confidentiality<sup>19</sup>

I, the undersigned, shall exercise the utmost discretion with regard to my involvement in the investigation being conducted by \_\_\_\_\_ (name of organisation). I shall hold secret all information known to me by reason of my activities on behalf of the investigation team. I shall not use such information for private gain, or to favour or prejudice any third party.

I understand that this declaration will remain in force after the completion of my assignment with the \_\_\_\_\_ (name of organisation) investigation team. I also understand that divulging confidential information to persons who are not authorised to receive it may amount to misconduct, and that the signed original of this declaration will be held in the relevant investigation file.

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Role: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date and Place: \_\_\_\_\_

### To be filled out by an Investigator before whom the Oath is taken:

Case number: \_\_\_\_\_  
 Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date and Place: \_\_\_\_\_

## ► GLOSSARY<sup>20</sup>

**Accountability** – a situation in which people who are affected by decisions (e.g. staff or people of concern) are able to influence the decisions and decision-makers through questions and complaints. Accountability implies one person's right to 'have a say' and another person's duty to consider and respond<sup>21</sup>.

**Child** – any individual under the age of 18, irrespective of local country definitions of when a child reaches adulthood.

**Code of conduct** – a set of standards about behaviour that staff of an organisation are obliged to adhere to.

**Complainant** – the person making the complaint, including the alleged survivor of the sexual exploitation and abuse or another person who becomes aware of the wrongdoing.

**Complaint mechanism or procedure** – processes that allow individuals to report concerns such as breaches of organisational policies or codes of conduct. Examples of mechanisms include suggestion boxes, whistle-blowing policies and designated focal points.

**Evidence** – information gathered during the investigation that proves or disproves an allegation.

**Focal point** – a person designated to receive complaints of cases of sexual exploitation and abuse.

**Gender** – the social differences between men and women that are learned, changeable over time and have wide variations both within and between cultures. Gender affects roles, responsibilities, constraints, opportunities and needs of men and women in any context.

**Incentive worker** – an individual who receives non-monetary compensation for work or representation for an organisation. Incentive workers are usually drawn from the beneficiary community.

**Investigation procedures or protocol** – a clear framework which assists organisations to conduct quality, confidential, safe and transparent investigations into allegations of staff misconduct.

**Partner** – an organisation executing a project or undertaking any other work in the name of another organisation.

<sup>19</sup> Based on the Oath of Confidentiality prepared by the United Nations High Commissioner for Refugees.

<sup>20</sup> This glossary has been modified from the IASC Protocol, 2004.

<sup>21</sup> Humanitarian Accountability Partnership – International, <http://www.hapinternational.org/en/page.php?IDpage=64&IDcat=10>.

**Person of concern or beneficiary** – a person who receives assistance as part of either emergency relief or development aid through assistance programmes.

**Physical abuse of a child** – act/s or omission/s which results in actual or potential physical harm to a child from an interaction or lack of interaction, which is reasonably within the control of a parent or a person in a position of responsibility, power, or trust. There may be single or repeated incidents<sup>22</sup>.

**Risk** – the possibility of loss or harm and/or the probability of an adverse occurrence.

**Sexual abuse** – an actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions<sup>23</sup>.

**Sexual abuse of children** – the involvement of a child in sexual activity that s/he does not fully comprehend, give informed consent to, or for which s/he is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society. It is evidenced by an activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. It may include, but is not limited to, the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of a child in prostitution or other lawful sexual practices; the exploitative use of pornographic performances and materials<sup>24</sup>.

**Sexual exploitation** – any actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another<sup>25</sup>.

**Sexual exploitation and abuse (SEA) prevention strategy** – plans and actions designed and implemented by organisations to reduce the risk of sexual exploitation and abuse of people of concern. Common measures include awareness-raising, staff training, improved recruitment policies, whistleblowing policies, complaint mechanisms, investigation procedures and codes of conduct.

**Staff member** – a person who works for or represents an organisation, whether or not s/he is compensated monetarily.

**Subject of the complaint (SOC)** – the person alleged to have perpetrated the misconduct in the complaint.

**Survivor or victim** – the person who is, or has been, sexually exploited or abused. This term implies strength, resilience and the capacity to survive.

**Whistle-blowing policy** – an organisational policy which encourages staff members to report concerns or suspicions of misconduct by colleagues. The reports may concern people at other organisations and people at other levels in the organisation's hierarchy.

**Witness** – a person who gives testimony or evidence in the investigation, including the survivor, the complainant, a person of concern, a staff member of a partner agency, the subject of the complaint or another staff member.

<sup>22</sup> World Health Organisation (WHO). 1999. *Report of the Consultation on Child Abuse Prevention* (WHO/HSC/PVI/99.1). WHO, Geneva.

<sup>23</sup> 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.

<sup>24</sup> World Health Organisation (WHO). 1999. *Report of the Consultation on Child Abuse Prevention* (WHO/HSC/PVI/99.1). WHO, Geneva.

<sup>25</sup> 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.



**ORGANISING AND RUNNING  
AN INVESTIGATIONS WORKSHOP**

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# INVESTIGATION WORKSHOP

## HAP/Building Safer Organisations Introduction

### Introduction

The Investigation Learning Programme is comprised of five phases, namely: pre-workshop assignments, Investigations workshop, an investigation case study, Investigations follow-up workshop or Management workshop and on going support for professional development. This chapter is the Investigations workshop. Participants of this workshop must demonstrate a commitment to protect persons of concern from sexual exploitation and abuse and work directly with host populations.

Prior to attending the Investigations workshop, facilitators should highlight the need for participants to remain committed to this Learning Programme for at least 6 months and to remain at their current posts for a minimum of 2 years after attending the Investigations follow-up workshop or Management workshop.

The Investigations workshop has been designed for 15 to 20 participants. Ideally, the workshop will not exceed 20 participants as larger groups can impede quality and open plenary discussions.

The aim of the workshop is to train staff of organisations working directly with disaster affected populations and host populations who will be designated to conduct investigations into allegations of staff misconduct, particularly on sexual exploitation and abuse.

### Pre-workshop assignments

The Investigation workshop has four pre-workshop assignments, which require participants to read and refer to all three documents in the pre-workshop materials, namely the SG's Bulletin, Draft Guidelines on SG's Bulletin and the HAP/BSO Guidelines (see Pre-workshop materials chapter). Answers to the assignments can be found in the pre-workshop materials and throughout the facilitators notes.

### Duration

The workshop should be 5 days long. Training days run from approximately 08:30 until 17:30. The schedule includes a 15 minute mid-morning and mid-afternoon break for refreshments and a one hour lunch break. Participants will be required to complete a group exercise on the evening of day 3. As a result, participants should be requested to be free on this evening of the workshop.

### Workshop modules

The workshop is divided into 6 modules.

#### *Module 1: What is abuse? (1 day)*

- Describe different types of abuse
- Describe the cycle of abuse
- Explore cultural assumptions related to the role of women and children
- Identify myths and risks in relation to abusers
- Compare global definitions to the local context
- Describe the legal framework protecting women and children's rights

### *Module 2: Complaints procedures (1/2 day)*

- Identify barriers to complaints and investigations
- Describe the rationale for having a complaints and investigation procedure
- Procedures for implementing CRM (Complaints and Response Mechanism)
- Outline the principles underlying the procedures and their importance

### *Module 3: Factors influencing protection and abuse (1/2 day)*

- Describe how gender and age analysis can be used to explore who is at risk of sexual exploitation and abuse
- Explore the causes of violence against women and children
- Describe who might be a perpetrator of sexual violence
- Examine the risks that actors in an investigation might be exposed to
- Examine how personal and faith values can impact on the conduct of investigations

### *Module 4: Investigation procedures (1/2 day)*

- Introduction to the HAP/BSO Guidelines
- Identify and practice core skills used in investigations
- Describe how to gain information and research complaints
- Explore potential sources for evidence

### *Module 5: Interviewing and conducting investigations (1 ½ day)*

- Outline interviewing techniques for witnesses and subjects of complaint
- Describe the four phases of interviewing
- Explore the use of explicit language that investigators may need to use during interviews
- Explore how to prepare an investigation plan
- Develop interview skills and experience

### *Module 6: Investigation closure (1 day)*

- Identify relevant information gathered during an investigation
- Identify evidence in an investigation that proves/disproves the elements of an allegation
- Select the information to be included in an investigation report and analyze evidence gathered
- Reflect on personal skill development during the workshop

# HAP/Building Safer Organisations

## Investigations workshop

### Course summary and agenda

PWM4

“Humanitarian agencies have a duty of care to beneficiaries and a responsibility to ensure that beneficiaries are treated with dignity and respect and that certain minimum standards of behaviour are observed. The goal is to create an environment free of sexual exploitation and abuse in humanitarian crises, through integrating the prevention of and response to sexual exploitation and abuse into the protection and assistance function of all humanitarian workers.”<sup>1</sup>

## Aim

This workshop comes at a time when organisations are concerned about accountability and accountability requires responsibility and predictability. The aim of the course is to demonstrate how to conduct investigations into allegations of sexual exploitation and abuse of people of concern by NGO staff<sup>2</sup> and to promote best practice within organisations.

The values of an organisation are expressed through the behaviour of the individuals that work for the organisation. Those values are codified in codes of conduct. Now that we have codes of conduct we have to exercise diligence to ensure those values are adhered to.

## Method

The methodology employed for the four pre-workshop assignments and the five day workshop is participatory and has been developed in consultation with participants at earlier workshops, experts responding to exploitation and experienced investigators. The programme aims to incorporate participants’ field experience and to put theory into practice.

## Objectives

The objectives of the Investigations workshop are to increase participants’ understanding of:

- the contexts within which exploitation and abuse can occur
- the principles underpinning the investigation of complaints
- the BSO Guidelines
- the relevant code of conduct
- what constitutes abusive/exploitative behaviour and the impact on victims

and to provide participants with skills in:

- planning investigations
- conducting investigations
- interviewing witnesses/complainants
- interviewing the subject of complaint (SOC)
- reporting findings and making recommendations

<sup>1</sup> Inter-Agency Standing Committee (IASC) Task Force on Preventing Sexual Exploitation and Abuse in Humanitarian Crises. 13 June 2002. *Plan of Action*. IASC Task Force on Preventing Sexual Exploitation and Abuse in Humanitarian Crises.

<sup>2</sup> The materials focus on investigating allegations of sexual exploitation and abuse, however the learning programme is relevant to carrying out an investigation into any allegation of misconduct.



## Workshop modules

The workshop is divided into **six modules** and takes place over five days:

### **Module 1:** *What is abuse? (1 day)*

- Describe different types of abuse.
- Describe the cycle of abuse.
- Explore cultural assumptions related to the role of women and children.
- Identify myths and risks in relation to abusers.
- Compare global definitions to the local context.
- Describe the legal framework protecting women and children's rights.

### **Module 2:** *Complaints procedures (1/2 day)*

- Identify barriers to complaints and investigations
- Procedures for implementing CRM (Complaints and Response Mechanism)
- Describe the rationale for having a complaints and investigation procedure
- Outline the principles underlying the procedures and their importance

### **Module 3:** *Factors influencing protection and abuse (1/2 day)*

- Describe how gender and age analysis can be used to explore who is at risk of sexual exploitation and abuse
- Explore the causes of violence against women and children
- Describe who might be a perpetrator of sexual violence
- Examine the risks that actors in an investigation might be exposed to
- Examine how faith and personal values can impact on the conduct of investigations

### **Module 4:** *Investigation procedures (1/2 day)*

- Introduction to the HAP/BSO Guidelines
- Identify and practice core skills used in investigations
- Describe how to gain information and research complaints
- Explore potential sources for evidence

### **Module 5:** *Interviewing and conducting investigations (1 ½ day)*

- Outline interviewing techniques for witnesses and subjects of complaint
- Describe the four phases of interviewing
- Explore the use of explicit language that investigators may need to use during interviews
- Explore how to prepare an investigation plan
- Develop interview skills and experience

### **Module 6:** *Investigation closure (1 day)*

- Identify relevant information gathered during an investigation
- Identify evidence in an investigation that proves/disproves the elements of an allegation
- Select the information to be included in an investigation report and analyze evidence gathered
- Reflect on personal skill development during the workshop

## Suggested agenda

Day 1	Day 2	Day 3	Day 4	Day 5
<ul style="list-style-type: none"> <li>• Introduction</li> <li>• Background and context</li> <li>• What is exploitation and abuse</li> </ul>	<ul style="list-style-type: none"> <li>• Barriers to complaining</li> <li>• Complaints mechanisms</li> <li>• Gender and Age analysis</li> </ul>	<ul style="list-style-type: none"> <li>• Investigation skills</li> <li>• Models of interviewing</li> <li>• Interviewing witnesses</li> </ul>	<ul style="list-style-type: none"> <li>• Planning and clarification</li> <li>• Interviewing witnesses</li> </ul>	<ul style="list-style-type: none"> <li>• Review an investigation</li> <li>• Closure of an investigation</li> <li>• Investigation report</li> </ul>
<b>LUNCH</b>				
<ul style="list-style-type: none"> <li>• Definitions of exploitation and abuse</li> <li>• Legal framework</li> <li>• SG Bulletin</li> <li>• Sexual Offenders</li> </ul>	<ul style="list-style-type: none"> <li>• Faith and personal values</li> <li>• BSO Guidelines</li> <li>• Principles of an investigation</li> </ul>	<ul style="list-style-type: none"> <li>• Using explicit language</li> <li>• Interviewing subjects of complaint</li> <li>• Investigation planning and preparation</li> </ul>	<ul style="list-style-type: none"> <li>• Sharing of information</li> <li>• Interviewing witnesses</li> <li>• Discussion and feedback</li> </ul>	<ul style="list-style-type: none"> <li>• Investigation findings</li> <li>• Action planning</li> <li>• Quiz</li> <li>• Workshop closure</li> </ul>
		<ul style="list-style-type: none"> <li>• Write up investigation plan and interview plan for day 4</li> </ul>		

Training days run from approximately 08:30 to 17:30. There will be a mid morning and a mid afternoon break for refreshments. Participants are expected to attend the whole programme and must complete the four pre-workshop assignments in advance.

# HAP/Building Safer Organisations

## Investigations workshop

### Pre-workshop assignment 1

#### Understanding the Legal Framework<sup>1</sup>

PWS1

PWS 1

FACILITATOR NOTES

HANDOUTS

POWERPOINT PRESENTATION

## 1. Introduction

This self study module outlines the legal foundations for the protection of refugees and displaced people – including women and children – taking as its starting point the State’s primary responsibility for protecting the rights of all persons within its territory.

The protection of refugees and displaced people is founded on international human rights, refugee and humanitarian law. These sources provide the legal framework, which can assist those who work with and on behalf of refugees and displaced people. Protection of persons of concern will always include the protection from exploitation and abuse by humanitarian workers.

International human rights and humanitarian law apply equally to all people. However, it is recognised that **women** have specific protection needs due to the disadvantages, relative to men, that women often face in obtaining protection.

**Children** also share protected universal human rights with all other people but, because of their dependence, vulnerability and developmental needs, they have certain additional rights. Care must be taken to ensure that the special needs and rights of women, children and adolescents are perceived, understood and attended to by those who seek to protect and assist them.

## 2. Key concepts

- The legal basis for protecting people of concern from exploitation and abuse is established in international law.
- International law recognises the specific rights of women and children.
- International refugee, human rights and humanitarian law, together with regional and national law, constitute the broad framework for the protection of people of concern.
- Humanitarian workers should rely on this framework in their day-to-day work of protecting people of concern, including women, adolescents, boys and girls.

## 3. Background

Exploitation and abuse is a global phenomenon that exists in most cultures irrespective of material wealth, religion or state ideology. The World Health Organisation (WHO) report on Violence and Health<sup>2</sup> states that about twenty percent of women and five to ten percent of men have suffered sexual abuse as children. Studies from around the world appear to confirm these figures, although some studies have cited higher figures<sup>3</sup>.

Sexual exploitation and abuse occurs frequently in various settings, including the family and local communities. We know that women, boys and girls are exploited in war and refugee situations, even by the people and services that are meant to protect them. Types of abuse vary but available statistical information and anecdotal evidence indicate that women and girls are most at risk of abuse and that adult men are most likely to be the perpetrators. It is also important to remember that in many societies strong taboos may prevent boys and men from complaining of exploitation and abuse. For this reason we should consider both

### <sup>1</sup> Acknowledgments

This document is based on materials originally prepared by the Children Alliance for the Action for the Rights of the Child and the UNHCR Gender Unit for the UNHCR Gender Training kit and subsequently adapted by to meet the specific needs of this project. HAP gratefully acknowledges the contributions of all the individuals and agencies responsible for the preparation of the original material.

<sup>2</sup> World Health Organisation. 2002. *World Report on Violence and Health*. WHO, Geneva.

<sup>3</sup> Heiberg, Turid. 2001. *Commodities In Stigma And Shame: An International Overview Of Save The Children's Work Against Child Sexual Exploitation and abuse*. Save the Children.

the gender and age dimensions of exploitation and abuse when understanding the legal basis for responding to abuse, developing interventions and taking measures.

Our work to prevent and respond to exploitation and abuse of people of concern is based on principles enshrined in international and national laws protecting refugees and displaced people, as well as specific measures for the protection of beneficiaries from exploitation and abuse such as the SG's Bulletin.

## 4. International law

International Law is a set of rules that regulates relations between States. States have the primary responsibility to protect the human rights of all persons within their territories, including refugees or the internally displaced. The nature of a country's international obligations to protect refugees and displaced person generally arises from customary international law, conventional law, non-binding instruments and regional instruments. Familiarity with relevant international and national laws is important because it outlines the obligations of a country in protecting people of concern. It also provides the protection framework within which those who work on behalf of refugees and displaced people should operate.

Customary law and conventional law are primary sources of international law.

A. **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.

Customary international law arises out of universal acceptance and consistent practice by countries with respect to a rule of law. Some of the guarantees and protection found in international instruments have become part of customary international law. This means that such rules can be invoked to protect refugees and displaced persons in a country even if that country has not ratified a treaty containing that specific right or guarantee. For example; everyone is protected against slavery and the slave trade, torture or other cruel, inhuman or degrading treatment or punishment. When the provisions of a treaty have gained wide acceptance, it has been argued that they have acquired the status of customary international law, binding even dissident groups in cases of non-international conflicts.

B. **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.

Treaties are commonly referred to as Conventions, Covenants and Protocols. A treaty is legally binding on those States that have agreed to be bound by its provisions through ratifying protection to refugees, displaced people and intended beneficiaries of aid.

- i) **Human rights law** applies to all human beings without discrimination, in other words, to nationals, refugees and displaced persons – women and men, boys and girls.
- ii) **Refugee law** addresses specific refugee concerns, but does not address all of the basic and fundamental human rights of individuals that need to be protected. Therefore, human rights law can be read together with refugee law to provide wider protection for refugees.
- iii) **Humanitarian law** applies specifically during situations of armed conflict and provides protection for refugees and displaced persons, in circumstances where the other laws are not applicable.

All three branches address different challenges but seek to arrive at the same goal of protection for refugees and displaced persons. The differences are found not so much in the content or the substance of the bodies of law, but rather in the implementation mechanisms, international supervision and promotion and dissemination.

### i) Human rights law

Human rights are inherent entitlements for all people. Human rights law is a system of laws intended to promote human rights and 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. Examples of international human rights treaties include: the Universal Declaration of Human Rights; the International Covenant on the Elimination of all Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights,

the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination Against Women and the Convention Against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment.

- human rights are founded on respect for the dignity and worth of each person
- human rights are universal, meaning that they are applied equally and without discrimination to all people
- human rights are inalienable, in that no one can have his or her human rights taken away other than in specific exceptional situations – for example, during times of war freedom of movement may be restricted
- human rights are indivisible, interrelated and interdependent, as it is insufficient to respect some human rights and not others

The general rule of non-discrimination in human rights law provides that everyone is entitled to the same human rights. Nonetheless, the legal basis for prioritised action on behalf of women and children, including refugee and displaced children, are well established in international human rights law. In recognition of women's subordinate status and the barriers they may face in exercising their rights, additional legal instruments provide for women's protection. Similarly, because of their dependence, vulnerability and developmental needs, children also have certain additional rights.

While women and children share the protection problems experienced by all refugees, displaced people and persons of concern, they also have special protection needs that reflect gender and age: for example, protection from manipulation, sexual and physical exploitation and abuse and protection against discrimination in the delivery of goods and services.

**The main instruments of human rights (customary and conventional law) are:**

**1. The Universal Declaration of Human Rights – 1958 (UDHR)**

After contributions from countries all over the world, the General Assembly (GA) adopted the Universal Declaration of Human Rights on 10 December 1958. The ideas behind the 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. The International Covenant on the Elimination of all Forms of Racial Discrimination – 1965**

This Convention was 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. The International Covenant on Economic, Social and Cultural Rights – 1966**

**Article 10** provides as follows:

*The States Parties to the present Convention 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 of men and women.

#### 4. **The Convention on the Rights of the Child – 1989**

The Convention on the Rights of the Child (CRC) provides a comprehensive code of rights which offers the highest standards of protection and assistance for children of any international instrument. All but two countries (Somalia and the USA) are parties to the CRC. As such, it is almost universally applicable. It is legally binding on every government which is a party to it and applies to all children within the jurisdiction of each State, not only to those who are nationals of that State. The principle of non-discrimination is stated strongly in Article 2(1) and certainly covers refugee and displaced children including adolescents; The CRC defines a ‘child’ as everyone less than 18 years of age “*unless, under the law applicable to the child, majority is attained earlier*” (Article 1); this exception should only be interpreted as an empowering one, enabling under-18s to claim the benefits of adulthood if granted by national law while still being able to claim the protection of the CRC. **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** obliges States to take all appropriate measures to protect children from all forms of abuse including sexual abuse. States are also obliged under Article 34 to protect the child from all forms of sexual exploitation and abuse, and in particular to prevent the inducement or coercion of a child to engage in any unlawful sexual activity including the exploitative use of children in prostitution or other unlawful sexual practices. Sexual exploitation and abuse is detrimental and violates the child’s basic right to life and development stated in **Article 6**.

The 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 (inhuman treatment).

#### 5. **The Convention on the Elimination of All Forms of Discrimination against Women – 1979**

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Declaration on the Elimination of Violence against Women (A/RES/48/104) (DEDAW) set the standards for the protection of the rights of women and girls. The Declaration affirms that violence against women (including sexual exploitation) constitutes a violation of the rights and fundamental freedoms of women and impairs their enjoyment of those rights and freedoms. In its preamble, it notes that refugee women are “*especially vulnerable to violence*”.

#### 6. **The Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment – 1975**

By 2001, 123 States had ratified or acceded to the Convention. However, the Convention remains one of the least ratified of the core international human rights treaties, despite the fact that torture is one of the most serious human rights violations.

## ii) Refugee law

The basic structures and legal instruments ensuring the protection of refugees were established fifty years ago. The legal framework for protecting refugees is found in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol as well as in regional refugee instruments. It gives the general definition of the term “refugee” and formulates standards for the treatment of refugees by States. Refugee law is related to, but distinct from, international human rights law and international humanitarian law.

Implementation of refugee law is up to States, although the United Nations High Commissioner for Refugees (UNHCR) supervises the application of the 1951 Convention. **Article 35** requires States to cooperate with UNHCR. The 1951 Convention and its 1967 Protocol are applicable to all persons who are refugees as defined in the instruments. “All persons” clearly includes women, children and adolescents. Age and gender are taken for granted with respect to the non-discriminatory application of the articles in the Convention, and as the Convention defines a refugee regardless of age, refugee women and children benefit from the rights afforded to all refugees as outlined in refugee law, and national laws.

## iii) Humanitarian law

In times of conflicts, international humanitarian law aims to protect persons who do not, or no longer, take part in the hostilities (i.e. are not bearing arms), and aims to regulate or restrict the methods and means of warfare. It develops 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 is also applied when the conflict is occurring on the territory of a single State, usually between government and dissident forces (internal conflicts). Specifically, **the 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. The 4th Geneva Convention deals specifically with the protection of civilians and therefore has the most relevance and importance to refugee and displaced populations.

## 5. Regional instruments

It may be easier for States to agree on and implement regional instruments because they provide a common approach to certain issues and deal with problems specific to the region/countries concerned. Regional instruments are usually adopted in the framework of a regional organisation. There are various regional human rights systems in Africa, Europe, the Americas and the Islamic and Arab States.

Regional instruments can sometimes provide higher standards of protection than an international treaty. 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 provides 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**). The Protocol to this Charter (2003) specifically requires States Parties to protect asylum seeking women, refugees, returnees and internally displaced persons against all forms of sexual exploitation, and to ensure that their perpetrators are brought to justice before a competent criminal jurisdiction.

## 6. National law

In addition to international law, the national law of countries of asylum and residence govern the protection of refugee and displaced women and children. National law contains the practical provisions for protecting refugees including providing concrete implementation measures and mechanisms. The constitutions of some States guarantee the standards contained in international instruments. In some cases, international treaties can be directly invoked before the courts, while in others the provisions must first be incorporated into the national legislation.

Many of the offences against women and children, such as rape, physical attack, sexual exploitation and sexual abuse are punishable under national law. The fact that a law exists to protect certain rights is not enough if these laws are not supported by institutions to ensure they can be meaningfully enforced. Staff working in a country should always refer to the national law of the State and the various mechanisms for their implementation.

## 7. Non-binding instruments

Principles and practices of international law are often stated in declarations, resolutions, principles or guidelines. While they have no binding effect on States they nevertheless represent a broad consensus on the part of the international community and can provide detailed guidance. One example is the Guiding Principles on Internal Displacement. Principle 11 of the Guiding Principles specifically protects internally displaced people against sexual exploitation and abuse.

The UN General Assembly Resolutions are not binding and not recognised as a source of international law. Nonetheless, they have been admitted as evidence before the International Court of Justice as *opinio juris*: through such devices, progressive claims, such as the right and protection of women and children, may be advanced more forcefully.

## 8. Humanitarian Codes

Although they are not legal standards, humanitarian codes set performance standards that many humanitarian agencies have agreed to be bound by. Moreover, they provide useful guidance to humanitarian workers on the standard of performance required of them.

- *The Code of Conduct for the International Red Cross and Red Crescent and NGOs in Disaster Relief and the Humanitarian Charter of Sphere* reinforce the right to dignity of all people affected by disaster and crisis.
- Codes of conduct of individual organisations require certain standards of behaviour for all staff and volunteers, usually making reference to avoiding actions that are or could be interpreted as abusive and exploitative.

## 9. Other guidance for humanitarian workers: the SG’s Bulletin

The Secretary General’s Bulletin sets out the specific standards to protect vulnerable populations from exploitation and abuse. The Bulletin defines sexual exploitation and abuse, specifically prohibits certain behaviour on the part of staff and outlines the duties of managers.

It is important to emphasise why NGOs and INGOs are bound by the SG’s Bulletin. The Bulletin is not a legally binding instrument, however, on the part of UN officials, there is a legal obligation 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 implementing partners: thus NGO partners are bound to the same principles as the UN through contractual relationships 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 of sexual exploitation and abuse, or
- take corrective measure when sexual exploitation and abuse has occurred

Those consequences may include termination of cooperative arrangements with the UN.

The SG’s Bulletin states:

*“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** (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 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 relationship 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 and 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.**

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 (emphasis added)**".

## 10. Conclusion

The international legal framework outlined above provides the basis for all humanitarian workers to promote the protection of people of concern from exploitation and abuse. International protection goes beyond adherence to legal principles. Equally important, the protection of women and children requires planning and common sense in establishing programmes and enforcing priorities that support their safety and well-being. Thus, protection of women and children must be understood in the widest sense. Refugee and displaced women, who are unable to feed, clothe and shelter themselves and their children, will be more vulnerable to manipulation and to physical or sexual exploitation and abuse in order to obtain these necessities. Refugee women and children who must bribe guards to obtain firewood, water or other essentials will be more susceptible to abuse. Moreover, women and children who formerly had means of expressing their views or concerns in the community may find themselves unable to do so in displacement situations in camp management committees established by assistance organisations.

As these examples indicate an intrinsic relationship exists between the protection of women and children and their access to assistance. To fully protect women and children from exploitation and abuse, they must understand their rights as outlined above and participate in planning protection and assistance activities. Protection and assistance activities that are not planned in consultation with people of concern nor implemented with their participation can increase the risk of abuse.

## Exercise on international legal standards

This exercise will require you to describe and apply specific legal standards and policies that provide special protection measures for women and children. Please answer the following questions:

- Question 1:** Name three sources of international law that are relevant to the protection of people of concern.
- Question 2:** Identify the instruments and specific articles that protect the rights of women from exploitation and abuse.
- Question 3:** Identify the instruments and specific articles that protect the rights of children from exploitation and abuse.
- Question 4:** What is the difference between human rights law and humanitarian law?
- Question 5:** What national laws in the country in which you work protect people of concern from exploitation and abuse?
- Question 6:** Name one international convention that can be considered as customary international law i.e. is universally applicable.
- Question 7:** Which group of women is singled out for special protection under the Geneva Convention IV?
- Question 8:** Define sexual exploitation and abuse.
- Question 9:** Is international humanitarian law applicable during internal armed conflict?
- Question 10:** The CRC defines a child as anyone under the age of 18 years. If the local age of consent is 13 years old, then based on the SG's bulletin, is it acceptable for a staff member of an NGO implementing partner of UNHCR to have a consensual sexual relationship with a 17 year old?

NB: If you do not know the answers to these questions please speak to someone who does, for example, the legal officer in your organisation.

# HAP/Building Safer Organisations

## Investigations workshop

### Pre-workshop assignment 2

#### Defining abuse<sup>1</sup>

PWS2

PWS 2

FACILITATOR NOTES

HANDOUTS

POWERPOINT PRESENTATION

## Introduction

The purpose of this assignment is to familiarise participants with the definition of exploitation and abuse that this workshop will refer to throughout, given that there are various definitions available and that different societies view exploitation and abuse differently.

## IASC<sup>2</sup> Task Force definitions

IASC Task Force uses the following definitions, that are set out in the SG's Bulletin:

- **'Sexual abuse'** is actual or threatened physical intrusion of a sexual nature by force or under unequal or coercive conditions.
- **'Sexual exploitation'** is any abuse of a position of vulnerability, differential power, or trust for sexual purposes; this includes profiting monetarily, socially or politically from the sexual exploitation of another.

It should be noted that the SG's Bulletin and this definition do not apply to cases of sexual harassment by one staff member of another staff member. Agencies and organisations have other mechanisms for preventing and responding to sexual harassment in the workplace.

Nevertheless, the definition of sexual exploitation and abuse above should be interpreted as broadly as possible to include, for example, inappropriate touching of a sexual nature. The definition should also be read in the light of other sources of international law such as the UN Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

## Sexual abuse of children

“The involvement of a child in sexual activity that they do not fully comprehend, give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society. It is evidenced by an activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. It may include but is not limited to the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of a child in prostitution or other lawful sexual practices; the exploitative use of pornographic performances and materials.”<sup>3</sup>

### <sup>1</sup> Acknowledgments

This module is based on materials originally prepared by the NSPCC (National Society for the Prevention of Cruelty to Children, UK), commissioner by the Inter-Agency Standing Committee (IASC) Task Force on Protection from Sexual Exploitation and Abuse (PSEA). The materials have been further modified to meet the specific needs of this project. HAP gratefully acknowledges the contributions of all the individuals and agencies responsible for the preparation of the original material.

<sup>2</sup> Inter-Agency Standing Committee (IASC) Task Force on Protection from Sexual Exploitation and Abuse, March 2004. *Draft model Complaints and Investigation Procedures and Guidance Related to Sexual Exploitation and Abuse*.

<sup>3</sup> World Health Organisation (WHO). 1999. *Report of the Consultation on Child Abuse Prevention* (WHO/HSC/PVI/99.1). WHO, Geneva.

## Supplementary definitions of exploitation and abuse

In addition to those mentioned above, there are other types of abusive behaviour that limit the ability of women and children to exercise their human rights or impact negatively on the development of children. Some of these are described in the following definitions:

### **Maltreatment of a child**

- “All forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation resulting in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust, or power.”<sup>4</sup>

### **Neglect and negligent treatment of a child**

- “The inattention or omission on the part of the caregiver to provide for the development of the child in: health, education, emotional development, nutrition, shelter and safe living conditions, in the context of resources reasonably available to the family or caretakers and which causes, or has high probability of causing, harm to the child’s health or physical, mental, spiritual, moral or social development. This includes the failure to properly supervise and protect children from harm as much as is feasible”.<sup>5</sup>

### **Emotional abuse of a child**

- “Includes the failure to provide a developmentally appropriate, supportive environment, which include a primary attachment figure, so that the child can develop a stable and full range of emotional and social competencies commensurate with their personal potential, and in the context of the society in which the child dwells. It may also include acts toward that have a high probability of causing harm to the child’s health or physical, mental, spiritual, moral or social development. These acts must be reasonably within the control of the parent or person in a relationship of responsibility, trust or power and include restriction of movement, patterns of belittling, denigrating, scape-goating, threatening, scaring, discriminating, ridiculing, or other non-physical forms of hostile or rejecting treatment”.<sup>6</sup>

### **Physical abuse of a child**

- “Physical abuse of a child is that which results in actual or potential physical harm from an interaction or lack of interaction, which is reasonably within the control of a parent or a person in a position of responsibility, power, or trust. There may be single or repeated incidents.”<sup>7</sup>

### **Commercial or other exploitation of a child**

- “Use of the child in work or other activities for the benefit of others. This includes, but is not limited to, child labour and child prostitution. These activities are to the detriment of the child’s physical or mental health, education, moral or social-emotional development”.<sup>8</sup>

### **Violence against women**

- “Any act of gender based violence that results in, or is likely to result, in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”<sup>9</sup>

### **The obligation to report**

Exploitation and abuse of beneficiaries by staff should always be reported. Section 3.2 (e) of the SG’s Bulletin obliges staff to report any suspicion of or concern regarding sexual exploitation and abuse. Section 6.1 of the document binds the staff of non-UN entities that have entered into an agreement with a UN agency to the same reporting obligations.

<sup>4</sup> World Health Organisation (WHO). 1999. *Report of the Consultation on Child Abuse Prevention* (WHO/HSC/PVI/99.1). WHO, Geneva.

<sup>5</sup> As above

<sup>6</sup> As above

<sup>7</sup> As above

<sup>8</sup> As above

<sup>9</sup> United Nations Declaration on the Elimination of Violence against Women. 1993.

## Exercise on defining abuse

Please answer the following questions:

- Question 1:** Are there any additional definitions of exploitation and abuse that you are aware of that are helpful (for example, from your organisation's policies or guidelines)? If so please describe them.
- Question 2:** How is abuse understood or defined in the country you work in?
- Question 3:** Are you concerned about any local treatment of women that could be described as abusive outside the country you work in?
- Question 4:** Are there any local child-raising practices that you consider abusive?
- Question 5:** How does the community and the state deal with allegations of abuse of women and children? For example, what legal, medical and social support resources exist locally?

# HAP/Building Safer Organisations

## Investigations workshop

### Pre-workshop assignment 3

#### Making and receiving complaints<sup>1</sup>

PWS3

## 1. Introduction

The SG's Bulletin outlines the prohibition on sexual exploitation and abuse.

The BSO Guidelines specify the steps to be taken when exploitation and abuse is allegedly perpetrated by a UN staff member or staff of a partner agency, including an NGO. The BSO Guidelines also describe the essential elements of a complaints protocol.

The SG's Bulletin and many NGO codes of conduct require that staff voice their concerns regarding sexual exploitation and abuse. Given that the SG's Bulletin binds organisations in partnership agreements with the UN, staff in those organisations must be seen to act responsibly when those concerns are received. This policy is in place to encourage a climate of open communication which enables employees to voice concerns at the earliest opportunity and therefore avert a larger issue in the future or address it before it worsens.

The purpose of developing a complaints mechanism is to provide people of concern, beneficiaries and others wishing to lodge complaints with a fair, consistent and accessible means of raising allegations of sexual exploitation and abuse by a staff of an NGO or agency. This includes all employees, whether host country or international staff on permanent or fixed term contracts, self employed consultants, interns and partners from NGOs and INGOs, as well as volunteers and "incentive" workers. The UN and partner NGOs agree that all allegations of exploitation and abuse will be investigated irrespective of whether they constitute illegal acts.

## 2. Causes for concern

Concerns about exploitation and abuse may be **specific** or **more general**.

A specific allegation will be made against named individuals and pertain to an identified act or event. For instance:

- an employee is said to be living with a beneficiary/person of concern
- a colleague has misused his/her power to sexually exploit a person of concern

More general concerns refer to patterns of behaviour that are non-specific but which might indicate that exploitation or abuse has occurred. Sometimes they will be based purely on rumours or "in the air" concerns but these too should be investigated. For example:

- A pattern of behaviour or a single instance, which is inappropriate yet that individually may be insufficient to report

Incidences of exploitation or abuse that should be reported include those that occur **outside the workplace**, for example, paying for sex with a prostitute or having sex with a child. It is equally important to report concerns about the **past** behaviour of a co-worker or employee.

Concerns about the behaviour of an employee, colleague or fellow professional can be expressed by **any** government partner, UN agency, NGO or INGO and the reporting procedure is not limited to those working for the same organisation.

## 3. Barriers to making a complaint

Complainants – whether they are persons of concern or staff members – will not come forward unless they trust that the allegation will be taken seriously and that they will be protected from reprisals. Managers must

<sup>1</sup> **Acknowledgments**

This document is based on materials originally prepared by the NSPCC (National Society for the Prevention of Cruelty to Children), commissioned by the Inter-Agency Standing Committee (IASC) Task Force on Protection from Sexual Exploitation and Abuse (PSEA) and subsequently adapted by the Terre des hommes Foundation. The materials have been further modified to meet the specific needs of this project. HAP gratefully acknowledges the contributions of all the individuals and agencies responsible for the preparation of the original material.

create a culture and related systems that promote trust among the host country, international/national staff and beneficiaries and in doing so mitigate factors which may deter individuals from making complaints.

There are many barriers to making a complaint. These include:

- fear of retaliation
- fear of not being taken seriously
- respect for or fear of a senior colleague and/or expatriate
- cultural norms that consider it unacceptable to challenge authority
- fear of “getting it wrong”
- fear of losing a job, status, prospects or a source of income
- cultural norms or socio-economic circumstances which see a practice as “acceptable” or unimportant in the country or region
- attitudes towards women and children
- isolation and lack of management and support
- age, as children may be less likely to report
- gender (for example, women and girls may face sanctions if they are victims of sexual exploitation or abuse. Alternatively, strong taboos may make it difficult for men or boys to report exploitation or abuse.)
- lack of knowledge concerning the reporting process and/or inability to access anyone with the power or will to intervene

## 4. Establishing reporting mechanisms for beneficiaries

It is a management responsibility to ensure that a clear and accessible reporting system is established in each setting so that all beneficiaries (particularly women and children) know where to go to make a complaint and receive assistance.

**Confidentiality, anonymity and the safety and welfare needs of those involved are key to establishing a successful complaints mechanism. These are elaborated in the HAP/BSO Guidelines.**

### **Confidentiality**

A confidential mechanism for lodging a complaint must be accessible to all employees, partners, and beneficiaries irrespective of the individual’s sex, age, physical ability, language, level of literacy, ethnicity or any background characteristic or factor that may prevent or discourage him/her from making a complaint safely. Procedures should be developed to ensure reasonable confidentiality and security of all relevant records and documents, no matter how the complaint is made. In addition, each organisation must have an agreed policy on how to receive, handle and respond to anonymous complaints. For example, in some organisations, anonymous allegations will only be investigated when there is additional corroborative information available. This policy should be clearly explained to beneficiaries.

### **Provide a variety of reporting mechanisms**

It may be beneficial to have a number of mechanisms for receiving complaints. Management guidelines should adequately describe the various complaints mechanisms and identify staff and beneficiaries who are trained in receiving complaints (“focal points”). Complaints boxes are one mechanism for receiving complaints. If complaints boxes are used then they should be in a location that is made known to all. In addition, other measures need to be developed so that illiterate people can also make a complaint, for example, establishing a system of beneficiary advocates or community workers.

### **Enabling adolescents and children to complain**

It is vital to consider how adolescents and children may access focal points and complaints mechanisms. For example, it might be possible to build them into structures such as youth groups, mentoring schemes, health forums, education forums etc.

## 5. Enabling employees to make a complaint

Likewise, all employees must have access to a confidential mechanism that allows them to make a complaint safely. Employees may be fearful that by making a complaint against another member of staff they may be the subject to reprisals.

Management must make it clear that:

- “whistleblowers” will not face official or unofficial sanctions as a consequence of making a complaint. No action will be taken against an employee who reports a breach of the policy in good faith even if investigation that follows proves unfounded
- confidentiality of the complainant will be maintained as far as possible

However, the fabrication of allegations of abuse is extremely dangerous and may place individuals at risk as well as undermine the complaints and investigation process. Every organisation should have a policy for dealing with malicious complaints. For example, in some organisations an employee who knowingly and wilfully reports or spreads false or malicious information regarding another employee may be the subject of an investigation. If it is proven to have been a malicious or knowingly false allegation, the complainant may be the subject of disciplinary action.

It is not the responsibility of the employee to ascertain whether or not the complaint is true. It is his/her responsibility to report the concern via the process outlined in the HAP/BSO Guidelines.

## 6. Good practice in receiving a complaint directly from a beneficiary

If a complaint of exploitation or abuse is made, the staff member receiving the complaint should:

- react calmly and listen carefully to what is being said
- reassure the complainant that s/he was right to raise the concern
- explain the importance of confidentiality, making it clear that the staff member receiving the complaint is obliged to report the allegations. This may result in an investigator and ultimately a senior manager or decision-maker knowing the details of the allegations. However, the person receiving the complaint should reassure the complainant that information will only be shared on a “need to know” basis.
- take what is said seriously
- avoid asking too many questions: ask only the number of questions required to gain clear understanding of the complaint so that it can be passed on to the investigator
- ensure that the complainant’s safety is not at risk
- consider the complainant’s need for medical attention (if the complainant is the victim)
- inform the complainant of the next steps in the procedure
- make a written record of what has been said at the earliest opportunity via the complaint referral form and sign and date the form
- report on the complaint at the earliest opportunity

## 7. Recording of information, suspicions or concerns

Information that is provided through the complaints procedure needs to be as clear as possible as it may be used in subsequent disciplinary or legal action. A detailed record should be made, which includes:

- correct names of all involved, identity of witnesses, victims, and if possible photo records of the subject of complaint
- the nature of the complaint
- a description of any visible signs of abuse or other injuries including a body map
- an accurate account of what was said by the complainant in his/her own words
- any observations made by the person receiving the complaint
- times, locations, dates given
- whether anyone else knows or has been given the information
- the relationship between the complainant and the person receiving the complaint

## 8. Subsequent procedure to be followed in making or receiving a complaint

Each organisation should have an agreed policy on reporting allegations of exploitation and abuse within which it is clear that it is the responsibility of the all staff members to report a concern or complaint. Usually, the main point of contact should be the employee’s line manager.

If the employee genuinely believes that s/he would be victimised or s/he has no confidence in the local management structure, then the complaint should be raised directly with the Director of Human Resources at the Headquarters’ level.



In exceptional circumstances, the complaint may be made to another international organisation, NGO, INGO or HAP if the employee genuinely believes that raising the matter within their organisation would not be effective, or could result in further victimisation, or if s/he has already disclosed the matter but no effective action has been taken.

The complaint should be recorded using a standard complaint referral form, signed and dated. The person receiving the complaint must inform the complainant of the policy on confidentiality.

Any investigation that is undertaken must be completed, regardless of whether the alleged perpetrator is still an employee of the organisation. In the event that a complaint does not warrant a full investigation, it may nonetheless be useful to take a number of steps to address concerns in other ways (for example, addressing matters of poor practice via training, a change in working arrangements or a change in management procedures).

All organisations should have an internal policy on how to handle complaints involving staff from several agencies. For example, if the complaint involves staff of other agencies, NGO partners, military personnel or non-employees, such agencies must be informed of the complaint via established mechanisms and a joint strategy meeting convened urgently to discuss the complaint and agree to a course of action. Consideration must be given to conducting a joint investigation in the interests of information and resource sharing, as well as limiting the number of interviews necessary.

A detailed record of information gathered via the complaints protocol should be kept confidentially on file as it may be used in subsequent disciplinary or legal action. Every effort must be made to ensure the security of such files, particularly in situations where security of documents may be compromised.

Complaints and investigation procedures should include systematic monitoring and evaluation and be subject to confidential audit and review for lessons learned.

## 9. Needs of the victim

It is particularly important that, where the complainant is a beneficiary, the person receiving the complaint considers whether the beneficiary has immediate needs requiring attention. While addressing these needs is not a task specific to the investigation process, some needs are likely to be pressing and the complainant should be referred to the correct person to provide the support needed. For example:

- There may be immediate security concerns if the beneficiary is returning to an unsafe situation.
- Urgent medical assistance and counselling must be made available to anyone who was potentially harmed by any alleged sexual exploitation or abuse.
- If there is information to suggest that **sexual activity has occurred within the past 72 hours, immediate referral** for medical treatment should be carried out in order to maximise the effectiveness of emergency contraception or treatment to prevent HIV.

It is essential that complaints concerning sexual exploitation and abuse by employees are taken very seriously, irrespective of whether they constitute illegal or prohibited behaviour in the country where they are alleged to have occurred. Rigorous investigations must be conducted when such concerns are raised and disciplinary proceedings must be instituted when complaints are substantiated.

Complainants of sexual exploitation and abuse should be provided with full information and advice on existing legal means of redress, including contact addresses where claims may be filed and any network helping complainants to file claims or which would provide other types of support.

## 10. Needs of the subject of complaint (SOC)

An internal investigation by an NGO is not a criminal investigation under the auspices of a national judicial system. Nevertheless, the SOC should be afforded certain rights during the conduct of an investigation including due process and confidentiality. Each organisation must take a policy decision as to the stage at which the SOC should be informed. Once informed, the SOC should be provided with all information on the substance of the allegation against them. The SOC should be offered the opportunity to seek advice or assistance should they wish. In addition, it should be clearly explained that s/he has a duty to keep the matter confidential and any discussion on the substance of the complaint must be approved by the investigator.

## 11. Outcome of investigations

An investigation may lead to the following results:

- The allegations are considered as having been established by the person conducting the investigation. The investigation report should be sent to the decision-maker who will take the appropriate administrative or disciplinary action as per the rules and regulations applicable to employees. In some organisations the Director of Human Resources makes the final decision on disciplinary action.
- When the allegation is one of a criminal nature, due consideration and assistance should be given on whether or not to inform the competent authorities in the host country or in the country of nationality of the alleged perpetrator. For this reason it is important to know the local laws as they relate to exploitation and abuse.
- The result of an investigation and disciplinary decision should be inserted in the personal administrative file of the staff member against whom the allegations are proven. Subject to applicable national employment laws, this information should be communicated to any prospective employer seeking a reference for this person.
- Should the allegations be insufficiently established or unfounded, the employee will be officially notified that s/he has been cleared. If the allegation was made known to his/her colleagues, the line manager will take appropriate action to inform them about the decision of clearance and a note for the file to this effect should be placed on the cleared staff member's personnel file.

## Exercise on making and receiving a complaint

Please answer the following questions:

- Question 1:** What are the key principles to consider when developing a complaints mechanism?
- Question 2:** Should an organisation investigate an allegation that a staff member abused or exploited a beneficiary in the past while working for another organisation?
- Question 3:** What are three reasons that might make a complaints mechanism inaccessible to a child?
- Question 4:** When might it be appropriate for an employee of your NGO to lodge a complaint with a different organisation against a colleague working within your NGO?
- Question 5:** What should you do if you receive an allegation against two staff members, one of whom works for your organisation and one of whom works in a partner organisation?
- Question 6:** What should you do if a staff member under investigation leaves your organisation before the investigation is completed?
- Question 7:** Describe two immediate needs of the victim of exploitation and abuse that you should consider when receiving the complaint.
- Question 8:** What are two rights that should be considered in relation to the SOC?

## HAP/Building Safer Organisations Investigations workshop Pre-workshop assignment 4 Seek and find<sup>1</sup>

PWS4

The answers to the following questions can be found in the document HAP/BSO Guidelines.

- Question 1:** What is the focus of an investigation where a member of staff is suspected of sexual abuse of a beneficiary?
- Question 2:** What is the primary purpose of an interview and what are the obligations of the interviewers?
- Question 3:** What concerns **MUST** be reported under the HAP/BSO Guidelines?
- Question 4:** List ten blocks to making a complaint that are referred to in the HAP/BSO Guidelines.
- Question 5:** What are the most important key principles underpinning the HAP/BSO Guidelines?
- Question 6:** What are the key features of closing an interview?
- Question 7:** What specific group of people does HAP/BSO Guidelines **NOT** cover and why?
- Question 8:** What should happen if a criminal offence has been committed and/or alleged?
- Question 9:** What happens if there is no evidence that the allegations are substantiated?
- Question 10:** What are the four main phases of an interview?

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<sup>1</sup> **Acknowledgments**

HAP gratefully acknowledges the NSPCC, (National Society for the Prevention of Cruelty to Children) for preparing this document.

# HAP/Building Safer Organisations

## Investigations workshop

### Module 1 Facilitator notes

#### Defining abuse

MFN1

PWS 4

FACILITATOR NOTES MFN 1

HANDOUTS

POWERPOINT PRESENTATION

#### MODULE 1 OBJECTIVES:

- Describe different types of abuse.
- Compare global definitions to the local context.
- Explore cultural assumptions related to the role of women and children.
- Describe the cycle of abuse.
- Identify myths and risks in relation to abusers.
- Describe the legal framework protecting women and children's rights.
- Share experience.

#### SUGGESTED SCHEDULE

Session 1 – Introduction		Minutes allocated
08.30	Arrivals and registration	30'
09.00	Overview of the course – presentation	30'
09.30	Focus group formation – group exercise	30'
10.00	Collage – group activity	40'
10.40	BREAK	15'
Session 2 – Background and context		
10.55	Background and context – group exercise	30'
11.25	Stereotyping – pair exercise	20'
11.45	What is abuse?	60'
12.45	LUNCH	60'
Session 3 – Defining abuse		
13.45	The legal framework – presentation	90'
15.15	BREAK	15'
Session 4 – Sexual offenders		
15.30	Sexual offending behaviour – presentation	60'
16.30	Sexual offender – video and presentation	30'
17.00	Evaluation	15'

<b>MODULE 1 PREPARATION:</b>	
<b>Resources</b>	<p>Check the following equipment:</p> <ul style="list-style-type: none"> <li>• 1 x laptop</li> <li>• 1 x data projector</li> <li>• 4 x flipcharts, 4 x blocks of flipchart paper and flipchart pens</li> <li>• small cards</li> <li>• pens, chalks, stickers, different paper types, scissors, glue, old magazines, tape glitter, etc. (for Module 1, Collage exercise 1), alternatively have pencils and playdoh</li> <li>• video on sexual offending behaviour</li> </ul> <p>Prepare the following:</p> <ul style="list-style-type: none"> <li>• venue set-up (arrange tables)</li> <li>• photocopy handouts as specified below</li> <li>• design and print evaluation sheets</li> <li>• lay out the materials for the collage exercise in the introduction session, preferably in a separate room to the main training room</li> <li>• ranking matrix on a flipchart for the What is abuse? exercise group discussion</li> </ul>
<b>Handouts</b>	<p>Photocopy 1 per participant: (unless otherwise indicated)</p> <ul style="list-style-type: none"> <li>• PWM2_SG's Bulletin (5 copies)</li> <li>• Participant Agenda</li> <li>• HO1_Inv_WhatisAbuse</li> <li>• HO2_Inv_LegalFramework</li> <li>• HO3_Inv_Denial</li> <li>• PPT_Inv (6 slides per page, distribute at beginning of workshop)</li> </ul>
<b>Additional facilitator notes</b>	<p>The following documents give guidance on key messages to be elicited from the exercises.</p> <p>AFN1_Inv FAQ_Inv</p>

Time	Facilitator's notes	Resources
08.30 (30')	<p style="text-align: center;"><b>ARRIVALS AND REGISTRATION</b></p> <p><b>Aim – to allow participants to introduce themselves to the group and to create an open environment for the workshop.</b></p> <p>Welcome and acknowledge individuals commitment to attending the course.</p> <p>Trainers introduce themselves first using the same format as the participants. Explain that you would like everybody to introduce themselves for example by answering the following questions:</p> <ul style="list-style-type: none"> <li>• How would you like to be known?</li> <li>• Who do you work for?</li> <li>• What is your role?</li> <li>• First or worst job?</li> </ul> <p><b><i>Explain that after Investigation WS some participants will go on to Management WS and some to Follow-Up WS. During the course of the week, some issues will arise that require management and policy level discussions.</i></b></p> <p><b><i>Explain that preworkshop assignments will not be reviewed during the WS since they are an introduction. They are the basis for which we can start this workshop on a common ground.</i></b></p> <p>The timing for introductions is based on a group of 20 participants, and allows time for late arrivals!</p>	See PowerPoint Slides 1-3
09.00 (30')	<p style="text-align: center;"><b>OVERVIEW OF THE COURSE – PRESENTATION</b></p> <p>Briefly describe the rationale and background of the Complaints Handling Unit of HAP and this Learning Programme with the help of the slides.</p> <p>Go over domestics such as:</p> <ul style="list-style-type: none"> <li>• where is the bathroom</li> <li>• where is the fire exit</li> <li>• schedule and the importance of being on time</li> <li>• refreshments (available at break times, etc.)</li> <li>• where smoking is permitted</li> <li>• arrangements for use of cell phone</li> </ul> <p>Distribute the participant agenda</p> <p>Refer to the emotive nature of the subject which makes it important to establish some principles to ensure a safe and comfortable learning environment. If managers are present with their supervisees, discuss how issues raised on the course might impact or affect working relationships after the course.</p> <p>If there are participants for whom English is not their first language discuss how this will be managed.</p> <p>Finally advise the group of any mandatory child protection responsibility i.e. if a specific case of sexual exploitation and abuse (SEA) is referred to and no action has been taken, this will have to be reported.</p> <p><b><i>Explain that the first 2 days are setting the basis to prepare them to conduct interviews on day 4 and to prepare for an investigation.</i></b></p>	Slides 4-5: Rationale Slides 6: Aim Slides 7-8: Objectives Slide 9: 6 modules Participant agenda

Time	Facilitator's notes	Resources
<p><b>09.30</b> (30')</p>	<p style="text-align: center;"><b>FOCUS GROUP FORMATION – GROUP EXERCISE</b></p> <p><b>Aim – to give participants an opportunity to share and air anything on their minds, freeing them up for learning. It is also an opportunity for trainers to hear perceptions and expectations.</b></p> <p><b>Exercise</b> Split participants into 4 groups.</p> <p>Ask each group to share their feelings on the following:</p> <ul style="list-style-type: none"> <li>• What principles will ensure an open learning environment? (e.g. being on time, respecting one another, listening, allowing everyone to talk etc.)</li> <li>• What are your hopes and concerns for the week?</li> </ul> <p>Ask the groups to allow each individual to share their feelings with their group and then summarise their discussions on coloured cards. Allow 10' for discussion. Ask the participants to place the cards on the flipcharts.</p> <p>Take feedback in plenary on both questions. Ask participants to stick their cards describing what they want to learn on the flipchart. Go through the cards and check expectations, indicating which are realistic and which are not.</p> <p>Put the flipchart on the wall to save it to refer back to. Address any concerns or worries with solutions where possible, and offer reassurance.</p> <p><b>Evaluation groups</b></p> <p>Explain that their current group will be an evaluation focus group. The focus groups are formed to provide feedback to the facilitators on any aspect of the workshop, including content, flow, timing, environment etc. Assign each group one day that they will be responsible for evaluating. Each group will meet at the end of their "assigned" day for the evaluation.</p> <p>The process will allow participants to provide input into and have ownership over the programme. Explain that the evaluation should be constructive and more or less the consensus of the group and feedback can influence how the workshop is run.</p> <p>Ask them to discuss and gain feedback on the workshop from other participants not in their group during their assigned day in order to gain feedback from the whole group.</p> <p>Facilitators will meet the designated focus group at the end of the day and spend 5' at the start of the following day summarising the salient comments and making amendments as possible.</p> <p>Show the participants the daily evaluation forms in their binders. (Facilitators are responsible for developing the format of the evaluation and types of questions to be asked before the workshop begins.)</p> <p>(This instruction will need to be repeated when a group meets at the end of the day.)</p>	<ul style="list-style-type: none"> <li>• coloured cards</li> <li>• flipcharts</li> <li>• markers</li> <li>• tape or glue</li> </ul>
<p><b>10.00</b> (40')</p>	<p style="text-align: center;"><b>COLLAGE – GROUP ACTIVITY</b></p> <p><b>Aim – to get the group to think positively about their work/organisation and to focus their minds on 'the child and the woman'.</b></p> <p>Tell the group that you recognise the enormous experience of working with/having contact with women and children in the room. Their organisations have worked with people of concern and provide many excellent services.</p> <p>Explain that this activity provides an opportunity to think about what they or their organisation do well with populations at risk and put this onto paper in a way that they possibly haven't done for a while!</p>	<ul style="list-style-type: none"> <li>• pens</li> <li>• chalk</li> <li>• stickers</li> <li>• old magazines</li> <li>• different paper types</li> <li>• scissors</li> <li>• glue, etc.</li> <li>• (preferably another room)</li> </ul>



Time	Facilitator's notes	Resources
	<p>Participants will use stationary materials to create an image that represents how they or their organisation works well with children. This can be symbolic, factual, specific or generalised.</p> <p>Using arts and crafts materials in this exercise is an equaliser and encourages people to relax, to use a different medium and try something different.</p> <p>Make 2, 3, or 4 groups and ask participants to make a group collage on a large piece of paper that will then be displayed. Allow 20' and check their progress. Hopefully the group should be chatting and having some fun!</p> <p>After an additional 10' post the collage up on the main room wall. Ask a different group what they think the work of the other group represents. Check with the creators of the poster if the interpretation is correct or if they wanted to represent something totally different.</p> <p>Explain that the reason for doing a collage was to demonstrate ways in which people communicate, particularly children and in investigating they may have to think about different communications methods. The exercise does demonstrate different ways of communicating but it also shows that our communications are not always interpreted as intended initially. It is an important lesson to keep in mind when conducting an investigation. This exercise should as well emphasize the importance of feedback and a positive approach.</p> <p>Allow max. 10 minutes for this feedback.</p>	
10.40	<b>BREAK</b> – check ranking matrix is prepared	Additional_ Facilitator_Notes
10.55 (30')	<p style="text-align: center;"><b>BACKGROUND AND CONTEXT – GROUP EXERCISE</b></p> <p><b>Aim – to set the scene, describe why the training is needed and for participants to personally identify the importance of organisations developing policies and procedures that protect women and children from sexual exploitation and abuse.</b></p> <p>Then divide the participants into 3 groups. Give each group 10' to answer one of the following questions on flipcharts:</p> <ul style="list-style-type: none"> <li>• Who is most vulnerable to sexual exploitation and abuse and why?</li> <li>• Who might be doing the abusing?</li> <li>• What can be done? What does a good protection system need?</li> </ul> <p><b>The following points should have been identified during the discussion:</b></p> <p><b>Who</b> is vulnerable? Women, boys, girls, refugees, displaced, poor, people living in crisis situations, anyone else?</p> <p><b>Why?</b></p> <ul style="list-style-type: none"> <li>• The lack of economic options for displaced populations may result in the commercial and exploitative sex being one of the few options to meet basic needs.</li> <li>• Beneficiary communities often come from an environment where sex and gender based violence is common and community structures may collude to maintain this violence.</li> <li>• Where women and children are displaced and excluded from community decision-making or education.</li> </ul> <p><b>Who is abusing?</b> Employees, staff members other beneficiaries, food distributors, government officials. It is important to remind the group that this workshop is focussing on abuse by employees.</p>	<ul style="list-style-type: none"> <li>• flipchart</li> <li>• markers</li> </ul> <p>Slide 10: Building Safer Organisations exercise</p>

Time	Facilitator's notes	Resources
	<p><b>What can be done?</b></p> <ul style="list-style-type: none"> <li>• Know the national legislation – who has the power to intervene when child abuse is suspected? What law and guidance exists, what trust is there with and between statutory agencies? What if people move across borders?</li> <li>• Implement strong protection systems – systems are often weak and leave staff facing complex protection dilemmas.</li> <li>• Share guidance and standards – there is little common understanding across agencies of sexual exploitation and child protection issues of varying standards of practice.</li> <li>• Understand the context – there are huge difficulties in applying protocols and procedures in the many different legal, social and cultural contexts in which international agencies work.</li> <li>• Implement strong recruitment practices – lack of standards of practice on how to recruit safely allow abusers to infiltrate organisations. How do you know who someone is, and what their background and motivation to work with children may be? There are simple and basic human resource procedures which, if put in place, will strengthen an NGO's position vis-à-vis sexual exploitation and abuse.</li> <li>• Address culture and myths – the power of ignorance and misunderstanding about what certain religious or ethnic groups believe can often contribute to the failure to protect children, as does fear of being perceived as racist.</li> <li>• Provide training materials and resources – to support both prevention and response.</li> </ul> <p><b>Protection systems require</b></p> <ul style="list-style-type: none"> <li>• Start with leadership – without the commitment of managers nothing changes.</li> <li>• Develop and implement complaints and investigation protocol and procedures for dealing with complaints and breaches of codes of conduct. Any protocol must reflect the local situation and legal and social welfare systems.</li> <li>• Recognise that adopting procedures and protocols involves organisational change and development, even at a cultural level.</li> <li>• Provide training opportunities to ensure that all staff have a chance to discuss and build understanding about codes of conduct and what to do if they have a complaint.</li> </ul> <p>Remind the participants that the workshop this week is only a piece of the puzzle in safeguarding beneficiaries from sexual exploitation and abuse. The next five days will focus on development of functioning confidential complaints mechanisms and standard investigation procedures into allegations of sexual exploitation and abuse. The Investigation Learning Programme is part of a larger process required to make sure that exploitation and abuse is prevented and responded to in a comprehensive manner by all organisations.</p>	
<p><b>11.25</b> (20')</p>	<p style="text-align: center;"><b>STEREOTYPING</b></p> <p><b>Aim – to encourage the group to explore cultural assumptions in relation to men, women and children and highlight discriminatory views.</b></p> <p>Divide participants into pairs asking them to think of one saying from their country about women and one saying about children. To ensure clarity, provide some examples such as "A woman's place is in the home", "A man's home is his castle", "The sun only rises when the cock crows", "Children should be seen and not heard", "Spare the rod and spoil the child", "She may reach Mercury; but she'll end up in the kitchen", "A woman without her man is like a garden without a fence".</p> <p>Allow 10' for discussion.</p>	<ul style="list-style-type: none"> <li>• flipchart</li> <li>• markers</li> </ul> <p>Slide 11: Stereotyping</p>

Time	Facilitator's notes	Resources																																													
	<p>Take feedback in plenary, recording the sayings on the flipchart. Ask participants to describe what the phrases mean and what values they reflect society as placing on women and children. What do the phrases say about power relations?</p> <p>Discuss that sayings reflect the places assigned to women and children in society today.</p> <p>If participants suggest that these are old sayings ask for some modern examples referring to women and children e.g. "working mother", "women cannot read maps, men cannot ask for directions", "sensitive new age man".</p> <p>Are they any different? Has the content or meaning changed considerably?</p>																																														
11.45 (60')	<p style="text-align: center;"><b>WHAT IS ABUSE?</b></p> <p><b>Aim – to encourage participants to think about the difficulties in identifying what is abuse and highlight the fact that everyone has very different ideas about what constitutes exploitation and abuse.</b></p> <p>Divide the participants into groups of 4 to 5.</p> <p>Distribute the case studies and exercise instructions, (HO1_Inv_What-isAbuse). Allow the groups 30' to discuss the questions. Each group should start on a different case study to ensure all case studies are covered. Emphasise that there are no wrong answers; it is simply a forum for discussion. A maximum of 8 case studies should be given to the participants.</p> <p>Read the case studies and discuss for the following question for each one:</p> <ul style="list-style-type: none"> <li>• Is this abuse?</li> <li>• Who is or might be abusing?</li> <li>• Who is being abused?</li> <li>• Can anything be done?</li> </ul> <p>After 30', ask each group to rank the cases from the most serious, 1, to the least serious, 8. There must be a consensus in each group on rankings. Give the participants 5' to rank the case studies.</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 10%;">Group/Case</th> <th style="width: 5%;">A</th> <th style="width: 5%;">B</th> <th style="width: 5%;">C</th> <th style="width: 5%;">D</th> <th style="width: 5%;">E</th> <th style="width: 5%;">F</th> <th style="width: 5%;">G</th> <th style="width: 5%;">H</th> </tr> </thead> <tbody> <tr> <td>1</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> <tr> <td>2</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> <tr> <td>3</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> <tr> <td>4</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> </tbody> </table> <p>In plenary, ask each group to give their rankings and enter these into the matrix. Results will be varied and participants may be surprised at how other groups have ranked cases. The reason the participants are asked to rank the case studies from most serious to least serious is to show that each group will define serious according to different factors – serious to the organisation, serious to the beneficiary, etc.</p> <p>Allow 25' for discussion. Facilitate a group discussion in plenary about the different rankings. Discussion can be stimulated by asking why each group ranked a certain case as they did. Was there a factor in the case that had it been different they would have ranked differently, such as the age or gender of the victim? Ensure values and personal barriers are discussed. It is important to be clear that there is no right or wrong answer. Wrap up by emphasising that the differences in grading illustrate the need for guidance and procedure.</p> <p>Link to pre-workshop self study module on definitions of abuse.</p>	Group/Case	A	B	C	D	E	F	G	H	1									2									3									4									<p>HO1_Inv_WhatIsAbuse FAQ_Inv</p> <ul style="list-style-type: none"> <li>• flipchart with ranking matrix</li> <li>• markers</li> </ul> <p>Slide 12: What is abuse?</p> <p>Slide 13: Defining Abuse</p>
Group/Case	A	B	C	D	E	F	G	H																																							
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12.45	<b>LUNCH</b>	<b>60'</b>																																													

Time	Facilitator's notes	Resources
<p>13.45 (90')</p>	<p style="text-align: center;"><b>THE LEGAL FRAMEWORK – PRESENTATION</b></p> <p><b>Aim – to reinforce that women and children have rights and that there is a legal framework to protect those rights.</b></p> <p>This session will review the pre-workshop assignments and will refresh participants' knowledge of international law and the SG's Bulletin. It will also assist participants to come to an understanding that the international framework compels us to follow certain international standards.</p> <p>In pairs, ask participants to answer the questions on the PowerPoint slide 14. Give them 15' to discuss and answer questions. Take an additional 15' in plenary to have participants provide answers and discuss any comments or questions.</p> <p>After 15' review the main elements of the SG's Bulletin using the PowerPoint slides. Help participants to find each section in the SG's Bulletin as the slide comes up on the screen. Ensure that the following points are covered from PWS3_Draft Guidelines to the SG's Bulletin:</p> <ol style="list-style-type: none"> <li>UN staff and UN-related personnel are obliged to comply with the SG's Bulletin as well as with local laws. Where the SG's Bulletin establishes a stricter standard than local laws, the standards of the SG's Bulletin prevail. <ul style="list-style-type: none"> <li>A staff member engaging the services of a prostitute – whether in a peacekeeping mission, in New York (where prostitution is illegal) or in the Netherlands (where prostitution is legal) – is in violation of the SG's Bulletin which prohibits the exchange of money for sex.</li> </ul> </li> <li>Sexual activity with persons under the age of 18, regardless of the age of majority or age of consent locally is prohibited (section 3.2(b) of the SG's Bulletin). Mistaken belief in the age of the child does not constitute a defence. <ul style="list-style-type: none"> <li>The prohibition on sexual activity with children does not apply where the member of the UN staff or UN-related personnel is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship (section 4.4 of the SG's Bulletin). The legality of a marriage for the purposes of SG's Bulletin is to be determined by reference to the law of nationality of the member of the UN staff or UN-related personnel.</li> </ul> </li> <li>The SG's Bulletin applies to all NGO partners of the UN (section 6). It also applies to all internationally and locally-recruited staff of the UN, including staff of separately administered organs, funds and programmes of the UN.</li> <li>The SG's Bulletin also applies to all categories of UN peacekeeping personnel (General Assembly resolution 59/300 of 22 June 2005): <ul style="list-style-type: none"> <li>military members of national contingents</li> <li>experts on mission, including police officers, corrections officers and military observers</li> <li>members of national uniformed police units</li> <li>non-UN entities or individuals who have entered into a cooperative arrangements with the UN, including contractual arrangements with interns, international and local consultants, and individual and corporate contractors</li> <li>UN volunteers</li> </ul> </li> </ol> <p>For further clarification, consult the Inv_FAQ and PWM3_Draft Guidelines to the SG's Bulletin, as well as PWS1.</p> <p><b>Remind participants that section 3.2 is not an exhaustive list and always to refer back to the definitions of sexual exploitation and sexual abuse.</b></p>	<p>PWM2_SG's Bulletin</p> <p>PWM3_Draft Guidelines to the SG's Bulletin</p> <p>FAQ_Inv</p> <p>PWS1 and AFN1_Inv</p> <p>HO2_Inv_Legal-Framework</p> <p>Slide 14: Legal framework</p> <p>Slide 15: Legal framework quiz</p> <p>Slides 16-20: SG's bulletin</p> <p>Slide 21: Causes for concern</p> <p>Slides 22-24: SG's Bulletin</p>
<p>15.15</p>	<p><b>BREAK</b></p>	<p>15'</p>

Time	Facilitator's notes	Resources
15.30 (60')	<p style="text-align: center;"><b>SEXUAL OFFENDING BEHAVIOUR – PRESENTATION</b></p> <p><b>Aim – to establish some of the facts known about sexually offending behaviour, identify myths and risks in relation to abusers and inform participants of the cycles of abuse.</b></p> <p>Introduce the subject by acknowledging that this is a difficult subject for everyone regardless of whether they, or people they know, have had previous difficult experiences associated with sexual abuse. You may like to go back to your ground rules at this point to ensure that everyone is comfortable about proceeding.</p> <p><b>Exercise</b> Initiate a very brief exercise before showing the slides. Ask the group to word storm who they think an abuser might be and some characteristics. The impact of the stereotypical image of 'dirty men' in raincoats or foreigners as abusers needs to be dispelled if beneficiaries are to be protected. The perception that institutional abuse of beneficiaries is "great evil" and "sick" tends to support the observation that sexual offenders have characteristics that set them apart from 'normal' human beings. The dangerous inference of this perception is that, by implication, individuals who would seek to sexually abuse should therefore be immediately identifiable to the outside world. This suggestion that perpetrators are easy to identify is at odds with the reality.</p> <p>It is impossible to effectively intervene in a process, which you do not understand. For professionals working in this area of sexual abuse and exploitation it is important to understand how abuse works. If you are investigating a complaint of sexual abuse, not understanding the process can have significant consequences. This is particularly important within the context of humanitarian aid situations where it is likely that investigators will have access to alleged perpetrators in order to elicit information. Securing evidence and a reliable investigation will enable disciplinary proceedings and other safeguarding measures to be implemented.</p> <p>Using the slides and further literature or experience, give a brief description of the model/cycle of abuse and discuss the slides on child sexual abusers to dispel myths about abusers.</p> <p>Prior to the development of theories about the nature of sexual offending, a common view of such behaviour was of uncontrolled inexplicable urges. As work progressed with adults and adolescents who use sexually abusive behaviour, it became clear that in fact the behaviour is planned, deliberate and occurs in cycles involving unacceptable responses to situations or interactions. These responses are very much based around distorted perceptions of power and control, which become sexualised. They are represented as occurring in cycles because of the repetitive and ongoing nature of the sequence of behaviour.</p> <p>Although there are several theories or 'models' that are in widespread use, they mostly share common themes relating to the sequence of behaviour. The abuser may have past experiences or personality characteristics that lead to sexual fantasies involving children or vulnerable people. This may be because the vulnerable adult or child meets some important emotional need or other source of sexual gratification not normally available. These are known as dysfunctional responses. Something may then trigger an intention to act on the fantasy and the intended victim will be targeted. Fantasy is usually accompanied by masturbation, which in turn frees the potential abuser from his earlier inhibitions.</p> <p>Talk through Finkelhor's four pre-conditions to sexual abuse from <i>Child sexual abuse; new theory and research 1984</i><sup>1</sup>. Explain that an abuser has</p>	<ul style="list-style-type: none"> <li>• flipchart</li> <li>• markers</li> </ul> <p>Slide 25: Why do we want to understand</p> <p>Slides 26: Image exercise</p> <p>Slides 27-28: What is known Slide 29: Sex offenders</p> <p>Slides 30-31: Why do sex offenders abuse?</p> <p>Slide 32: Sexual abuse cycle</p>

<sup>1</sup> Finkelhor David. 1984. *Child Sexual Abuse; New Theory and Research*. Free Press, New York. (Dr. David Finkelhor is Director of the **Crimes against Children Research Centre (CCRC)**, in the USA which is dedicated to studies about the nature and impact of a wide variety of offences against juveniles, including homicide, rape, child abuse, peer violence, family abductions and the exposure of children to domestic and community violence.)

Time	Facilitator's notes	Resources
	<p>to get over the hurdles before the abuse takes place. This process can take a very long time or be completed in an instant, depending on where the abuser is on the cycle. If he has abused before, the internal inhibitors may no longer be a barrier. However, a different victim may present more resistance than the last.</p> <p><b>Exercise</b> Ask the group what the internal inhibitors are and how do abusers overcome them. Ask them to call out their responses and write up onto a flipchart. This can be a very important realisation for people in recognising that safeguards can be effective in preventing abuse. Participants' responses should include: fear of being caught, conscience or morality, religious beliefs etc.</p> <p>Then ask the group to think about what external inhibitors might be and how do abusers overcome them.</p> <p>A good parallel example is a dieter who wants to eat chocolate (use Finkelhor's diagram to describe the process). First, it is a fantasy and the conscience knows it is wrong. The dieter overcomes the internal moral voice by thinking:</p> <ul style="list-style-type: none"> <li>• one piece won't do any harm</li> <li>• no one will know</li> <li>• it is OK just this once and/or</li> <li>• I deserve this as I am usually so disciplined.</li> </ul> <p>Once the dieter has eaten the piece of cake and knows how good it is, it is easier to break the diet the next time.</p> <p><b>Grooming</b> Grooming refers to the way in which the potential abuser will organise the environment in order to gain maximum access to the intended victim with minimum risk of discovery. This will involve gaining access through proximity as well as emotional engagement through friendship or shared interests as way of overcoming a victim's possible resistance.</p> <p>It is important to remember that abusers do not just groom the victim. They also groom other people i.e. colleagues who believe "he couldn't possibly do that," parents who trust the abuser, their own family members. Grooming of an organisation is also possible, for example, when organisations choose to use language such as transactional sex instead of referring to sex with children as child sexual abuse.</p> <p><b>Four stage process to entrapment</b> Barnado<sup>1</sup>, in considering commercial sexual exploitation in the UK, suggested a four-stage process when adults prey on the vulnerability of women and children in order to take and maintain control over the victim's lives. Ask the group to suggest from their experience or knowledge examples of how offenders might behave in these stages or give your own.</p> <p>With boys and young men, entrapment often comes through the abuser providing them with treats, games, and fun activities and then subsequently grooming the victim for sex or as rape targets. Whereas with girls and young women, adult abusers often feign the fulfilment of emotional needs or love.</p> <p>Abusers often befriend adults and children who need emotional support and/or are facing difficulties. They are very skilled at identifying victims who may be particularly vulnerable. They may choose a child who is disabled or unable to communicate well, already a victim of abuse, lonely or lacking in confidence, too trusting or just eager to please and succeed at a particular activity. In refugee situations the number of people who are potential victims increases.</p>	<p>Slide 33: Pre-conditions to sexual offending</p> <p>Slide 34: Inhibitors exercise</p> <p>Slide 35: Grooming</p> <p>Slide 36: Four stage process to entrapment</p>

<sup>1</sup> Barnado's. 1998. *Whose daughter next? Children abused through prostitution*. Barnardo's Publications.

Time	Facilitator's notes	Resources
	<p>Total dominance suggests the girl/boy/woman is prepared to do anything to maintain the relationship e.g. have sex with other men; or recruit others to work for the offender. For example, a teacher in humanitarian crisis situations may be able to force boys to bring their sisters or mothers for sex in return for receiving good grades.</p> <p>Abusers will make sure that the victim does not tell other people about the abuse. Some ways they do this are by threatening them with violence and intimidation or threatening to harm others that the victim is close to, making victims feel it is their fault. Professional people who are perpetrators of abuse will often use entrapment methods to enable them to abuse vulnerable people. In the context of humanitarian aid, offenders may create dependency by providing food or financial reward. Children in particular are vulnerable to such grooming as they are silenced by a number of factors, some of which may involve actual threats or bribes but more often are subtle and play on the fears a child has about the results of telling or of not being believed. In time the child is seen as contributing or consenting to his or her own abuse by the perpetrator, by not telling or not "saying no". Vulnerable women in camps or in situations of extreme dependence will go through similar experiences. This all contributes to the "thinking distortions" of the perpetrator who is most concerned to minimise or deny their actions at this stage. They will tell themselves that the victim did not complain and therefore consented as this counteracts any feelings of genuine remorse or guilt. They may further rationalise their actions as being "provoked by the child", "conducted under the influence of drink" or that it uncharacteristically "just came over me". These are aspects of offender denial and thus the feelings of guilt are reframed.</p> <p><b>The spiral of sexual abuse</b></p> <p>As the feelings of guilt or responsibility fade, so do the desires to repeat the behaviour increase – and thus the cycle continues. However, abuse is not a simple cycle of repeated behaviour. Rather it can be seen as a spiral since new phases will develop in the overall offending pattern. The spiral image can be used to help understand both opportunistic attacks and intricately planned abuse and can be applied to male and female sexual abusers of adults or children.</p> <p><b>Exercise</b></p> <p>Ask the group to look again at the external inhibitors they identified. Ask how they think an abuser may overcome these. Make the point that some sexual offenders choose to work in a particular environment or they take advantage of an environment as they may think it is more open to manipulation.</p> <p><b>Professionals who are perpetrators</b></p> <p>'Professional perpetrators' is the expression referring to abusers who belong to recognised professions such as doctors, teachers, social workers, lawyers. Studies focusing on the characteristics of professional perpetrators, have found that they adapt to their surroundings and often commit more than one type of offence. One report by Brannan, Jones and Murch, 1993 in <i>Child Abuse Review</i>, Vol 2, pp. 271-275, asserted that perpetrators used the special features of the environment to facilitate the abuse and prevent disclosure of the abuse by the victim and other professionals. This raises questions about the potential motivation of perpetrators; are they seeking employment simply to generate opportunities to sexually abuse or are they corrupted by the power attached to their profession? Is sexual manipulation one of a variety of abuses perpetrated within an organisational situation? Further study of perpetrators in helping professions is needed to better understand the motivation to sexually abuse within the work setting.</p>	<p>Slide 37: Professional perpetrators</p>

Time	Facilitator's notes	Resources
	<p><b>Myths and prejudices</b>                      People who sexually abuse are often very skilled at integrating themselves into trusted positions in the community and may hold positions of authority. They operate in many ways. Some act alone, others work in organised groups. He or (less commonly she), could be a parent and have an adult heterosexual relationship. So it is important not to let myths and prejudices stop you from acting if you suspect that someone is abusing a child or vulnerable adult.</p> <p>Sexual abusers gain access to victims in a variety of ways. They will often involve themselves in activities that bring them directly into contact with vulnerable people such as youth forums or gender programmes.</p> <p>Distorted thinking by a sexual abuser is what leads to the act of abuse. However, we do know that implementing safeguards reduces the risk of women and children being abused. We will address these factors in later modules.</p>	<p>Slide 38: Distorted attitudes                      Slide 39: Myths and prejudices</p>
16.30 (30')	<p style="text-align: center;"><b>SEXUAL OFFENDER</b></p> <p><b>Aim – to give participants the opportunity to witness how abusers justify abuse and to hear an offender talk about the sexual abuse he committed. This is especially useful for participants who have never spoken with an offender or heard an offender talk before.</b></p> <p><b>Video exercise</b>                      Warn the group that the video clip shows a sex offender talking about abusing children. Participants may find it disturbing.</p> <p>Show the first part of the video clip of Patrick, the youth minister.<sup>1</sup></p> <p>Give people a few moments to gather their thoughts and invite them to talk with their neighbour about their first thoughts and feelings. After 5' ask them in plenary to share their first thoughts and feelings. Write up their comments on the flipchart. Tell them that these are common reactions but also emphasise how powerful they are.</p> <p>Show the second sequence of the video. In plenary ask about the abusers 'justification of abuse'. How did the offender explain why he abused? How did he gain the trust of those around him in order to gain access to the children? Write up the participants' comments on the flipchart.</p> <p>Distribute HO3_Inv_Denial to participants.</p> <p><b>*Remind participants to re-read the HAP/BSO Guidelines tonight.</b></p>	<p>HO3_Inv_Denial                      Slide 40: Sexual offender video exercise</p> <ul style="list-style-type: none"> <li>• flipchart</li> <li>• markers</li> <li>• video of a sexual abusers</li> </ul>
17.00 (15')	<b>EVALUATION</b>	

<sup>1</sup> *Professional Perpetrators: Sex Offenders Who Use Their Employment To Target And Sexually Abuse The Children With Whom They Work* by Joe Sullivan, Principal Therapist The Lucy Faithfull Foundation & Dr. Anthony Beech, The Department of Psychology University of Birmingham, 2002



# HAP/Building Safer Organisations

## Investigations workshop

### Additional Facilitator notes – Module 1

#### Legal Framework

AFN1

Please use PWS1 as background document.

Possible questions to explore during the discussion on the legal framework:

- Is there a universal consensus about human rights?
- Are all human rights universally applicable?

International law is breached when rights of universal application are denied through racism, sexism or on religious or other state grounds.

During this session, also encourage participants to discuss specific elements of the SG's Bulletin .

The following should be made clear:

- All forms of sexual exploitation and abuse are prohibited whether they are listed in the SG's Bulletin specifically or not.
- All forms of sexual activity with children are prohibited except when a UN staff member or UN related personal is legally married to someone under the age of 18 but over the age of majority or consent in the country of citizenship of the staff member
- Prostitution and visiting prostitutes is always prohibited, even when a staff member is away from their duty station and even if prostitution is legal.
- Sexual relationships between staff and beneficiaries are strongly discouraged. The question will always be whether the relationship is exploitative.
- There is a positive change on all staff members to create and maintain an environment that prevents sexual exploitation and abuse.
- Managers are singled out as having a specific duty to support and develop systems that maintain this environment that prevents exploitation and abuse.

Are these requirements realistic? What can we do to ensure staff adhere to them and beneficiaries are aware of them?

# HAP/Building Safer Organisations

## Investigations workshop

### Facilitator notes

#### FAQ

FAQ1

## General issues

**Question:** What does confidentiality mean?

- ✓ Confidentiality is an ethical principle that restricts access to and dissemination of information. This principle protects the privacy and safety of all the people involved in a complaint of staff misconduct. It requires that information is available only to a limited number of authorised people for the purpose of conducting the investigation (i.e disclosure of information only on a need-to-know basis).
- ✓ In most investigations, the fact and nature of the complaint, the identity of the key participants (complainant, victim, SOC and witnesses) and the investigation records are confidential. That said all aspects of the complaint are sensitive since there is a risk that outsiders will be able to deduce important information about the case from small seemingly insignificant details.

**Question:** What do you say when the SOC asks “who told you that”?

- ✓ The SOC is not entitled to know the name of the complainant or the sources of evidence brought against her or him. Reiterate the importance of maintaining confidentiality for the interview process. Stress that this interview is her/his opportunity to present all evidence in her/his favour; however do not disclose sources of evidence.

**Question:** Do all survivors of childhood abuse become abusers? Is it true that all adult abusers were abused themselves as children?

- ✓ Only 30% of people who were abused as children become abusers.<sup>1</sup>

**Question:** Will adults who were abused as children suffer lifelong emotional harm?

- ✓ Recent study shows that people who were abused once or twice as children show no significant long term harm into adulthood when compared to those adults who were not abused. The message is that if we can stop abuse early then the long term damage can be mitigated.<sup>2</sup>
- ✓ When working with survivors of abuse and exploitation in conflict, post conflict or crisis situations, it is important to be mindful of the coping strategies survivors draw upon and resilience that enables them to manage the trauma related to these experiences. People living in crisis situations should not be viewed through a simple lens of vulnerability, but rather their capacities should be recognised and supported.

**Question:** Is it worse to be abused as a child than as an adult?

- ✓ All abuse can be damaging no matter who the survivor is. A recent study of consenting sex workers (i.e. prostitutes) around the world indicates incidents of post-traumatic stress disorder (PTSD) equal to those of Vietnam war veterans.<sup>3</sup>

**Question:** What about beneficiaries exploiting aid workers when they go up to them and offer their bodies?

- ✓ There is a clear imbalance of power between humanitarian workers and beneficiaries of aid. Disaster survivors are often given no choice in who helps them; treated as though they are all the same and forced to remain for long periods of time in detrimental circumstances. As a result of this power imbalance,

<sup>1</sup> *The Wounded Heart: Hope for adult victims of child sexual abuse.* Allender, Dr. Dan B, 1990

<sup>2</sup> *Relation between sexual abuse in childhood and adult depression: case-control study.* Cheasty, Marese, et al, British Medical Journal, No. 7126, Vol. 316

<sup>3</sup> *Prostitution Is Sexual Violence.* Farley, Melissa, Ph.D., October 2004, Vol. XXI, Issue 12, Psychiatric Times

aid recipients may have no choice but to offer sexual favours in exchange for money, employment, goods or services. An aid worker who takes advantage of such an offer is sexually exploiting the beneficiary. It does not matter who approached whom or whether the beneficiary engaged in sexual activity willingly.

- ✓ In addition, the SG's Bulletin clearly states that sexual relationships between beneficiaries and humanitarian workers are strongly discouraged because they are based on inherently unequal power dynamics. Aid workers are obliged to refrain from entering into any relationship with a disaster survivor if it is exploitative in any form (see SG's Bulletin section 1, definitions of sexual exploitation and sexual abuse).<sup>4</sup>

**Question:** What should we do when beneficiaries lodge malicious complaints?

- ✓ Due to the many barriers that beneficiaries face when making complaints, it is highly unlikely that beneficiaries will make malicious complaints. However, if it becomes apparent that a complaint was lodged maliciously, the investigation should terminate and the SOC be cleared. Disciplinary procedures cannot be pursued against beneficiaries making malicious complaints unless they are also incentive workers, however, the organisation should explore why the complaint was lodge maliciously and address the reasons for making a false complaint.

**Question:** Should the organization report findings to the national authorities? When? What should they report?

- ✓ As soon as an organisation is aware that an allegation is a crime, the organisation must consider whether or not to inform the national authorities. The integrity of the police or judicial system and safety of the victim, SOC and other witnesses are paramount considerations when making a decision.
- ✓ If the organisation decides to inform the national authorities, the organisation should stop their administrative investigation immediately so as not to hamper the criminal investigation. The organisation and its staff should cooperate willingly with the criminal investigation and all relevant information collected during the investigation process should be handed over to the national authorities.

**Question:** What is the legal situation when international law and national law are incompatible?

- ✓ Generally speaking International Law has no force of law in a country unless that nation ratifies the treaty and brings it into force.
- ✓ For example, Kyoto is an International Law as it is an international treaty however, it is not ratified by the Government of the U.S.A., so it has no force of law in that country. On the other hand, the government of the U.S.A. has ratified and brought into force the Geneva Conventions and the Declaration of Human Rights. On the basis of the ratification of those international legal agreements several bodies are challenging the government of the U.S.A. for violating their obligations to inmates in Guantanamo Bay. There are several pending legal actions in the US in relation to the government's detention of terror suspects at Guantanamo Bay.
- ✓ If an international treaty that is in force in a country and its national law are incompatible then the law of a higher standard must be adhered to.

**Question:** What is the situation when customary practice is not in conformity with the national or international law?

- ✓ Customary practice has no legal standing. If an individual is involved in a behaviour that is acceptable under customary practice but is a breach national or international laws, the proper legal authorities could prosecute him/her.

<sup>4</sup> UN 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)*. UN.

## UN Secretary-General's Bulletin on Special Measures for the Protection from Sexual Exploitation and Sexual Abuse 2003/13 (PWM1\_SG's Bulletin) (and from the draft Guidelines on the application of ST/SGB/2003/13, PWM2)

**Question:** Which law is binding on UN staff and staff of NGOs working in partnership with UN agencies? Is the national law or the SG's Bulletin the standard that should be followed?

- ✓ UN staff and UN-related personnel are obliged to comply with the standards of the SG's Bulletin as well as with local laws. Where the Bulletin establishes a stricter standard than local laws, the standards of the Bulletin prevail.

**Question<sup>5</sup>:** Is the SG's Bulletin law?

- ✓ The SG's Bulletin is not a law. It is a contractually binding agreement between the UN and its partner agencies.
- ✓ UN officials have a legal obligation to ensure that the standards of conduct in section 3 are accepted in writing when entering into cooperative arrangements with NGO implementing partners. It therefore becomes contractually binding for the implementing partners. Thus NGOs are bound by the same standards as the UN through contractual relationships and are obliged to enforce the same standards for its staff and its partners' staff.

The SG's Bulletin states:

*"Section 6.2. The failure of those entities or individuals [entering into cooperative agreements with the UN] to take preventive measures against sexual exploitation or sexual abuse, to investigate allegations thereof, or to take corrective action when sexual exploitation or sexual abuse has occurred, shall constitute grounds for termination of any cooperative arrangement with the United Nations."*

**Question:** Does the SG's Bulletin apply to staff only in the work place or in their private lives?

The SG's Bulletin applies to staff while at work, in their private lives, even when staff members are away from their duty station. As humanitarian workers, we are held to a higher standard and thus have an obligation to abide by the SG's Bulletin while on duty and off-duty.

**Question:** If a staff member engages the services of a prostitute in a country where prostitution is legal, is this considered a breach of the SG's Bulletin?

- ✓ A staff member engaging the services of a prostitute – whether in a peacekeeping mission, in New York (where prostitution is illegal) or in the Netherlands (where prostitution is legal) – is in violation of SG's Bulletin which prohibits the exchange of money for sex.

**Question:** In most countries the age of consent to sexual activity is lower than 18 years. If the age of consent is younger than 18 years under national law then surely it is acceptable to have a relationship with a person younger than 18.

- ✓ Sexual activity with persons under the age of 18 is prohibited, regardless of the age of majority or age of consent locally is prohibited, (section 3.2(b) of the SG's Bulletin). Mistaken belief in the age of the child does not constitute a defence.
- ✓ Staff should carry out their duties in ways that do not violate the rights of the child. The CRC states that a child is a human being under the age of eighteen years. Derogations from the CRC definition of child should be for the purposes of granting the child additional rights. Substituting a younger age for specific purposes does not make that person an adult for the purpose of that activity; rather it grants the child an additional right. In this case, for example a child of 16 or 17 is recognised as a sexual being and therefore granted the right to consent to sexual activity. Prohibiting staff from having sex with a 16 or 17 year old does not violate the right of a child of 16 or 17 to have sex.

<sup>5</sup> UN 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)*. UN.

**Question:** Does an employment contract that prohibits an employee from consensual sex with a child who has the right to have sex under their national law constitute an infringement of the employee's rights?

- ✓ In some countries, employment law states that employment terms and conditions cannot require a party to that contract to sign away their statutory rights and entitlements and unreasonable terms and conditions will generally be not be upheld at law. However, the age of consent creates an additional right for the child of 16 or 17; it does not create a right for adults to have sexual intercourse with children. Hence signing an employment contract that prohibits sexual activity with a child is not signing away a right or entitlement. The rights reside with the child and not the adult.
- ✓ Several countries including France, Canada and Australia have extra territorial legislation that prohibits sex with children under the age of 16 even in countries where the age of consent is lower. For example an Australian national who has sex with a 15 year old in the Philippines, where the age of consent is 12, can be prosecuted under Australian law.

**Question:** In some countries, people under the age of 18 are married. Can staff marry someone younger than 18?

- ✓ The prohibition on sexual activity with children does not apply where the member of the United Nations staff or UN-related personnel is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship (section 4.4 of the SG's Bulletin). The legality of a marriage for the purposes of SG's Bulletin is to be determined by reference to the law of nationality of the member of the United Nations staff or UN-related personnel.

**Question:** Does the SG's Bulletin apply to all NGO partners of the UN?

- ✓ The SG's Bulletin applies to all internationally recruited and locally recruited staff of the United Nations, as well as staff of separately administered organisations, funds and programmes of the United Nations. (See section 6 of the SG's Bulletin.)
- ✓ The SG's Bulletin also applies to all categories of UN peacekeeping personnel, as affirmed by General Assembly resolution 59/300 of 22 June 2005, such as:
  - military members of national contingents
  - experts on mission, including police officers, corrections officers and military observers
  - members of national formed police units
  - non-United Nations entities or individuals who have entered into a cooperative arrangements with the United Nations, including contractual arrangements with interns, international and local consultants and individual and corporate contractors
  - United Nations volunteers

**Question:** How can an organisation demand staff sign a code that prohibits activity allowed by local law?

- ✓ Organisations all over the world regularly contract with staff to prohibit them or limit them from actions that would otherwise be accepted at law. For example, many organisations have a no smoking policy which prohibits smoking on office premises while smoking tobacco is legal nationally; it is prohibited for employees to accept gifts from certain counterparts while gift giving/receiving is not prohibited by national law; various services require staff to wear uniforms or conform to a standard of dress i.e. women lawyers in Australia are prohibited from appearing in court in trousers, while the national law does not comment on dress; in dangerous locations staff are prohibited from bringing their family with them, while local families live in the same location.
- ✓ Similarly, many professional bodies prohibit relationships that would otherwise be legal i.e. doctors cannot have sexual relationships with patients; teachers cannot have sexual relationships with students, etc.
- ✓ These are examples of binding employment contracts which, if breached, can lead to disciplinary measures but would not otherwise be prohibited by law. Therefore it is possible to contractually bind staff to certain types of behaviour that are otherwise legal under national law. This includes a prohibition on exchanging money for sex in countries where it is legal or prohibiting relationships with people under the age of 18 years where the local age of consent is younger.

- ✓ The issue of “consent” is also relevant. Most national laws refer to the “age of consent” or sexual acts between “consenting adults”. In most environments where aid workers live, the difference in power between aid worker and “consenting” child or adult is so great as to makes it difficult to determine whether consent is real. Moreover many professions make it clear that even where ‘consent’ appears to have been given, consent will be deemed to have been void by virtue of a relationship of power. For example, doctors cannot have sex with patients, teacher cannot have sex with students (even at University level where students are over 18 years), lawyers cannot have sexual relationships with clients, etc. A similar argument could be made for aid workers having sex with children, and indeed in some cases adults, from the beneficiary population they work with.

## Investigation Learning Programme

**Question:** If I have participated in the investigation learning programme am I a certified investigator?

- ✓ No. You have been trained to conduct investigations for your organisation however you are not a certified investigator. HAP is currently developing a certification process for investigators that will include examination of an actual investigation.

**Question:** Why does this learning programme focus on humanitarian and not development organisations?

- ✓ This Learning Programme was developed as a result of inter-agency efforts of humanitarian organisations to address abuse and exploitation of their staff. Moreover, Humanitarian Accountability Partnership International, a self regulatory membership organization of humanitarian agencies dedicated to making humanitarian action accountable to its intended beneficiaries, manages these learning programmes. However, much of the learning principles and skills gained during the trainings can be easily transferred to the development setting.

**Question:** Why does this learning programme focus on sexual exploitation and abuse and not on sexual harassment?

- ✓ This learning programme focuses on responding to sexual exploitation and abuse of recipients of aid by humanitarian staff. These investigations are often more complex and safety concerns of all parties augmented. Most organisations have internal policies addressing sexual harassment and should refer to those policies when a complaint of sexual harassment is made.

# HAP/Building Safer Organisations

## Investigations workshop

### Module 2 Facilitator notes

#### Complaints Response procedures

MFN2

#### MODULE 2 OBJECTIVES:

- Identify barriers to complaints and investigations.
- Describe the rationale for having a complaints response procedure.
- Describe procedures for implementing complaints response mechanisms.

#### SUGGESTED SCHEDULE

Session 1 – Complaints mechanism		Minutes allocated
08.30	Barriers to complaining – group exercise	30'
09.00	Complaints mechanisms – <i>Mountainites'</i> role play exercise	80'
10.20	BREAK	15'
10.35	Complaints mechanisms post role play	30'

#### MODULE 2 PREPARATION:

<b>Resources</b>	<p>Check the following equipment:</p> <ul style="list-style-type: none"> <li>• 1 x laptop</li> <li>• 1 x data projector</li> <li>• 4 x flipcharts, 4 x blocks of flipchart paper and flipchart pens</li> </ul> <p>Prepare the following:</p> <ul style="list-style-type: none"> <li>• venue set-up (arrange tables)</li> <li>• photocopy handouts as specified below</li> </ul>
<b>Handouts</b>	<p>Photocopy 1 per participant except mentioned otherwise (based on 20 participants):</p> <ul style="list-style-type: none"> <li>• HO4_Inv_Mountainites</li> <li>• HO5_Inv_AidWorkers (10 copies only)</li> <li>• HO6_Inv_Refugees (15 copies only)</li> <li>• HO7_Inv_Refugeeleaders (10 copies only)</li> <li>• HO8_Inv_Additional Information (3 copies only)</li> <li>• HO9_Inv_Complaints</li> </ul>

Time	Facilitator's notes	Resources
<p>08.30 (30')</p>	<p style="text-align: center;"><b>BARRIERS TO COMPLAINING – GROUP EXERCISE</b></p> <p><b>Aim – to give participants an opportunity to think about the reasons why people do not complain.</b></p> <p>Split the group into pairs. Alternatively, do exercise in plenary only. Ask each individual to think of a situation NOT related to child protection and sexual exploitation and abuse where they were going to complain but then did not. (The situation might relate to returning goods to a shop, a meal in a restaurant. They should choose something neutral, as they will have to share the experience with their partner.)</p> <p>Tell the participants to relate the event to their partner and then discuss what stopped them making a complaint. Allow the pairs 10' for discussion.</p> <p>Take feedback in plenary. Ask the participants what stopped them from complaining. Record their answers on the flipchart. Encourage discussion about why these might be barriers. Identify the following issues in discussion:</p> <ul style="list-style-type: none"> <li>• surprised in retrospect that they didn't complain</li> <li>• something particular about that situation that affected their capacity or will to complain</li> <li>• fear of reprisal</li> <li>• fear of losing job</li> <li>• feelings or emotions outside of the situation meant they did not have the energy or will to complain</li> <li>• thought complaint was too trivial, or that it would be perceived by others as such (explore who)</li> <li>• did not feel they had the right to complain</li> <li>• fear that they might not be believed</li> <li>• didn't know how or to whom to complain</li> <li>• time pressure or other pressing concerns</li> <li>• cultural issues and norms</li> </ul> <p>Give a brief presentation: tell them that this module will look in more detail at gender, age and faith as barriers to complaining as well as other barriers. This session will include a practical exercise. Invite comment and discussion about what barriers might exist in the settings participants work in. Conclude by saying that barriers exist at all levels of the complaints process inhibiting complaint, disclosure, intervention, investigation and action on sexual exploitation and abuse and implementing the BSO Guidelines.</p>	<ul style="list-style-type: none"> <li>• flipchart</li> <li>• markers</li> </ul> <p>Slide 41: Module 2 intro</p> <p>Slide 42: Cartoon</p> <p>Slide 43: Barriers to complaining exercise</p>
<p>09.00 (80')</p>	<p style="text-align: center;"><b>COMPLAINTS MECHANISMS</b></p> <p><b>Aim – to better understand the barriers encountered by beneficiaries when making complaints through role-play and to identify how humanitarian workers enhance or neglect beneficiary access to complaints mechanisms.</b></p> <p>Explain that the participants will now be doing a role-play and explain the case study. Tell the participants that there are three different roles, aid workers, refugees and refugee leaders. The success of the role-play will depend largely on how the groups are selected and how the time is managed. Select the groups before the session begins and have the names of participants and their groups on a flipchart. It is important to keep a tight control on time management, as each group is not allocated the same amount of time for each task.</p> <p>Divide the group into three.</p> <ul style="list-style-type: none"> <li>• Group A will play the <b>aid workers</b>. You should select between three and five participants to take on this role.</li> <li>• Group B will play the <b>refugee women and children</b>. (Half of the total number of participants should be in this group.)</li> <li>• Group C will be the <b>refugee leaders</b>. The leaders are an all male group.</li> </ul>	<p>HO4_Inv_Mountainites HO5_Inv_AidWorkers HO6_Inv_Refugees HO7_Inv_Refugee-Leaders HO8_Inv_Additional-Information</p> <p>Slide 44: Complaints mechanism Mountainites role play</p>



Time	Facilitator's notes	Resources																				
	<p>Handout the case study, HO4_Inv_Mountainites, to all the participants and move them to three separate physical locations (breakout rooms). The groups should not be able to hear each other's deliberations or see each other. They can read the case study while you hand out the role descriptions to each group. Start with group A, the aid workers. Explain the timing and the task clearly and answer any questions. Then move to the leaders and finally the women and children.</p> <p><b>Timing</b>  <b>The facilitators must stick to the timing outlined on the aid workers role description handout (HO5) meticulously.</b> Group A, the "aid workers" sets the timing for the entire exercise however groups B and C should not be aware of this.</p> <p>Group A has:</p> <ul style="list-style-type: none"> <li>• Approximately 15' to read the case study, HO4 (more time should be allotted if required by the group)</li> <li>• 15' to decide on how to proceed with their task</li> <li>• 15' to meet with the "refugee leaders", group C. (Bring the "refugee leaders" to meet with the "aid workers". It is irrelevant if the "refugee leaders" have or have not completed their tasks). Ten minutes into this meeting, give one copy of the HO8_Inv_AdditionalInformation to one of the "aid workers". S/he must decide themselves what to do with the information.</li> <li>• The exercise is completed after 45' (when the "aid workers" have met with the "refugee leaders" for 15'. It does not matter if the groups have not finished their tasks.)</li> </ul> <table border="1"> <thead> <tr> <th>Group / Timing</th> <th>0 – 15 minutes (more time allotted if needed by group A)</th> <th>15 – 30 minutes*</th> <th>30 – 45 minutes*</th> <th>After 45'</th> </tr> </thead> <tbody> <tr> <td><b>A – Aid workers</b></td> <td>Read the case study</td> <td>Discuss their task</td> <td>Meet with group C and receive HO8 10' into this meeting</td> <td>Plenary discussion</td> </tr> <tr> <td><b>B – Refugee women and children</b></td> <td>Read the case study</td> <td>Discuss their task</td> <td>Discuss their task</td> <td>Plenary discussion</td> </tr> <tr> <td><b>C – Refugee leaders</b></td> <td>Read the case study</td> <td>Discuss their task</td> <td>Meet with group A</td> <td>Plenary discussion</td> </tr> </tbody> </table> <p>* If a group asks to meet with another group, the facilitators should bring the requesting group to the other group. For example, if the refugee women and children ask to meet with the aid workers, the facilitators should bring the refugee women and children to the aid workers breakout room.</p> <p><b>Outcomes – plenary discussion</b>  After the exercise is finished, bring all the groups back together. In plenary ask each group, starting with the aid workers, to explain their role and tasks so that everyone understands what happened or did not happen. Also ask them to report back on how they felt during and after the exercise.</p> <p>There are several possible outcomes; all of which make valid and useful learning:</p> <ul style="list-style-type: none"> <li>• The aid workers will run out of time and not complete any of the tasks required.</li> <li>• The aid workers will not speak to either of the refugee groups.</li> <li>• The aid workers will complete part of the task but only speak to the leaders.</li> <li>• The aid workers will not receive any information on the domestic violence or the allegations of abuse by a colleague.</li> </ul>	Group / Timing	0 – 15 minutes (more time allotted if needed by group A)	15 – 30 minutes*	30 – 45 minutes*	After 45'	<b>A – Aid workers</b>	Read the case study	Discuss their task	Meet with group C and receive HO8 10' into this meeting	Plenary discussion	<b>B – Refugee women and children</b>	Read the case study	Discuss their task	Discuss their task	Plenary discussion	<b>C – Refugee leaders</b>	Read the case study	Discuss their task	Meet with group A	Plenary discussion	
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Time	Facilitator's notes	Resources
	<p>All of these outcomes are realistic reflections of what happens in crisis situations and illustrate the difficulties of enabling beneficiaries to have access to make complaints.</p> <p>Explain to the participants that emotions often run high at the end of this exercise. Feelings of frustration, annoyance and exasperation are normal and part of way the exercise was designed to replicate a real situation.</p> <p>Ask the participants to reflect on both the exercises and to reconsider what the barriers are to making complaints.</p>	
10.20	<b>BREAK</b>	<b>15'</b>
10.35 (50')	<p style="text-align: center;"><b>COMPLAINTS MECHANISM POST CASE STUDY</b></p> <p><b>Aim – to gain an understanding of the core principles of a functioning complaints mechanism and to identify what stops beneficiaries from reporting allegations of exploitation and abuse.</b></p> <p>In plenary ask the groups to discuss the question: "what are the obstacles to beneficiaries complaining?" Some possible responses are:</p> <ul style="list-style-type: none"> <li>• illiteracy,</li> <li>• language difficulties</li> <li>• access</li> <li>• gender</li> <li>• safety and security of victim</li> <li>• staff and subject of complaint</li> <li>• shame</li> <li>• fear of expatriates</li> <li>• current conditions such as war, famine</li> <li>• fear of reprisal</li> <li>• fear of getting it wrong</li> <li>• fear that source of income (maybe to sustain life) will be cut off</li> <li>• fear of losing job</li> <li>• status</li> <li>• cultural issues and norms (it is seen as acceptable practice in the country/region)</li> <li>• think the abuse was too trivial, or thought it would be perceived by others as such</li> <li>• fear of or respect for senior employees or ex-patriots</li> <li>• lack of knowledge about how or to whom to complain</li> <li>• lack of support mechanisms (isolation from the community)</li> <li>• age (children are much less likely to report)</li> </ul> <p>Write the responses on a flipchart that is divided into four columns. Do not tell them what the columns represent but write responses under the four following heading: barriers from within the individual complainant, barriers from their culture, organisational barriers and barriers created by aid workers.</p> <p>During the discussion, try to get participants to recognise that the institutions we work for and we ourselves as aid workers put in place barriers too. With the assistance of the slides, further discuss the barriers to complaining for children and myths about disabled people.</p> <p>In plenary ask the whole group:</p> <ul style="list-style-type: none"> <li>• "What are the core principles in developing a complaints mechanism?"</li> <li>• "How can you implement a functioning complaints mechanism?"</li> </ul> <p>Refer back to the work the participants did in pre-workshop assignment 3.</p> <p>After the exercise, mention the advantages of implementing codes of conduct, reporting protocols and best practice guidance, namely:</p> <ul style="list-style-type: none"> <li>• <b>Protection for women and children.</b> Those who have suffered sexual exploitation/abuse can be protected and the rigorous application of such protocols acts as a preventative measure.</li> <li>• <b>Protection for staff.</b> By implementing a code and the HAP/BSO Guidelines staff will understand the organisation's expectations about their behaviour and what to do if they observe or are made aware of inappropriate behaviour on the part of others.</li> <li>• <b>Protecting the organisation's reputation.</b> By implementing these protocols NGOs are making clear their commitment to protect the rights of women and children by doing whatever is possible to prevent sexual exploitation and abuse. A code of conduct and supporting protocols will ensure that NGOs move towards best practice and deter those who wish to abuse beneficiaries from joining the organisation.</li> </ul>	<p>Slide 45: Barriers to children...</p> <p>Slide 46: Why adults do not hear</p> <p>Slide 47: Myths about abuse of the disabled</p> <p>Slide 48: Core principles HO9_Inv_Complaints</p> <p>Slide 49: The advantages of ensuring implementation</p>

# HAP/Building Safer Organisations

## Investigations workshop

### Module 3 Facilitator notes

#### Factors influencing protection and abuse

MFN3

#### MODULE 3 OBJECTIVES:

- Describe how gender and age analysis can be used to explore who is at risk of sexual exploitation and abuse.
- Explore the causes of violence against women and children.
- Describe who might be a perpetrator of sexual violence.
- Examine how faith and personal values can impact on the conduct of investigations.

#### SUGGESTED SCHEDULE

Session 1 – Gender and age analysis		Minutes allocated
11.05	Gender and age analysis	75'
12.20	LUNCH	60'
Session 2 – Faith and personal values		
13.20	Faith and personal values – presentation	75'

#### MODULE 3 PREPARATION:

<b>Resources</b>	<p>Check the following equipment:</p> <ul style="list-style-type: none"> <li>• 1 x laptop</li> <li>• 1 x data projector</li> <li>• 4 x flipcharts, 4 x blocks of flipchart paper and flipchart pens</li> <li>• video for active listening exercise</li> </ul> <p>Prepare the following:</p> <ul style="list-style-type: none"> <li>• venue set-up</li> <li>• photocopy handouts as specified below</li> </ul>
<b>Handouts</b>	<p>1 photocopy per participant:</p> <ul style="list-style-type: none"> <li>• HO10_Inv_GenderAndAgeAnalysis</li> <li>• HO11_Inv_Faith</li> </ul>

Time	Facilitator's notes	Resources
<p>11.05 (75')</p>	<p>Remind the group conducting today's evaluation of their task.</p> <p style="text-align: center;"><b>GENDER AND AGE ANALYSIS</b></p> <p><b>Aim – to explore concept that different risks exist for women and children based on age and gender and that these factors impact on any investigation and to identify that gender and age are major factors in creating additional risks for displaced persons.</b></p> <p><b>Introduction</b> Review the session on international law, specifically highlighting that it establishes the rights of women and children to protection from violence, including physical, sexual or mental violence, maltreatment, exploitation and abuse.</p> <ul style="list-style-type: none"> <li>• <b>UN Declaration on the Elimination of Violence against Women - 1993</b> <i>"Any act of gender based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in the private life"</i></li> <li>• <b>Convention on the Rights of the Child Article 19.1, 1989</b> <i>"protection 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 parents, legal guardians or any other person who has the care of the child"</i></li> </ul> <p>These laws were developed as a direct result of a gender/age analysis of violence against women and children and in recognition that existing laws did not address the problem.</p> <p>Distribute HO10_Inv_DefiningTermsandFaith to all participants as a guidance for the presentation.</p> <p><b>Exercise - Vulnerability of women and children to abuse and exploitation</b> (1) Divide the participants into groups of 3-4. Give 5 minutes to briefly discuss the following question:</p> <ul style="list-style-type: none"> <li>• Why are there specific international laws that refers to the protection of women and children from violence, exploitation and abuse?</li> </ul> <p>After 5' ask the participants to remain in their groups but discuss in plenary the reasons for specific protection of children and women.</p> <p>Children are at greater risk of exploitation because of their:</p> <ul style="list-style-type: none"> <li>• physical status – smaller, less powerful, less strong, less able to resist ill treatment and poor health</li> <li>• societal status – unable to provide for most basic needs and exercise most basic rights e.g. food, shelter</li> <li>• developmental status – less emotional comprehension, developing conscience and understanding of consequences</li> </ul> <p>Women are at a greater risk of sexual violence, including exploitation and abuse because of their:</p> <ul style="list-style-type: none"> <li>• traditionally subordinate status relative to men</li> <li>• traditional roles, responsibilities and culture</li> <li>• physical status, strength and exposure to sexual violence</li> <li>• lower economic status relative to men</li> </ul>	<ul style="list-style-type: none"> <li>• flipchart</li> <li>• markers</li> </ul> <p>Slide 50: Intro</p> <p>Slide 51: Punctuation is powerful</p> <p>Slide 52: UN declaration on the elimination of violence against women</p> <p>Slide 53: Convention on the rights of the child</p> <p>Slide 54: Vulnerability to exploitation and abuse – children</p> <p>Slide 55: Vulnerability to exploitation and abuse – women</p> <p>Slide 56: Vulnerability to exploitation and abuse – refugees</p>

Time	Facilitator's notes	Resources
	<p>Anyone can be at risk of exploitation, but the majority of survivors/victims of gender based violence are women and girls. In one large UN agency, 99% of victim complainants of exploitation and abuse were women or girls. It should be noted that boys (and some men) may also be targeted for sexual exploitation and abuse. However, given the social taboos that may exist regarding homosexuality, it is often difficult for them to come forward and complain. The concept of gender violence applies equally to girls and boys as violence against children can be gender violence. For example, a Save the Children UK, study showed that 91% of murders of street children in Guatemala in 2001 were boys while in the UK 21% of girls have experienced sexual abuse and 11% of boys.</p> <p>Conversely, the perpetrators or SOCs of sexual exploitation and abuse are most often men. In 1995 and 1996, between 1% and 2% of convicted sex offenders in the UK were women. (Marcus Erooga, 2002, <i>Adult Sex Offenders</i>, NSPCC). In the UN, approximately 1% of the SOC (subjects of complaints) were women.</p> <p><b>Exercise – Gender and sex</b> Give participants 5' to discuss in plenary what they understand as the difference between gender and sex and the meaning of gender roles.</p> <p>Provide the participants with the following answer: <b>Sex</b> – refers to biologically determined differences between men and women that are universal. <b>Gender</b> – refers to the social differences between men and women that are learned, changeable over time and have wide variations both within and between cultures. The term gender generally refers to:</p> <ul style="list-style-type: none"> <li>• the socially constructed and culturally determined characteristics associated with women and men, boys and girls;</li> <li>• the assumptions made about the skills and abilities of women and men based on these characteristics;</li> <li>• the conditions in which women and men live and work;</li> <li>• the relations that exist between women and men, and how these are represented, communicated, transmitted and maintained. This includes sexual and social relations, and relations of power and control based on gender.</li> </ul> <p><b>Plenary discussion – Boys and girls</b> Initiate a discussion on the theme by asking the following questions:</p> <ul style="list-style-type: none"> <li>• <b>When a child is born</b>, what is one of the first questions that we ask when we hear that a friend or colleague has just had a baby? Answer: Is it a boy or a girl?</li> <li>• <b>Why do we ask that question?</b> Answer: One of the reasons we ask that question is because we are unconsciously already starting to map the social path of that child. We already have expectations for that child based on whether it is boy or a girl. In some cultures, a different value is placed on boy and girl children. Ask participants for examples. <b>Examples:</b> a midwife might be paid more if a boy is born, a girl child may be killed, a girl child may be denied food as she is not as valued, birth of a girl child may be seen as "bad luck", boys grow up to support families. In some countries the birth of a boy is cause for celebration, while that of a girl may be a disappointment. Are there any cultures where the birth of a boy is a disappointment?</li> </ul>	<p>Slide 57: Definitions</p> <p>Slide 58: Boys and Girls</p>

Time	Facilitator's notes	Resources
	<p><b>Exercise – Own experience of gender</b></p> <p>Ask the groups briefly discuss the following questions and to write up their answers on flipchart paper with markers:</p> <ul style="list-style-type: none"> <li>• What was the message?</li> <li>• Who gave you this message?</li> <li>• How did this make you feel?</li> </ul> <p>The groups are to use one flipchart for boys and one for girls. Each flip chart will have three columns representing each question. The first column will be the widest. Allow 20' for the group work.</p> <p>Some possible examples are:</p> <p><b>(1) What was the message?</b> Men are the breadwinners, men protect women, boys don't cry, girls can't be a jockey, girls can't climb trees, girls have dolls and boys have trucks.</p> <p><b>(2) Who gave that message?</b> It is important that the group raises the point that it is not just men telling women what they can and can't do ; quite often it is women who perpetuate limitations. In addition, children's peers perpetuate gender stereotypes. Men and women are equally responsible for passing messages. Sometimes the message is contradictory (i.e. men protect women but who do they protect them from – other men), sometimes it is positive, and sometimes it is negative.</p> <p><b>(3) How did the message make you feel?</b> Special, brave, frustrated, excluded.</p> <p>Point out patterns and summarise by saying that the messages can be negative for both boys and girls. For example, girls are often given messages about limiting their aspirations, while boys are given messages about restricting their emotions. Both cases are frustrating and disappointing.</p> <p>Ask the group: What are your observations on the responses? Ask the participants why they felt that way. Analyze their feelings. Briefly point out patterns, and other conclusions or observations noted during this exercise. In plenary discuss the following:</p> <p>(1) What is common about the activities girls are told to do? What about boys? Are girls activities less valued? Highlight the difference in roles and characteristics assigned to boys and girls and how these are valued differently. Often girls are praised or encouraged to do domestic activities well, while boys are encouraged to be brave, protective and strong.</p> <p>(2) What happens to people who do not observe the gender roles? The benefit is that it can be liberating, but some form of punishment or sanction often follows. For example, even as children, there is name-calling, 'tomboy', 'sissy', and 'cry baby'.</p> <p>This exercise illustrates:</p> <ul style="list-style-type: none"> <li>• that gender is socially constructed. It changes from culture to culture and over time, i.e., what was true for your grandmother and mother may no longer be the case today;</li> <li>• the different roles and responsibilities of men and women and the <u>values</u> assigned to them. Most cultures place a higher value on productive roles (paid labour), than on domestic/reproductive work (unpaid labour);</li> <li>• that men and women (and boys and girls) are responsible for reproducing gender roles;</li> <li>• the socialisation process can be negative for males and females of all ages, for example often women's aspirations are limited by gender while men's emotions are limited by gender expectations;</li> <li>• the messages we receive are systematic;</li> <li>• limitations of gender roles;</li> <li>• limits on female aspirations and male emotions;</li> <li>• gender roles are deeply embedded in our own lives and in social structures;</li> <li>• gender affects us even as children.</li> </ul>	<p>Slide 59: Cycle of gender gaps</p> <p>Slide 60: Gender constructions</p>









Time	Facilitator's notes	Resources
	<p>The following points should be identified during the discussion:</p> <p><b>a. Relationships and perceptions of women and children</b>            This refers to how relationships within the faith community are perceived. For example:</p> <ul style="list-style-type: none"> <li>• How does the community perceive child/adult, adult male/adult female, child/child interaction</li> <li>• Is the child considered an individual with human rights? In some faith communities' children are seen as needing strict discipline so as not to go astray.</li> <li>• Do women have specific roles in the community? In some communities women are not included in decision-making.</li> <li>• How is original sin understood? In some communities women are held responsible for sexual purity.</li> </ul> <p><b>Illustration</b>            Victoria Climbié from Ivory Coast came to UK aged 8 to live with an aunt. At the public inquiry into her death, the pastor of the church her aunt belonged to testified to advising the aunt that Victoria was possessed and that physical chastisement and fasting could rid her of the demons. The pastor stated that Victoria's aunt misunderstood the advice and beat, tortured and starved the child to death. The pastor was aware of allegations that the aunt's boyfriend was sexually abusing the child but ignored these as he felt the child was unattractive and would not instil lust. In addition, social services workers who saw the child on several occasions attributed her silence and rigid comportment to cultural values of respect for authority.</p> <p><b>b. Social structure – the inter-relationship between society, culture and religion</b>            Religious values are linked to the culture and values of the wider society. There are very few societies which are completely impervious to religious attitudes especially in relation to sexuality and sexual behaviour. In some cases, societies will not bring themselves to challenge the integrity of religious leaders or their representatives. For example, an offending leader may be described as warm, friendly, outgoing, engaging, magnetic, and caring by the media, courtrooms and witnesses as this is part of the cultural norm to attribute these characteristics to a person in such a role.</p> <p>The language within theology can also suggest social deference to a representative of the faith, giving leaders and representatives heightened status resulting in disbelief that they could abuse and reinterpretation of the act. For example, representatives of a faith could not possibly be abusers, therefore a member of the community must have seduced an Imam or a lay preacher's attempts to help a child must have been misunderstood. Even in societies where some religious leaders have been exposed as abusers, such as USA and UK, there is still resistance to challenging society's deference to church leaders.</p> <p>Similarly, in order to avoid appearing prejudiced, secular agencies do not question abusive practices which have been explained away on religious grounds. For example, aid workers may not challenge local teachers beating children because they consider it to be a cultural norm.</p> <p>Equally, societal attitudes impact on attitudes within a faith community. Western societies have seen changing attitudes towards sexuality, the emancipation of women, divorce and contraception. These changes have had an impact on faith communities. For example, until recently child sex abuse was not recognised in many western societies, including the UK, as it was felt it was not possible. As a result church communities did not report such abuses. Now it is a crime no matter who the perpetrator is. Similarly, women did not have a role in government until relatively recently. Now women are represented in most arenas and now have the possibility of being ordained as ministers in some faith communities.</p>	

Time	Facilitator's notes	Resources
	<p>Social factors influence faith communities and faith influences society. For example:</p> <ul style="list-style-type: none"> <li>• Politics – political regimes, values of lawmakers. For example, when a country feels insecure, there is a tendency towards conservative religious thinking.</li> <li>• Economy – state of society's economic well being. For example, economic adversity can lead to a change in roles within families. This can result in women working outside the home when this was not previously sanctioned. Alternatively, it can result in women being discouraged from taking jobs from men who are more traditionally considered as the 'head of the household' or 'provider'.</li> <li>• Science and knowledge – new information and understanding. For example, scientific discoveries can result in changes in thinking and beliefs.</li> </ul> <p><b>c. Beliefs – the beliefs that the faithful adhere to.</b> For example, the language of the Christian faith identifies that there is good and evil as well as sinners and the sinned against. This implies a level of acknowledgement that evil and bad people exist. This can be interpreted in extreme cases as a view that sexual abuse is part of "life" and that if all sin is equally bad in God's eyes<sup>1</sup> then the abuser will not be seen as having done something worse than the person who steals from donations made by members of the group.</p> <p>On the other hand, it could also be interpreted that people who abuse children are outside of the faith community and by not following the values of the religion, have strayed and need be spiritually "saved".</p> <p><b>d. Management tradition – how faith communities manage allegations of abuse, offenders and survivors of abuse.</b> In many faith communities, if misconduct or failure to protect is discovered the offender is moved to another position within the faith community. Many faiths have strong beliefs that redemption and forgiveness absolve people of their wrong doings. In some religions this is interpreted as meaning that offenders can seek absolution through confession and repentance, after which they can continue to work with vulnerable people as if they never sinned. For example, a priest who is the subject of an allegation of abuse is moved from his parish to be the priest elsewhere.</p> <p>Management tradition also impacts on how victims of abuse by religious leaders are treated. In some cases they may be blamed as "seducers". Alternatively, survivors of abuse might be encouraged to find resolution for their pain and suffering by forgiving the perpetrator. On the other hand, faith based groups have also set up support networks for survivors of abuse in faith communities recognising that they have suffered and backing their efforts to seek redress.</p> <p>Ask the group what they think about victims forgiving their abusers?</p> <p><b>e. Manipulation of the system – offenders who "groom" faith groups and their leaders to manipulate circumstances and create opportunities to abuse.</b> The majority of abuse is not spontaneous. Individuals have motivations to abuse, which precede an offence.<sup>1</sup> This motivation or inclination can be fuelled by their position of power within a community that also provides opportunities to abuse. Members of the community defer to, admire and listen to the individual which gives them a sense of pride in their role. The source of their authority is "a higher power or deity" and they may believe that they have been called to this role. This makes</p>	

<sup>1</sup> For example within Christianity, sexual abuse can be attributed to our "fallen nature", and the universal condition of humankind summed up in the Bible Romans 3.23 that "all have sinned".

Time	Facilitator's notes	Resources
	<p>challenging their actions very difficult. At the same time it will create opportunities to enter people's lives and develop intimate relationships that are normally only available to close family and friends. An individual may believe because the victim did not complain, they wanted a "relationship" or consented. In this way they will seek to justify and excuse abusive behaviour.</p> <p>This pattern of manipulation and calculation means that some abusers seek work in a faith-based organisation, as they know that people are generally more forgiving, trusting and want to believe the best of everyone. In addition, they know that in some organisations if they are caught, repentance may be enough to secure a pardon and avoid prosecution.</p> <p><b>(2) THE INDIVIDUAL</b></p> <p>All individuals will have personal values and belief systems, which may or may not be consciously shaped by faith and religion. Everyone is entitled to his or her personal values and to practice their beliefs. However, individuals need to think about their personal beliefs and how these may influence their judgements or capacity to investigate allegations of abuse in much the same way as gender, culture and experience will impact on how decisions are made.</p> <p>Whether or not individuals practice a faith or religion, his/her life and beliefs will at some level be touched if not shaped by religion. The media and society constantly influences individuals through providing news and information about faith groups, often inaccurately. As an individual investigators should take time to stop and think about their personal values and the views and opinions they hold about different religions. It is challenging to maintain objectivity when faith or personal values are concerned. Ask the group how they manage their religious beliefs when they are in conflict with situations that arise in their professional life?</p> <p><b>Exercise – Values and attitudes</b></p> <p>Ask the group to complete the question sheet, HO11_Inv_Faith. Tell them that their answers can remain private if they wish. The purpose is to begin to explore their values and beliefs. Instruct them to answer the questions based on their first reaction. It may cause a range of feelings so people need to be reassured about the learning principles and working safely together. They will then be asked to go into pairs or small groups with people they are comfortable with to discuss their reactions and thoughts.</p> <p>Give the pairs 10' to discuss the questions.</p> <p>Bring the group to back together and ask if there were any points they wanted to raise with the whole group. How did it make them feel? Was there any discomfort? How might their responses to the statements impact on an investigation into sexual abuse or exploitation?</p> <p>When dealing with complaints that involve a faith dimension the individuals involved may also hold very different views about such topics. Therefore judgments, decisions and protecting intervention can often be influenced by these conscious or subconscious views.</p> <p>Conclude with practical tips when concluding an investigation, Slide 71.</p>	<p>Slide 67: The individual</p> <p>Slides 68-70: Personal values exercise</p> <p>HO11_Inv_Faith</p> <p>Slide 71: Faith and personal values practical tips</p>

<sup>1</sup> Finkelhor, 1984

# HAP/Building Safer Organisations

## Investigations workshop

### Module 4 Facilitator notes

#### Investigation Procedures

MFN4

#### MODULE 4 OBJECTIVES:

- Introduce the HAP/Building Safer Organisations Guidelines (BSO).
- Outline the principles underlying investigation procedures and their importance.
- Identify and practice core skills used in investigations.
- Describe how to gain information and research complaints.
- Explore potential sources for evidence.

#### SUGGESTED SCHEDULE

Session 1 – Investigations procedures		Minutes allocated
14.35	HAP/BSO Guidelines – presentation	50'
15.25	BREAK	15'
15.40	Principles – group exercise then evaluation	90'
17.10	Evaluation	15'
<b>DAY 3</b>		
Session 2 – Investigation skills		
08.30	Investigation skills – brainstorm exercise	15'
08.45	Observation – exercise	15'
09.00	Active listening – exercise	30'
09.30	Gathering information – presentation	20'
09.50	Information sources – case study exercise	45'
10.35	BREAK	15'

#### MODULE 4 PREPARATION:

<b>Resources</b>	<p>Check the following equipment:</p> <ul style="list-style-type: none"> <li>• 1 x lap top</li> <li>• 1 x data projector</li> <li>• 4 x flipcharts, 4 x blocks of flipchart paper, flipchart pens</li> </ul> <p>Prepare the following:</p> <ul style="list-style-type: none"> <li>• venue set-up (arrange tables)</li> <li>• photocopy handouts as specified below</li> <li>• prepare video for active listening</li> </ul>
<b>Handouts</b>	<p>HO12_Inv_Principles            HO13_Inv_WitnessesWithNeeds            HO14_Inv_InterviewingChildren            HO15_Inv_HollywoodAid</p>
<b>Additional facilitator notes</b>	<p>The following document gives guidance on key messages to be elicited from the exercises.            AFN4_Inv; PWM3 HAP/BSO Guidelines</p>

Time	Facilitator's notes	Resources
14.35 (50')	<p style="text-align: center;"><b>BSO GUIDELINES</b></p> <p><b>Aim – to demonstrate the importance of having a complaints and investigation procedure.</b></p> <p>Give a brief presentation on HAP with the assistance of slides 78-84. Distribute the Guidelines.</p> <p>In pairs ask them to discuss:</p> <ul style="list-style-type: none"> <li>• one thing that surprised them</li> <li>• one thing they think is good about the guidelines</li> </ul> <p>Allow 10' for discussion and sharing in plenary.</p> <p>Give a brief presentation on the guidelines using the PowerPoint slides. Discuss why it is important to have complaints and investigation protocols, the aim of the document and what it clarifies.</p> <p>Before closing, review the structure of the document:</p> <p><b>Introduction</b></p> <ol style="list-style-type: none"> <li>1. Purpose and applicability</li> <li>2. Benefits</li> <li>3. How to use these guidelines</li> </ol> <p><b>Designing and implementing an effective complaint mechanism</b></p> <ol style="list-style-type: none"> <li>1. What is a complaints mechanism?</li> <li>2. Why is it important</li> <li>3. Who is responsible</li> <li>4. How to create a complaints mechanism</li> </ol> <p><b>Steps for ensuring an appropriate initial response</b></p> <ol style="list-style-type: none"> <li>1. Receiving an allegation</li> <li>2. Deciding whether to investigate</li> <li>3. Appointing the investigation team</li> <li>4. Preliminary considerations for the investigation</li> </ol> <p><b>Conducting an effective and legally enforceable investigation</b></p> <ol style="list-style-type: none"> <li>1. Gathering documentary evidence</li> <li>2. Gathering evidence from witnesses</li> <li>3. Gathering physical evidence and conducting site visits</li> <li>4. Validating evidence</li> </ol> <p><b>Report writing and Complaints follow-up</b></p> <ol style="list-style-type: none"> <li>1. Reporting on findings</li> <li>2. Follow-up after the report</li> </ol>	<p>Slides 78-84: HAP presentation</p> <p>Slide 72: Intro Slide 73: When Ma asked me...</p>
15.25	<b>BREAK</b>	<b>15'</b>
15.40 (90')	<p style="text-align: center;"><b>PRINCIPLES</b></p> <p><b>Aim – to bring the principles of conducting an investigation to “life” and demonstrate their importance.</b></p> <p>In pairs, ask participants to share a principle that they have for everyday life. After 5' present the definitions of principles to the group then present slide 87 reviewing all 12 principles.</p> <p>Split participants in pairs or trios. Distribute the HO12_ Principles (POPAID). Give each pair flipchart paper and allocate the principles until all are equally assigned. Ask the pairs to write their assigned principle(s) on the flipchart paper followed by answers to the relevant questions (see HO12).</p> <p>If you assign two (or more) principles per pair, match the principles to stimulate discussion in each pair – some are more straight-forward than others, some are more practical than others or more about process.</p>	<p>HO12_ Principles AFN4_Inv Slide 85: Principles Slide 86: Definitions of principle Slide 87: Core principles of investigation</p> <ul style="list-style-type: none"> <li>• flipcharts</li> <li>• markers</li> </ul> <p>Slide 88: Principles case study</p>

Time	Facilitator's notes	Resources
	<p>So for example:</p> <ul style="list-style-type: none"> <li>• thoroughness and anonymity</li> <li>• professionalism and health and welfare</li> <li>• planning and reviewing and safety</li> <li>• respect and working in partnership</li> <li>• legality and confidentiality</li> <li>• timeliness and independence</li> </ul> <p>Allow 30' for group discussions. Bring everyone back together and put up the charts. Invite groups to walk around and read the charts. Ask the participants to write comments to the flipcharts if they have information to add to the principle or if they disagree with a group's answer.</p> <p>Ask for questions, observations, points of clarification. Use AFN4_Inv for guidance on feedback.</p> <p>Consider which principles might be more controversial in promoting different views:</p> <ul style="list-style-type: none"> <li>• legality, specifically when to involve national authorities</li> <li>• confidentiality</li> <li>• planning and reviewing</li> </ul> <p>Challenge the groups about how their own interpretation of the principles affected their thoughts during this exercise and discuss how this might impact on their role as investigators.</p> <p><b>Presentation</b> – Allow 20' to provide a quick overview of the basic principles and stages of an investigation. Use slides 91 – 95 to discuss factors participants should consider when conducting interviews.</p> <p>Discuss safety issues for victims and witnesses that investigators should take into account and mitigate. They should consider:</p> <ul style="list-style-type: none"> <li>• Has the current allegation identified any on-going vulnerability of the victim/witness?</li> <li>• Who is responsible for their welfare? Who is responsible in absence of named person?</li> <li>• Does the victim/witness know how to report concerns re harassment/intimidation?</li> <li>• What family/friends/professional support networks are available and how can they be accessed?</li> </ul> <p>The initial risk assessment and management plan should be developed before the interviews begin and amended as appropriate.</p> <p>Distribute HO13_WitnesseswithNeeds and HO14_InterviewingChildren and discuss the interviewing witnesses with special needs and interviewing children.</p>	<p>Slide 89: Basic principles of investigation Slide 90: Stages of investigation</p> <p>Slides 91-95: Interviewing witnesses and victims</p> <p>HO13_WitnesseswithNeeds HO14_Interviewing-Children</p>
17.10 (15')	<b>EVALUATION</b>	
<b>DAY 3</b>		
08.30 (15')	<p style="text-align: center;"><b>INVESTIGATION SKILLS AND QUALITIES</b></p> <p><b>Aim – to identify core skills required for investigating complaints.</b></p> <p>Explain that the purpose of this session is to identify various skills and personal qualities investigators need. Inform the group that they are likely to have the necessary skills to undertake the role of investigator, but they need see their skills in a different light.</p> <p>Ask the group what are the core skills and qualities required by an investigator? Record answers on the flipchart (e.g. planning, communication, thoroughness, <b>listening, observation</b>, adaptability, structure, cultural sensitivity, analytical, curious, common sense, creativity, neutrality, objectivity, independence.)</p>	<ul style="list-style-type: none"> <li>• flipchart</li> <li>• markers</li> </ul>

Time	Facilitator's notes	Resources
<p>08.45 (15')</p>	<p style="text-align: center;"><b>OBSERVATION</b></p> <p><b>Aim – to demonstrate how observations will be influenced by our own attitudes, beliefs and personal experiences.</b></p> <p>Explain that they will look at a series of slides which can be interpreted in a different way by participants. The aim of the session is to observe well and try to understand and express what the picture shows, as a picture but as well expressing feelings.</p> <p>Show slide 96 and give participants 5' to share in plenary what they see and what they feel.</p> <p>Repeat the exercise with slide 97 and 98. Do not tell them from the start what the picture is in reality but at the end of the session.</p> <p>Slide 96: In the Vandenstock stadium, Anderlecht Police forces charge supporters from Anderlecht during Game from the Champions League at home versus the Turkish Fenerbace (Geert Vanden Wijngaert) – 29/08/2007</p> <p>Slide 97: Taken in Southern Mexico, State of Chiapas – The leader of the Indian Liberation Army, Sub-commandante Marcos (in reality Raphaël Guillèn) is invited for the first time for official talks with the Mexican government. The pasa-montana, the weapon and the pipe are his usual outfit for the last 20 years and not meant to be threatening (Ester Dross) - 1999</p> <p>Slide 98: Taken in Southern Sudan, young boys herding cattle (Ester Dross) - 2003</p> <p>Explain that personal biases can colour the way we see things. This needs to be recognised and managed by individuals to be an objective investigator. Refer to the benefits of working as a team with a co-investigator and to the importance of having all the facts before jumping to conclusions.</p>	<p>Slides 96-98: Photos</p>
<p>09.00 (30')</p>	<p style="text-align: center;"><b>ACTIVE LISTENING</b></p> <p><b>Aim – to describe and practice listening on three levels.</b></p> <p>Explain the cycle as an active process, not passive. Individuals need to pay attention to ensure that they can assimilate the maximum amount of information with as much understanding as possible.</p> <p>In recognising feelings, people gather more information. It is also useful in interviews to give the interviewee reassurance and acknowledgment of them as a human being. This helps build rapport.</p> <p>Explain that there are three levels on which we listen to others: fact, feeling and intent. Using the slide, describe each of these levels. Tell the group that they are going to watch a short video clip. Assign each participant one of the 3 levels of listening and ask them to write their word down. Explain this is the level they are going to be listening on. They are not to take any notes but remember what they can by listening at the level they have been given.</p> <p>Play the video clip: Living within the limits and credit the UNHCR Protection Learning Programme for the production of the video.</p> <p>Split the participants into three groups (one to cover each of the different levels) and discuss what they heard for 10'.</p> <p>Regroup and ask for any reactions to that exercise. It is important that participants are able to accurately describe and differentiate what they actually heard: "That girl was raped over there in the marches", what the woman was feeling when she said these words (anger, fear) and her possible intention of giving the information i.e. she wants something done about it, she herself may have been the victim etc.</p>	<p>Video: Living within the limits</p> <p>Slide 99: Active listening cycle</p> <p>Slide 100: Levels of listening</p>



Time	Facilitator's notes	Resources
09.30 (20')	<p align="center"><b>GATHERING INFORMATION – PRESENTATION</b></p> <p><b>Aim – to describe how to collect information and research complaints.</b></p> <p>Explain the difference between complaint and allegation (Slide 101).</p> <p>Give brief presentation on obtaining information with assistance of Slides 101 to 112.</p> <p>Ask participants for their experiences of gathering information and researching complaints.</p> <p>Be sure to explain the difference between complaint and allegation.</p>	<p>Slide 101: Differences between complaint and allegation</p> <p>Slides 102-112: Gathering information</p>
09.50 (45')	<p align="center"><b>INFORMATION SOURCES – CASE STUDY EXERCISE</b></p> <p><b>Aim – to explore where potential sources of evidence might be.</b></p> <p>Split the participants into group of 3-4. Handout Hollywood Aid case study, HO15_Inv_HollywoodAid.</p> <p>Give the participants 15' to read through the case study. Ask the groups to identify different sources of information they could pursue in this case study. Allow 15' for group discussion.</p> <p>Take feedback in plenary and record sources of evidence on flipchart. Inform participants that it may be useful to personally record the sources of information, as this case study will be used throughout the rest of the workshop.</p>	<p>HO15_Inv_Hollywood-Aid</p> <ul style="list-style-type: none"> <li>• flipcharts</li> <li>• markers</li> </ul>
10.35	<b>BREAK</b>	<b>15'</b>

# HAP/Building Safer Organisations

## Investigations workshop

### Additional facilitator notes – Module 4

#### Investigation procedures

AFN4

### Principles – Guidance for group discussion

<b>CONFIDENTIALITY</b>	<p><b>What are the issues related to this principle?</b></p> <ul style="list-style-type: none"> <li>• Is it alright for Peter to approach Charles?</li> <li>• Should he ask other colleagues?</li> <li>• Whose confidentiality is compromised when Peter and Charles approach the girls? The girls', the driver's, the medical co-ordinator, and the other driver's?</li> <li>• The Deputy Director? Should s/he know?</li> <li>• The Country Director? Should s/he know?</li> <li>• Mary? Should she know?</li> <li>• How can the situation of living in a shared house be managed?</li> <li>• Who was informed at the Gender Based Violence (GBV) Programme? Was the programme manager contacted directly?</li> <li>• Who is the camp management agency? What do they need to know and why?</li> <li>• Who can hear the radio broadcasts? Were the girls details broadcast?</li> <li>• Who has access to the email system? Is it secure?</li> <li>• How did the 'news' reach Victim 2's father?</li> <li>• How might the principle of confidentiality best be applied in investigation from now on?</li> <li>• 3 x agencies agree to one investigation. How can information best be coordinated and shared between other agencies, authorities and the police?</li> </ul> <p><b>How can the principle of confidentiality be upheld during the investigation?</b></p> <ul style="list-style-type: none"> <li>• provide briefings to staff to advise them of basic details of the incident without disclosing names or identifying details of anyone involved and reassuring them the case is being dealt with</li> <li>• remind staff of the importance of confidentiality</li> <li>• agree communication methods – codes if over radio</li> <li>• carry out rapid interviews of all involved</li> <li>• maintain contact with the family</li> </ul>
<b>ANONYMITY</b>	<p><b>Who might want to remain anonymous and why?</b></p> <ol style="list-style-type: none"> <li>1. <b>Girls</b> because of :             <ul style="list-style-type: none"> <li>• safety at home</li> <li>• family reprisals</li> <li>• reaction by medics</li> <li>• may have been bribed, forced</li> </ul> </li> <li>2. <b>Charles</b> who has no involvement other than Peter asking for advice.</li> <li>3. <b>Other drivers?</b></li> <li>4. <b>GBV worker, Lydia.</b> The 14 year old felt able to approach so this aid worker may have trust of women in the community.</li> <li>5. <b>Father</b> because of family shame, reaction by community.</li> <li>6. <b>Other witnesses</b> because of fear of reprisals.</li> </ol> <p><b>How can the principle of anonymity be upheld during the investigation?</b></p> <ul style="list-style-type: none"> <li>• complaints box</li> <li>• via lodging the complaint through a third person, such as a community elder</li> <li>• written statements</li> </ul>

<p><b>SAFETY</b></p> <p><b>ANALYSIS OF THE RISKS</b></p>	<p><b>What are the risks to the safety of the two girls?</b></p> <ul style="list-style-type: none"> <li>• family</li> <li>• subject of complaint</li> <li>• community now widely known</li> <li>• heightened risk as thrown out</li> <li>• risk of violence and further abuse by several sources</li> </ul> <p><b>Who else might be at risk and what are the safety risks to consider?</b></p> <ul style="list-style-type: none"> <li>• workers</li> <li>• other girls</li> <li>• witnesses</li> <li>• siblings</li> <li>• mother</li> <li>• Peter</li> <li>• Driver</li> <li>• Senior Medical Officer</li> <li>• GVB workers</li> <li>• guest house staff</li> </ul> <p><b>How might the investigation facilitate the safety of the girls from now on?</b></p> <ul style="list-style-type: none"> <li>• discuss with GBV programme</li> <li>• safe house</li> <li>• locate sister and discuss safety</li> <li>• safety of female investigator and/or staff</li> <li>• consider the safety needs of other witnesses identified during investigation</li> <li>• manage staff anxieties</li> <li>• suspend/remove Henry the Senior Medical Officer</li> </ul>
<p><b>HEALTH AND WELFARE</b></p>	<p><b>What immediate health and welfare issues should be considered?</b></p> <ul style="list-style-type: none"> <li>• Report of physical assault injuries, immediate and long term</li> <li>• Has GBV programme considered health needs of 14 year old?</li> <li>• How can health services be “safely” accessed given that Henry is Senior Medical Officer</li> <li>• Health consequences of being “homeless” for an indefinite period</li> <li>• Any previous injury or physical assault from father that might affect health.</li> <li>• 18 year-old – anything known?</li> <li>• No report of sexual assault, but needs to be taken into account</li> <li>• Any health needs that may impact on how investigation is carried out?</li> <li>• Any psychosocial needs to be considered?</li> </ul> <p><b>How might the investigation facilitate the consideration of the psychosocial needs of the girls?</b></p> <ul style="list-style-type: none"> <li>• clarity and transparency about process <ul style="list-style-type: none"> <li>- reasons, timescales, methods, what will happen after</li> </ul> </li> <li>• explaining to girls at every stage and keep up to date</li> <li>• empowering and supporting them in making decisions</li> <li>• no blame implicitly or explicitly put on the girls</li> <li>• offering support <ul style="list-style-type: none"> <li>- counselling, practical, accommodation, health</li> </ul> </li> <li>• mediating with family</li> <li>• controlling communication of information</li> <li>• listening and respecting feelings</li> </ul>
<p><b>LEGALITY</b></p>	<p><b>What legal issues should be considered?</b></p> <ul style="list-style-type: none"> <li>• local police authority – is this safe and appropriate?</li> <li>• confirmation of evidence</li> <li>• report the father’s assault?</li> <li>• contact the embassy</li> <li>• 3 x agency countries of origin</li> <li>• intimidation of witnesses</li> <li>• Henry’s country of origin</li> <li>• legal status of girls? are they refugees?</li> <li>• have any offences been committed?</li> </ul>

<p><b>LEGALITY</b></p>	<p><b>How might the investigation facilitate the consideration of legal issues?</b></p> <ul style="list-style-type: none"> <li>• know local laws relating to the issue</li> <li>• clarify national police authority status and appropriateness</li> <li>• protective orders</li> <li>• Senior Medical Officer</li> </ul> <p><b>What issues should be considered in deciding whether to inform the national authorities?</b></p> <ul style="list-style-type: none"> <li>• host country:             <ul style="list-style-type: none"> <li>- police</li> <li>- law enforcement agency</li> <li>- military – peacekeeping forces</li> </ul> </li> <li>• staff's country of origin</li> <li>• embassies</li> <li>• girls country of origin</li> <li>• NGO's country of origin</li> <li>• security of the parties</li> </ul>
<p><b>PROFESSIONALISM</b></p>	<p><b>What might impact professionalism?</b></p> <ul style="list-style-type: none"> <li>• No additional resources.</li> <li>• Staff briefing – was it made clear about what to do if had concerns?</li> <li>• Why was procedure not followed?</li> <li>• Are the lines of accountability clear – Field Coordinator to Deputy Director to Country Director?</li> <li>• Do all 3 agencies follow same principles and procedures?</li> <li>• Have any other concerns been raised or identified in supervision and appraisal of staff?</li> </ul> <p><b>How can the principle of professionalism be upheld during the investigation?</b></p> <ul style="list-style-type: none"> <li>• Ensure investigating staff have had training and are deemed competent.</li> <li>• Ensure clear management of investigation within procedures.</li> <li>• Report any concerns identified about investigating staff's competence.</li> <li>• Use relevant codes of conduct to identify poor practise.</li> <li>• Use lessons learned from the investigation to inform future staff development needs.</li> </ul>
<p><b>THOROUGHNESS</b></p>	<p><b>How was the principle of thoroughness ignored?</b></p> <ul style="list-style-type: none"> <li>• What information did the Field Coordinator get? Was this as "thorough" as possible?</li> <li>• Was there any consideration about risk to 14 year old given several people knew?</li> <li>• Did the Field Coordinator know the Deputy Director was on leave for 2 weeks?</li> <li>• Evidence is contaminated and been lost.</li> <li>• Subject of complaint alerted and can cover tracks or any evidence.</li> <li>• Were procedures followed?</li> </ul> <p><b>How can the principle of thoroughness be upheld during the investigation?</b></p> <ul style="list-style-type: none"> <li>• Follow procedures at all times.</li> <li>• Ensure all information is obtained.</li> <li>• Apply all the principles.</li> <li>• Clear planning and preparation.</li> <li>• Transparent and accurate process and recording.</li> <li>• Gather all evidence and evaluate.</li> <li>• Ensure girls' safety is paramount.</li> </ul>

<p><b>INDEPENDENCE</b></p>	<p><b>How was the independence of the process compromised?</b></p> <ul style="list-style-type: none"> <li>• Peter felt compromised in “making a complaint” against Senior Medical Officer so independence of investigator may be crucial in getting whole story.</li> <li>• Friends and colleagues involved in process.</li> <li>• Any other agenda’s underlying this complaint?</li> <li>• All senior staff live in shared house, so asking Mary, the Field Coordinator, might comprise the whole investigation.</li> <li>• Were the drivers complicit in the misconduct?</li> <li>• 3 inter-agency relationships.</li> <li>• At least 3 drivers, Field Coordinator, Deputy Director, Country Director, GBV programme manager, UNHCR all know.</li> </ul> <p><b>How to apply principle of independence to the investigation?</b></p> <ul style="list-style-type: none"> <li>• Identify “independent” investigator not involved in project.</li> <li>• Consider all senior managers role in mismanagement of this complaint.</li> <li>• Liaise with all 3 agencies.</li> <li>• Consider long term implications for project.</li> <li>• Ensure support for all.</li> </ul>
<p><b>PLANNING &amp; REVIEWING</b></p>	<p><b>What were the planning and reviewing failures?</b></p> <ul style="list-style-type: none"> <li>• Did the supervisor’s response follow procedures?</li> <li>• Field Coordinator did not seem to “plan” initial response to complaint.</li> <li>• No timeframes for responding and investigating are mentioned.</li> <li>• Evidence has been lost.</li> <li>• Girls placed at increased risk.</li> <li>• Staff placed in compromising if not dangerous position.</li> </ul> <p><b>How can the principle of planning and reviewing be upheld during the investigation?</b></p> <ul style="list-style-type: none"> <li>• follow procedures</li> <li>• have planning meetings, discussions</li> <li>• agree timescales within critical path</li> <li>• review outcome and management of complaint</li> </ul>
<p><b>RESPECT</b></p>	<p><b>How was the respect for the parties violated?</b></p> <ul style="list-style-type: none"> <li>• The girls’ privacy and dignity have been violated by mismanagement of complaint</li> <li>• Peter’s complaint was not taken seriously in that procedures were not applied</li> <li>• Henry’s right to “due process” has not been respected</li> <li>• The father and family have not had their rights respected</li> </ul> <p><b>How can the principle of respect for all be restored during the investigation?</b></p> <ul style="list-style-type: none"> <li>• plan how to control information from now on</li> <li>• provide information on process to all</li> <li>• consider each individual’s cultural and religious needs and conduct investigation taking these into consideration</li> </ul>

<p><b>TIMELINESS</b></p>	<p><b>In what ways have the parties failed to adhere to timeliness?</b></p> <ul style="list-style-type: none"> <li>• How much time between ‘incident’ and complaint being received?</li> <li>• Girls left at risk.</li> <li>• Medical attention for 14 year-old.</li> <li>• When did the Country Director know and when did s/he ask for a preliminary investigation?</li> <li>• Has preliminary investigation been started or completed?</li> <li>• How long has 14 year-old been in guest house? How long can she stay?</li> </ul> <p><b>How can the principle of adhering to timeliness be upheld during the investigation?</b></p> <ul style="list-style-type: none"> <li>• Clarify timescales for whole investigation.</li> <li>• Assess available information to inform the timescales, especially risk to girls.</li> <li>• Consider travel, distance, and accessibility of country.</li> <li>• Political or environmental factors that might impact on timescales.</li> <li>• Plan and review timescales throughout.</li> <li>• Give clear explanations if timescales change during investigation.</li> <li>• Final reporting and completion.</li> </ul>
<p><b>WORKING IN PARTNERSHIP (with other interested parties)</b></p>	<p><b>How have the organisations failed to work together?</b></p> <ul style="list-style-type: none"> <li>• Which agencies might be complicit in the “misconduct”, mismanagement of complaint and ineffective protection of girls?</li> <li>• Field Coordinator did not inform GBV or UNHCR at time of complaint.</li> <li>• Informing police or national authorities?</li> </ul> <p><b>How can the principle of working in partnership be upheld during the investigation?</b></p> <ul style="list-style-type: none"> <li>• Clarify who interested parties are.</li> <li>• Provide information on “need to know” basis.</li> <li>• Communicate process and action of investigation.</li> <li>• Consider joint investigation for all 3 agencies.</li> </ul>

# HAP/Building Safer Organisations

## Investigations workshop

### Module 5 Facilitator notes

#### Interviewing and conducting investigations

MFN5

#### MODULE 5 OBJECTIVES:

- Outline interviewing techniques for witnesses and subjects of complaints.
- Describe the four phases of interviewing.
- Explore the use of explicit language that investigators may need to use during interviewing.
- Explore how to prepare an investigation plan.
- Develop interview skills and experience.

#### SUGGESTED SCHEDULE

<b>Session 1 – Stages of interviewing</b>		<b>Minutes allocated</b>
10.50	Models of interviewing – presentation and model example by facilitators	60'
11.50	Interviewing witnesses – role play exercise	60'
12.50	LUNCH	60'
<b>Session 2 – Interviewing subject of complaints</b>		
13.50	Using explicit language – presentation	30'
14.20	Interviewing subjects of complaint – presentation and role play exercise	90
15.50	BREAK	15'
<b>Session 3 – Investigation planning</b>		
16.05	Investigation plan and preparation – group exercise	60'
17.05	Planning interviews – evening group exercise	15'
17.20	Evaluation	15'
<b>DAY 4</b>		
<b>Session 4 – Interviews</b>		
08.30	Planning and clarification – discussion	30'
09.00	Interview 1	75'
10.15	BREAK	15'
10.30	Interview 2	75'
11.45	Sharing of information – discussion	30'
12.15	LUNCH	60'
13.15	Interview 3	75'
14.30	BREAK	15'
14.45	Interview 4	75'
16.00	BREAK	15'
16.15	Interview 5	75'
17.30	BREAK	15'
17.45	Feedback on interviews – discussion	30'

<b>MODULE 5 PREPARATION:</b>	
<b>Resources</b>	<p>Check the following equipment:</p> <ul style="list-style-type: none"> <li>• 1 x laptop</li> <li>• 1 x data projector</li> <li>• 2 x flipcharts, 4 x blocks of flipchart paper and flipchart pens</li> <li>• 2 packages of different coloured cards</li> <li>• board to pin up cards</li> <li>• blank white paper</li> </ul> <p>Prepare the following:</p> <ul style="list-style-type: none"> <li>• venue set-up (arrange tables)</li> <li>• photocopy handouts as specified below</li> </ul>
<b>Handouts</b>	<p>Photocopy 1 per participant:</p> <ul style="list-style-type: none"> <li>• HO16_Inv_4StagesofInterviewing</li> <li>• HO17_Inv_PreparationForInterview</li> <li>• HO18_Inv_InterviewingWitnesses</li> <li>• HO19_Inv_InterviewSOC</li> <li>• HO20_Inv_InterviewingStatement</li> <li>• HO21_Inv_AyegamaCaseStudy</li> <li>• HO22_Inv_RoleDescriptionMichael</li> <li>• HO23_Inv_SinghCaseStudy</li> <li>• HO24_Inv_RoleDescriptionRajeeva</li> <li>• HO25_Inv_PlanningTool</li> <li>• HO26_Inv_AdrianTimeline</li> <li>• HO27_Inv_InterviewSchedule</li> <li>• HO28_Inv_ComplaintsReferralForm</li> <li>• HO29_Inv_Feedback.doc</li> <li>• HO30_Inv_Observer.doc</li> </ul>
<b>Additional facilitator notes</b>	<p>The following document gives guidance on key messages to be elicited from the exercises.</p> <p>AFN5_Inv</p>



Time	Facilitator's notes	Resources
10.50 (60')	<p style="text-align: center;"><b>MODELS OF INTERVIEWING</b></p> <p><b>Aim – to introduce the basic model for interviewing witnesses as outlined in the model complaints procedure, to describe its origins and to apply it in practice.</b></p> <p>The facilitator should re-read the BSO Guidelines as preparation for this session. During the 30' presentation refer to the relevant chapters of the HAP/BSO Guidelines. Discuss the 4 stages of interviewing.</p> <p><b>(1) ESTABLISHING RAPPORT</b></p> <ul style="list-style-type: none"> <li>• Explain who you are and provide the witness with your business card or your name and contact details in writing.</li> <li>• Introduce the second interviewer/observer and interpreter (if there is one) and explain their role.</li> <li>• Clarify the purpose of the interview.</li> <li>• Explain the ground rules (confidentiality, obligation to tell the truth, etc.)</li> <li>• Explain that you will be taking notes and that you will ask the interviewee to sign these notes at the end of the interview.</li> <li>• Engage with interviewee to gain his/her trust.</li> </ul> <p><b>(2) ASKING FOR FREE NARRATIVE RECALL</b></p> <ul style="list-style-type: none"> <li>• Ask very open questions – “Tell me about your duties as a...?”</li> <li>• Avoid interrupting or clarifying ambiguities.</li> <li>• Have an “active listener” posture.</li> <li>• Elicit more information by repeating key phrases used by the witness.</li> <li>• Offer prompts that relate to his/her account only. Do not refer to other witnesses’ evidence.</li> <li>• Work at the interviewee’s pace.</li> <li>• Do not give positive or negative feedback. Beware of unintentionally communicating approval or disapproval through facial expressions and voice inflexions.</li> <li>• Give neutral prompts – “And then what happened?”</li> </ul> <p><b>(3) ASKING QUESTIONS</b></p> <ul style="list-style-type: none"> <li>• The purpose of this phase is to clarify information the interviewee has already provided and help the witness to give relevant evidence if unable to do so during the open narrative.</li> <li>• Follow this sequence of questioning when possible: <ul style="list-style-type: none"> <li>- Open-ended – “How would you characterise your relationship with (name of subject of complaint)?”</li> <li>- Specific – “How often did (name of subject of complaint) ask you to...?”</li> <li>- Closed – “Did you use to do this (activity) or not?”</li> <li>- Leading (only as a last resort) – “Is this (activity) happening?”</li> </ul> </li> </ul> <p><b>(4) CLOSURE</b></p> <ul style="list-style-type: none"> <li>• Check with second interviewer (recorder) if there are any outstanding matters.</li> <li>• Summarise what the interviewee has stated in his/her words.</li> <li>• Ask if s/he has anything to add or change.</li> <li>• Answer any questions s/he may have.</li> <li>• Check if s/he requires any outside assistance.</li> <li>• Thank him/her for his/her time.</li> </ul> <p><b>Model interview</b></p> <p>Two facilitators will act out a model interview on a neutral subject in plenary. See HO16_Inv_4StagesofInterviewing for modelling exercise. Facilitators can choose an uncontroversial example such as:</p> <ul style="list-style-type: none"> <li>• What did you buy last time you went shopping?</li> <li>• When did you last break your diet?</li> </ul> <p>Ask participants to identify the 4 stages of interviewing in the facilitator role play as well as examples of open-ended questions, closed questions, neutral prompting, etc. After the example give out HO16_Inv_4StagesofInterviewing and HO17_Inv_PreparationForTheInterview to all participants.</p>	<p>HO16_Inv_4Stages of Interviewing HO17_Inv_PreparationForInterview</p> <p>Slide 113: Module 5 intro Slides 114-117: Interviewing stages</p>

Time	Facilitator's notes	Resources
11.50 (60')	<p style="text-align: center;"><b>INTERVIEWING WITNESSES – ROLE PLAY EXERCISE</b></p> <p><b>Aim – to develop participants' individual skills in interviewing witnesses during an investigation.</b></p> <p>Split the participants into pairs. Inform the group that, using the POPAID case study (HO12_Inv_Principles), each pair will role play interviewing a witness. Give out HO18_Inv_InterviewWitness. This handout details the witness' role in and knowledge of the incident, his demeanour during the interview and hints on questions to ask.</p> <p>In each pair there will be an investigator and a witness. The investigator interviews the witness, David Kamara.</p> <ul style="list-style-type: none"> <li>• In your pairs choose who will be the investigator and who will be David Kamara.</li> <li>• The "investigator" will interview "David", using the four stages for 20' minutes. Do not worry if you do not complete every phase.</li> <li>• Then switch roles, once again the second interviewer will have 20 minutes to conduct the interview.</li> <li>• Discuss for 5 minutes how it felt to interview or be interviewed and what you might do differently.</li> </ul> <p>Participants can use the HO16_Inv_4StagesofInterviewing to help them with the interview process.</p>	<p>HO12_Inv_Principles HO18_Inv_InterviewWitness</p> <p>Slide118: Witness interview role play</p>
12.50	<b>LUNCH</b>	<b>60'</b>
13.50 (30')	<p style="text-align: center;"><b>USING EXPLICIT LANGUAGE – PRESENTATION</b></p> <p><b>Aim – to allow participants to be comfortable using sexually explicit language during interviews and to learn how to assist witnesses in using this language.</b></p> <p>Explain that when conducting interviews and writing investigation reports, investigators will need to be comfortable using sexually explicit language and helping witnesses to do the same. Ask the participants to discuss an occasion when they felt uncomfortable using or hearing someone use sexually explicit language. Have the participants focus on why they felt uncomfortable. Take feedback in plenary.</p> <p>After 10', provide the group with a few examples of alternative words used to describe sexual intercourse or genitals i.e. "sleeping together", "be his girlfriend", "private parts", "down there", etc. Write these examples on a flipchart. Ask the group to suggest other euphemisms that women and children would use. Write these examples on the flipchart as well.</p> <p>Then ask the group to explain what is meant by some of these terms and why it is necessary to be explicit. After review the anatomically correct terms that will be used in an investigation report.</p> <p>Be clear that investigators should never force a witness to use explicit language if it will harm them. However, all investigators must themselves be capable of using anatomically correct and sexually explicit language without appearing embarrassed, ashamed or judgemental.</p>	<ul style="list-style-type: none"> <li>• flipcharts</li> <li>• markers</li> </ul> <p>Slides 119-120: Using explicit language exercise</p>
14.20 (90')	<p style="text-align: center;"><b>INTERVIEWING SUBJECTS OF COMPLAINTS – PRESENTATION AND ROLE PLAY EXERCISE</b></p> <p><b>Aim – to explain how interviewing subjects of complaints can be different to interviewing witnesses, victims and complainants and to allow participants the opportunity to practice interviewing the subject of complaint.</b></p>	

Time	Facilitator's notes	Resources
	<p>Using Slides 121 to 129 give a 15' presentation on interviewing the SOC.</p> <p>Highlight the following points:</p> <ul style="list-style-type: none"> <li>• There is an emotional component of interviewing SOC.</li> <li>• Avoid answering personal questions from a SOC.</li> <li>• Interview them last to enable better assessment of the truthfulness of their statement.</li> <li>• Potential effects of information not remaining confidential, such as negative impact for the organisation, danger to witnesses including the subject of complaint, media interference etc and disciplinary proceedings that might be commenced against the subject of complaint for breaching confidentiality.</li> </ul> <p>Explore with participants their experience and techniques used.</p> <p>Give out HO19_Inv_InterviewingSOC and HO20_Inv_InterviewStatement to all participants.</p> <p><b>Role play</b></p> <p>Inform the participants that they will now be doing two role plays using two different case studies.</p> <p>Split participants into pairs, allowing them to choose their partner. Each person will play a subject of complaint and also the interviewer. Be clear that the roles they are playing are the interviewer and the alleged perpetrator.</p> <p>Handout Feed the Hungry case study (HO21_Inv_AyegamaCaseStudy). Give the pair 10' to prepare for the first interview, one of the pair preparing to play the role of the SOC/alleged perpetrator, the other preparing to interview the SOC. Distribute HO22_Inv_RoleDescriptionMichael to the participants playing the SOC.</p> <p>Allow 15' for the interview, followed by a 5' discussion on the process. Be clear that the interviewer should try to follow the 4 stages of interviewing. Remind them that these are on HO16_Inv_4StagesofInterviewing. However, it is not necessary to get through the whole process within the 20 minutes.</p> <p>Distribute teacher case study (HO23_Inv_SinghCaseStudy). Ask the pairs to exchange roles for the second case study and repeat the process. Distribute HO24_Inv_RoleDescriptionRajeeva to the participants playing the SOC.</p> <p>Return to the plenary for a brief summary.</p>	<p>Slides 121-129: Interviewing subjects of complaint</p> <p>HO19_Inv_InterviewingSOC</p> <p>HO20_Inv_InterviewStatement</p> <p>HO21_Inv_AyegamaCaseStudy</p> <p>HO22_Inv_RoleDescriptionMichael</p> <p>Slide 130: Subject of complaint role play</p> <p>HO23_Inv_SinghCaseStudy</p> <p>HO24_Inv_RoleDescriptionRajeeva</p>
<b>15.50</b>	<b>BREAK</b>	<b>15'</b>
<b>16.05</b> (60')	<p><b>INVESTIGATION PLAN AND PREPARATION – GROUP EXERCISE</b></p> <p><b>Aim – to provide an opportunity for participants to plan an investigation.</b></p> <p>Give out HO25_Inv_PlanningTool.</p> <p>Introduce the investigative planning tools handout HO25. Explain that this is just an example, there are many planning tools and investigators should use whatever tools are useful to them.</p> <p>Explain how to use this planning tool. With the assistance of slide 131 discuss the many advantages of such a tool, especially when interviewing the SOC.</p> <p>Divide the participants into interview teams of 3-4 (try to divide the teams by different complementary skills sets and personalities).</p> <p>Ask them to take out the Hollywood Aid (Adrian) case study, HO15, used during the obtaining information session this morning and handout HO26_Inv_Adriantimeline.</p> <p>Inform the teams that they need to construct a written plan for investigating this case using the planning tool and SOC timeline. The better constructed their plan is, the easier their interviews of day 4!</p>	<p>HO25_Inv_PlanningTool</p> <p>HO15_Inv_HollywoodAid</p> <p>HO26_Inv_Adriantimeline</p> <p>Slide 131: The investigation planning tool</p> <p>Slide 132: Hollywood Aid exercise</p>

Time	Facilitator's notes	Resources
	<p>Tell the teams that the first step will be to identify all the different allegations for each SOC in this case. In order to get them started, ask the participants to identify all the allegations for one SOC. Then take 1 allegation and write it in the format that will be used in an investigation report.</p> <p>Remind participants them that they need</p> <ul style="list-style-type: none"> <li>• to use the exact words of the Standard of Conduct (i.e. SG's Bulletin, Code of Conduct) to write their allegations</li> <li>• to write each allegation separately</li> <li>• to distinguish between the different SOCs.</li> </ul> <p>As an example, present the complaint that Adrian "touched Sunita" and help them write this allegation on the flipchart.</p> <p><u>Adrian S.</u> engaged in sexual activity with a <u>child</u> (a violation of SG's Bulletin 3.2(b) or the organisation's Code of Conduct)</p> <p>Then identify the elements that need to be found in order to establish the allegation (see HAP/BSO Guidelines for guidance). Explore how you can find information for these elements. Ensure the participants understand that each element needs to be found. Also make sure they understand that when there are several children involved, it is important to write a different allegation for each child (if the allegation is 'sexual activity with children' and we can find only one, the allegation cannot be substantiated).</p> <p>Once the procedure is understood, ask them to work in their respective groups to construct their plan for investigating, taking into account the allegations they have for all SOCs. Remind them to consider all information they need to gather in order to establish or not to establish the allegations, specifically testimony.</p> <p>Return to plenary for a brief summary.</p>	
<p>17.05 (15')</p>	<p><b>PLANNING INTERVIEWS – EVENING GROUP EXERCISE</b></p> <p><b>Aim – to develop an understanding of how to plan for an interview with a limited amount of time to prepare.</b></p> <p>Ask participants to remain in their teams. These groups will be the interview teams for the following day. Using the Hollywood Aid case study, the teams will interview the complainant, victim, witnesses and/or SOC in the allegation.</p> <p>Explain that the interview plans are to be completed over night. Each team will need to work together to plan the interview of the witnesses that they have been allocated for the following day. Ask the participants to use the investigation planning tool and BSO Guidelines.</p> <ul style="list-style-type: none"> <li>• There will be five teams: A, B C, D and E.</li> <li>• Each team has three participants and will conduct three interviews.</li> <li>• Each individual in the team will have an opportunity to be the lead interviewer, a support interviewer and an observer during day 4.</li> </ul> <p>Tell each group which characters they will be interviewing. Distribute the interview schedule (HO27), and model complaints referral forms (HO28). 75' has been scheduled for each interview. Ideally 45' is allocated to the interview and 30' to the feedback process (debriefing and analysis). The feedback order is:</p> <ul style="list-style-type: none"> <li>• actor</li> <li>• lead interviewer</li> <li>• second interviewer/recorder</li> <li>• observer</li> <li>• facilitator</li> </ul> <p>Explain that interview teams will get information from the interviews with witnesses they did not interview in a plenary session.</p>	<p>HO27_Inv_InterviewSchedule</p> <p>HO28_Inv_ComplaintsReferralForm Slide 133: Interview schedule</p>

Time	Facilitator's notes	Resources
	<p><b>Note:</b> Hand out the "Giving and Receiving Feedback" document, the observer's sheet and interview statement during this session so participants have time to absorb it over night. HO29_Inv_Feedback.doc HO30_Inv_Observer.doc Refer back to HO17 and HO20.</p> <p>As you distribute the handouts, discuss the need for constructive feedback after the interviews. Ask the observer to complete the observer's sheet during the interview. Clarify that the interview statement (HO33) includes the confidentiality statement and ground rules to be provided to the interviewee at the beginning of each interview.</p> <p>The interview schedule is based on 15 participants and will need to be amended according to the size of the group and other factors.</p> <ul style="list-style-type: none"> <li>• All participants should be given the opportunity to be a lead interviewer and a support interviewer at least once.</li> <li>• A break should be scheduled after every interview.</li> <li>• One facilitator should be present during every interview to provide feedback to the interviewers.</li> <li>• All teams should have the opportunity to interview either Abdul or Adrian.</li> <li>• Abdul and Adrian should be interviewed in the afternoon or only after all teams have conducted at least one interview.</li> <li>• Explain to the group that due to logistics, the correct interview order cannot be followed i.e. complainant first, SOC last. Also, not every team will be able to interview Adrian.</li> <li>• If there are less than 5 teams, try to arrange the schedule to allow more time for each interview.</li> </ul> <p>Conduct all interviews in closed locations where teams cannot see or hear each other. It is important for the interviews to be as close to a real investigation interview as possible.</p>	HO29_Inv_Feedback HO30_Inv_Observer
17.20	<b>EVALUATION</b>	
	<b>DAY 4</b>	
08.30 (30')	<p><b>PLANNING AND CLARIFICATION –DISCUSSION</b></p> <p><b>Aim – to provide further clarification about the interview process as well as to provide teams with further preparation time.</b></p> <p>Provide information and advice to teams and clarify any points of confusion for the day. Review the interview schedule and locations of interviews.</p>	
09.00 (75')	<p><b>INTERVIEW 1</b></p> <p><b>Aim – to develop interview skills and allow participants to gain experience in conducting interviews in a safe environment.</b></p> <p>See interview schedule in AFN5_Inv.</p>	
10.15	<b>BREAK</b>	15'
10.30 (75')	<p><b>INTERVIEW 2</b></p> <p><b>Aim – to develop interview skills and have experience in conducting interviews in a safe environment.</b></p> <p>See interview schedule in AFN5_Inv.</p>	

Time	Facilitator's notes	Resources
11.45 (30')	<p style="text-align: center;"><b>SHARING OF INFORMATION – DISCUSSION</b></p> <p><b>Aim – to share witness testimony among all teams before the SOC is interviewed and to include new information gathered through testimony into interview plans for the SOC and other witnesses.</b></p> <p>In plenary, ask each investigation team to share the relevant information they have obtained throughout the interviews thus far. Make sure participants stick to what is relevant and have an opportunity to ask each other questions for clarification. On a flipchart, summarise the information as it becomes available.</p>	<ul style="list-style-type: none"> <li>• flipchart</li> <li>• markers</li> </ul>
12.15	<b>LUNCH</b>	<b>60'</b>
13.15 (75')	<p style="text-align: center;"><b>INTERVIEW 3</b></p> <p><b>Aim – to develop interview skills and have experience in conducting interviews in a safe environment.</b></p> <p>See interview schedule in AFN5_Inv.</p>	
14.30	<b>BREAK</b>	<b>15'</b>
14.45 (75')	<p style="text-align: center;"><b>INTERVIEW 4</b></p> <p><b>Aim – to develop interview skills and have experience in conducting interviews in a safe environment.</b></p> <p>See interview schedule in AFN5_Inv.</p>	
16.00	<b>BREAK</b>	<b>15'</b>
16.15 (75')	<p style="text-align: center;"><b>INTERVIEW 5</b></p> <p><b>Aim – to develop interview skills and have experience in conducting interviews in a safe environment.</b></p> <p>See interview schedule in AFN5_Inv.</p>	
17.30	<b>BREAK</b>	<b>15'</b>
17.45 (30')	<p style="text-align: center;"><b>FEEDBACK ON INTERVIEWS – DISCUSSION</b></p> <p><b>Aim – to provide teams with an opportunity to debrief and share relevant testimony from interviews.</b></p> <p>Ask the participants to share information obtained during the interviews. Remind them to only share information relevant to the allegation or new information which may warrant broadening of the investigation or conducting a secondary investigation.</p>	

# HAP/Building Safer Organisations

## Investigations workshop

### Additional facilitator notes – Module 5

#### Investigation planning and interviewing

AFN5

### Interview schedule:

	RUBINA complainant	SUNITA victim	KARIM witness	MARY witness	ABDUL SOC2	ADRIAN SOC1
08.30	Planning and clarification about the interview process					
09.00	Team A	Team B	Team C			
10.15	BREAK					
10.30	Team D	Team E	Team A			
11.45	Plenary –Share information obtained thus far					
12.15	LUNCH					
13.15				Team B	Team D	Team E
14.30	BREAK					
14.45				Team D	Team C	Team B
16.00	BREAK					
16.15				Team E	Team A	Team C
17.30	BREAK					
17.45	Plenary feedback session (15')					

### Role descriptions for actors – Main case study

#### Role description – Rubina Aktar

- Rubina (the complainant), is the mother of Sunita 13 years, female; Nasima 10 years, female; and Hossain, 15 years, male.
- Her husband died four years ago leaving her impoverished with three young children to care for.
- She is in poor health.
- Rubina is a traditional Muslim woman and she has had little formal education.
- She wants her children to have a better life.
- She is respectful and somewhat fearful of authority figures but determined to do what is right for her children.

#### Rubina’s account in interview should include the following information

- Names of the subjects of complaint: Adrian Smith and Abdul Jabber.
- Physical description that is consistent with the information in the preliminary information i.e. Adrian Smith, white British male, approximate age, blonde hair but shaved head, beard, green eyes, and two earrings in left ear.
- Sunita brought home two food parcels after returning from the Korean church. Description of what they looked like, light blue wrapping, about 60cm x 40cm in size, containing rice.
- Sunita’s behaviour and demeanour on the day of the incident.
- Date and time of the incident (last month). The incident took place on a Wednesday near the end of the month as it was a wash day and while she was washing the family’s clothes she was worrying about how to pay the rent due on the last day of the month as she had spent all her money on medicine for Nasima.
- What Sunita actually said.
- Why does Rubina say Abdul is a “bad” man (She has heard this – Who did she hear it from? What did they say? Why does she believe them?)
- Sunita says that she saw Karim outside the church when she left.
- Rubina complained to the Project Manager, Sister Mary Murphy but nothing happened. She has heard that Sister Mary is somehow involved.

**Rubina’s demeanour during the interview**

Rubina is agitated and nervous. She finds it difficult and embarrassing to use the correct anatomical words to describe what she says Sunita told her. However she is credible and convincing as a witness. She is not forthcoming unless specifically asked but she is not at all obstructive. She is not racist or religiously intolerant; however she has been raised to believe that Christians/white people do not maintain the same standards of behaviour as Muslims. For this reason she is somewhat distrustful of the aid workers.

**Role description – Sunita**

- Sunita is 13 years old.
- She attended school until four years ago when her father died and the family could no longer afford formal education.
- Since then she has helped her mother care for her younger sister Nasima, aged 10, whom she is especially close to.
- She wants to be helpful to her family as she knows her mother struggles to feed them all.
- She is also aware that she will soon be of a marriageable age and this will represent financial security and a lessening of the burden on her mother.
- In order to make a good marriage she must stay “clean” and “nice” and she must be considered a “good girl” within the community.

**Sunita’s account in interview should include the following information**

- Names of the subjects of complaint: Adrian Smith and Abdul Jabber.
- Physical description that coincides with the information in the preliminary information i.e. Adrian Smith, white British male, approximate age – late 20s, blonde hair but shaved head, green eyes, two earrings in left ear, beard.
- In the photographs that were taken of her she was naked.
- Abdul took the photographs while Adrian undressed her. She did not take her own clothes off.
- Adrian tried to touch her vagina. She stopped him by screaming and crying for her mother.
- The incident took place inside the Korean Church.
- Nobody else was inside the church.
- She was given two food parcels. Description of what they looked like; light blue wrapping, 60 cm x 40 cm in size, containing rice.
- When she left the church, she saw Karim Hussein outside the church; she knows he saw her as they made eye contact.
- She does not know what date the incident took place, but it was a Wednesday (last month) as Wednesday is wash day and her mother was busy with the washing.

**Sunita’s demeanour during the interview**

Sunita is terrified of being interviewed and is silent unless asked for very specific information. She wants to be helpful and is cooperative, but is afraid and in some cases she doesn’t have the vocabulary for what she is trying to describe.

**Role description – Karim Hussein**

- Karim is an 11 year old boy from the same community.
- He is the only son in a family of seven children.
- His mother is dead and his father works 14 hours per day as a labourer in a factory that makes steel manhole covers.
- His older sisters care for the other children but they have no money for anything but bare necessities.
- His father has told him that in his absence, Karim is the “man of the house” and must “take care” of his sisters.
- He does not go to school but often hangs around the market trying to get odd jobs as a delivery boy etc.

**Karim’s account in interview should include the following information**

- Karim was outside the church at the time Sunita says she saw him. He does not know the date but it was last month some time.
- He saw Sunita.
- Sunita was crying and running away from the church carrying two bags. He thought they could have been food parcels as he recognised the light blue wrapping and size of the packages.
- He was about 30 metres from the church.
- He knows Adrian Smith and Abdul Jabber and he knows Hollywood Aid.



- He has had his photograph taken by Adrian.
- Sister Mary Murphy was there the first time that photographs were taken. The photographs were portrait style photographs i.e. pictures of his face.
- **Note:** Karim has been sexually abused by Adrian. However due to the strong taboo against homosexuality in his culture he refuses to disclose this.

### **Karim's demeanour during the interview**

Karim's demeanour swings from extremely cocky and over-confident to silent and tearful during the interview. His arms are crossed against his chest and he swaggers when he talks, trying to give the impression that he is in control. He jokes that the aid workers are foolish for giving him extra rations "for nothing". Despite his young age he uses swear words/slang and he "guesses" that Sunita is not a "nice" girl. Even with the use of good interview techniques he does not disclose that he is a victim of Adrian's abuse. However, he may give several clues such as his use of strong sexual language, his suggestion that he knows what happened to Sunita without having seen it himself, the fact he suggested details of what probably happened to Sunita, and his aggression and anger towards Sunita's mother for not protecting Sunita from Adrian.

### **Role description – Adrian Smith**

- Adrian Smith is 29 year old.
- English nationality and a water engineer.
- He is an only child from a middle class, well educated family.
- He has always worked in positions with aid agencies that enable him to have contact with young children.
- He is very intelligent but does not have many adult friendships or social relationships. He says this is because he has moved around a lot for his work.
- He is proud of his aid work and of his fundraising abilities through the "legitimate" calendars he has helped produce.

### **Adrian's account in interview should include the following information**

- Received his engineering degree in London, United Kingdom.
- Completed some summer placements with small charities abroad (e.g. Romania).
- Raised extra funds by taking photographs for charity calendars.
- Trained with Water Aid in Thailand where he worked for 5 years.
- Hollywood Aid approached him and he accepted a post in Bangladesh.
- Took pictures of children while in Thailand. He has sold photos to his friend in the UK.
- Initially he denies that any of them had sexual content. However, he eventually admits that some photographs show the children "semi-dressed" but this is in order to make them look "more western"; he states that most photos show the children fully clothed.
- His friend in the UK was concerned that the authorities in UK and Thailand were aware of this and were trying to clamp down.
- At this time, Adrian moved to Bangladesh and has continued the practice here.

### **Adrian's demeanour during interview**

Adrian is initially indignant that the investigators are looking into his activities. His body language is defensive (i.e. his arms are crossed across his chest). He has always had the support of Sister Mary and Hollywood Aid. He then becomes patronising to the investigators telling them that they do not understand all the issues in this culture. He is shocked that his good relationship with children is being misunderstood.

### **Role description – Abdul Jabber**

- Bangladeshi national.
- 15 years experience as a local staff member with various NGOs.
- His brothers died in ferry accident, leaving him to financially support their wives and 4 children.
- He is a Rohingya from the north unlike the rest of the community who are Bengali and feels he is often discriminated against within this community due to his different ethnic background.
- Abdul contracted polio as a small child and as a result has always had a minor disability in his left leg that makes him walk strangely.
- He is single and believes that this is because of his disability and his ethnicity as no one in the local community has wanted to marry their daughter to him even though he has a good job.

**Abdul’s account in interview should include the following information**

- He has been working for Hollywood Aid for 3 years. He started as a volunteer and his work was so highly regarded that he was offered a paid position.
- Previously he worked for a missionary organisation with street children.
- Adrian offered him extra money to find “pretty girls” and to take photos to send to men who will pay for “sexy pictures”.
- Adrian told him the girls must be 10 –15 year old to get real money.
- Abdul has taken photos of children before for Adrian. Sometimes the children are clothed and sometimes the children have been naked. This is the first time he has seen Adrian try to touch a girl.
- Abdul became scared when Sunita screamed, as he thought they would be discovered and he would lose his job.
- Adrian gave Sunita two food parcels at the end of the photo session.

**Abdul’s demeanour during interview**

Abdul is distressed. While he has taken photos of naked children before with Adrian, he did not think it was bad as no children were hurt and the children all received something extra for their families. He is horrified that Adrian tried to touch Sunita’s vagina and wants to tell all the details so that Adrian will be stopped and Sunita’s reputation will not be damaged. He is extremely remorseful and begs that he not be dismissed as he is responsible for the care of his two sister-in-laws and their four children. He cannot afford to lose his job.

**Role description – Sister Mary Murphy**

- 42 years old, female, Irish.
- Project manager at Hollywood Aid. Has worked for Hollywood Aid for 8 years and recruited both Abdul and Adrian.
- Trained as a lawyer before joining the Holy Order of the Sisters of Mary at the age of 25.
- Since becoming a nun has worked in various Asian countries, including Thailand, Bangladesh, Sri Lanka and Philippines.
- As she studied at Cambridge prior to joining the Order, she considers herself to be worldly, knowledgeable and “not an ordinary nun.”
- As a modern nun, she does not wear a habit or robes but clothes similar to those of local women: a simple blue cotton sari with a long sleeved cotton blouse underneath and her hair tied back.

**Sister Mary’s account in interview should include the following information**

- She has been on several photo shoots with Abdul and Adrian and seen the lovely, artistic photographs of children that the two men take for calendars which are sold in Ireland and the UK to raise funds for various children’s charities; she says that Adrian manages to “capture the soul of these children” in his pictures.
- She does not believe that Adrian and Abdul could have done what is alleged; in her view, Abdul is a victim because of his ethnic background and disability.
- She is bemused that Adrian calls himself a Buddhist but thinks this is just a phase in his youth.
- She thinks Adrian may have been targeted for these allegations as he is a Westerner and therefore perceived to be wealthy.
- She doesn’t believe that Sunita is a bad girl – perhaps misguided or mistaken.
- She considers herself to be an excellent judge of character as “she has seen it all” in her work and knows a liar or abuser when she sees one.
- Sometimes Adrian gives extra food to children whose photos he takes but this only fair as the children give up their time and their images are used to raise funds.
- She knows that the children are not always accompanied by an adult to the photo shoots but Abdul is a fine chaperone as he comes from the local community.

**Sister Mary’s demeanour during interview**

Sister Mary is stunned that anyone could believe these allegations. She is completely calm and polite throughout the duration of the interview and never raises her voice or becomes excited. She is totally cooperative. She is insistent that it is not possible that these allegations are true and personally vouches for the character of these gentlemen. She is somewhat patronising in manner as she “knows that she is right” and the investigators are mistaken. She offers to pray for Abdul and Adrian, the “victims” of this scandal: as well as for the girl and her family who have made the allegation and of course the investigators who are working on such sad matters.

# HAP/Building Safer Organisations

## Investigations workshop

### Module 6 facilitator notes

#### Investigation closure

MFN6

#### MODULE 6 OBJECTIVES:

- Identify relevant information gathered during an investigation.
- Identify evidence in an investigation that substantiates/does not substantiate the elements of an allegation.
- Select the information to be included in an investigation report.
- Reflect on personal skill development during the workshop.

#### SUGGESTED SCHEDULE

Session 1 – Review of investigation plan		Minutes allocated
08.30	Review of investigation and interview plan – discussion	30'
09.00	Closure of investigation – presentation	120'
10.15	BREAK (optional, during group work)	15'
Session 2 – Investigation report		
11.00	Investigation findings – group presentation	60'
12.00	Closure of investigation	45'
12.45	LUNCH	60'
Session 3 – Workshop closure		
13.45	Action planning – exercise	45'
14.30	Message – exercise	30'
15.00	Quiz – group exercise	30'
15.30	Workshop closure	20'
15.50	Evaluation	15'

#### MODULE 6 PREPARATION:

<b>Resources</b>	<p>Check the following equipment:</p> <ul style="list-style-type: none"> <li>• 1 x laptop</li> <li>• 1 x data projector</li> <li>• 4 x flipcharts, 4 x blocks of flipchart paper and pens</li> <li>• 2 packages of different coloured cards</li> <li>• board to pin up cards</li> <li>• blank white paper</li> </ul> <p>Prepare the following:</p> <ul style="list-style-type: none"> <li>• venue set-up (arrange tables)</li> <li>• photocopy handouts as specified below</li> </ul>
<b>Handouts</b>	<p>Photocopy 1 per participant:</p> <ul style="list-style-type: none"> <li>• HO31_Inv_ReportWriting</li> <li>• AFN5_Inv</li> </ul>
<b>Additional facilitator notes</b>	<p>The following document gives guidance on key messages to be elicited from the exercises:</p> <p>AFN6_Inv</p>

Time	Facilitator's notes	Resources
08.30 (30')	<p><b>REVIEW OF INVESTIGATION AND INTERVIEW PLANS – DISCUSSION</b></p> <p><b>Aim – to revisit the investigation and interview plans and discuss what was relevant, useful and how to better prepare the investigation the next time.</b></p> <p>Discuss the following questions with the participants:</p> <ul style="list-style-type: none"> <li>• Did their investigation and interview plans help with the interviews?</li> <li>• Did the teams find out anything during the interviews that they missed in the planning?</li> <li>• How can the plans be better prepared?</li> </ul> <p>This is an opportunity for the facilitator to recognise the amount of work put in by the participants, especially during the evenings.</p>	<p>Slide 134: Module 6 intro</p> <p>Slide 135: Interview schedule</p>
09.00 (120')	<p><b>INVESTIGATION REPORT – GROUP EXERCISE</b></p> <p><b>Aim – to practice writing an investigation report.</b></p> <p>Give a brief presentation on writing an investigation report. When reporting, be clear about principles of the investigation, and how they were met throughout the investigation. Distribute HO31_Inv_Report-Writing and explain that an investigation report must cover all of the elements. The most complex part of the report is the analysis. This exercise is to practice analysing evidence to come to a conclusion and justify that conclusion on the basis of evidence obtained.</p> <p><b>Exercise</b></p> <p>Divide the participants into 4 teams of a different composition to the interview teams. Participants should work in different groups to maximise sharing of ideas, understanding about the case and exposure to different opinions. The groups have 120' to complete the task.</p> <p>Ask the teams to discuss and agree on their answers to the following questions:</p> <ul style="list-style-type: none"> <li>• What were the allegations, in the language of the SG's Bulletin or a code of conduct? (Additional allegations if identified through testimony should also be included in the report.)</li> <li>• What elements of each allegation need proof?</li> <li>• What evidence have they obtained that supports or refutes each element?</li> </ul> <p>Analyse in detail the findings and how those findings support a particular conclusion:</p> <ul style="list-style-type: none"> <li>• Substantiated by reasonable inference based on the evidence.</li> <li>• Not substantiated due to insufficient or unclear evidence.</li> <li>• Not substantiated based on evidence that clears the SOC or suggests a malicious complaint.</li> </ul> <p>Ask the teams to write their answers on flipchart paper and have a representative from each group to share the conclusions reached for one of the allegations in plenary.</p>	<ul style="list-style-type: none"> <li>• flipcharts</li> <li>• markers</li> </ul> <p>HO31_Inv_Report-Writing</p> <p>Slides 136-138: Report writing exercise</p>
11.00 (60')	<p><b>INVESTIGATION FINDINGS – GROUP PRESENTATION</b></p> <p><b>Aim – to discuss and reach the appropriate findings of an investigation based on witness testimony.</b></p> <p>Ask each team to report back on their discussion and present their findings, analysis of how they came to that finding and recommendations for one of the allegations.</p> <p>The findings will differ from workshop to workshop depending on what information the actors provide to the investigation teams. Investigation teams need to determine if there is sufficient evidence an allegation of misconduct is substantiated based on whether the evidence tends to establish or not establish the allegation.</p> <p>At the end of the session, distribute AFN5_Inv for information on the Hollywood Aid, case study.</p>	<p>AFN5_Inv</p>

Time	Facilitator's notes	Resources
12.00 (45')	<p style="text-align: center;"><b>CLOSURE OF INVESTIGATION</b></p> <p><b>Aim – to introduce the model for closing an investigation as outlined in the BSO Guidelines.</b></p> <p>With the assistance of Slides 139-143 present the elements to consider in closing an investigation. Tell the participants that their organisation should:</p> <ul style="list-style-type: none"> <li>• have a policy on who should be informed of the outcomes of an investigation taking confidentiality into account</li> <li>• agree to a plan of action for any victims or witnesses who may come forward later</li> <li>• consider retention of any evidence or data, reports and records used and made during the investigation and how these will be stored, how long they will be kept and what procedure is to be used by those wishing to access the records</li> <li>• determine a process by which lessons to be learned, including areas of good practice, can be reviewed and reported to management</li> </ul>	Slides 139–143: Considerations for exit strategy
12.45	<b>LUNCH</b>	<b>60'</b>
13.45 (45')	<p style="text-align: center;"><b>ACTION PLANNING – EXERCISE</b></p> <p><b>Aim – to encourage individual reflection on the learning process of this workshop and how they can use this knowledge to make changes within their organisations.</b></p> <p><b>Exercise</b> Give each participant two coloured cards (green and pink) ask them to write up:</p> <ul style="list-style-type: none"> <li>• Personal – What have I learned? (On the green card)</li> <li>• Organisational – What does my organisation need to do? (On the pink card.)</li> </ul> <p>Take the cards and put them up on the board. Compare them with the expectation board from day 1.</p> <p>Have most expectations been met? Respond to any unmet expectations.</p>	<ul style="list-style-type: none"> <li>• 2 packages of different coloured cards</li> <li>• board to pin up cards or flipcharts</li> </ul> <p>Slide 144: Action planning</p>
14.30 (30')	<p style="text-align: center;"><b>MESSAGE – EXERCISE</b></p> <p><b>Aim – to provide participants with an opportunity to reflect on the individuals they have met during the workshop.</b></p> <p>Give each participant a blank sheet of paper and write their name on the top. Ask them to then pass all papers to the facilitator who shuffles them and hands them out again so no one has their own paper.</p> <p>Ask everyone to write a positive message on the very bottom of the page to the person whose name appears at the top of the page. Fold the paper so the message is hidden and pass the paper to your neighbour on your left. Repeat the process until you get the paper back that you first wrote on. Return all papers to facilitator who will hand them to the owner.</p>	<ul style="list-style-type: none"> <li>• blank white paper</li> </ul> <p>Slide 145: Thank you!</p>

Time	Facilitator's notes	Resources
15.00 (25')	<p style="text-align: center;"><b>QUIZ – GROUP EXERCISE</b></p> <p><b>Aim – to close workshop in an energised manner and review the main elements of the workshop.</b></p> <p><b>Exercise</b> Divide the participants into 3 to 4 groups. Each group will choose a person to be the buzzer for their group. The “buzzer” must decide on a noise s/he will make when the group wishes to answer a question. In order to buzz in, the “buzzer” must be touched by another team mate or know the answer to the question him/herself. The first group to buzz in has fifteen seconds to answer the question. If the answer is incorrect or incomplete, the floor opens up to the group who buzzed in second. See AFN6_Inv for sample questions.</p>	AFN6_Inv
15.25 (20')	<p style="text-align: center;"><b>WORKSHOP CLOSURE</b></p> <p><b>Aim – to provide participants with information on the Complaints Handling Unit and HAP activities and bring the workshop to a closure.</b></p> <p>Discuss:</p> <ul style="list-style-type: none"> <li>• what HAP will be doing in the future</li> <li>• further involvement in HAP activities</li> <li>• post workshop assistance</li> </ul> <p>Close the workshop by thanking all those who were involved in the organisation and running of the workshop.</p>	Slide 145: Thank you!
15.45 (15')	<p style="text-align: center;"><b>EVALUATION</b></p>	

## Module 6 AFN6: Quiz

### Sample questions

- Question 1:** What are the 4 main principles to establishing a complaints mechanism?
- Question 2:** What are 4 basic principles to conducting an investigation, not including confidentiality?
- Question 3:** Name 4 barriers to making a complaint.
- Question 4:** Are humanitarian workers forbidden to have sexual relations with beneficiaries?
- Question 5:** Name 4 prohibitions listed in the SG's Bulletin.
- Question 6:** What are the possible conclusions of an investigation report?
- Question 7:** What are the 4 phases of interviewing?
- Question 8:** What are 2 of the first steps in an investigation?
- Question 9:** Name two types of international law.

Add some fun questions with personal information that has been shared during the workshop about the facilitators and/or participants.

## What is abuse?

The aim of this activity is to explore issues and dilemmas associated with abuse. Through consideration of the cases you will be invited to discuss your own values and beliefs and what might be barriers to investigation.

### Task

Please read the following case studies and in your group discuss the following questions. Please remember the value of this exercise is in sharing your views – there are no “right” or “wrong” answers.

- Is this exploitation or abuse?
- Who is or might be abusing?
- Who is being abused?
- What should be done?
- Who are you worried about? Why are you worried about them?

### Case studies

- a. You are part of the camp management team in a refugee camp. It has come to your attention that a colleague has been spending extra time with a single mother and her 10 year old daughter. Recently the daughter went to the camp clinic complaining of stomach pain. It was found that she had a sexually transmitted infection. You are concerned about your colleague’s involvement with this child. You have no proof that the colleague has done anything wrong.
- b. On a visit to a school you see a child about nine years old not doing as he is told. The teacher picks up a stick and hits the child across the back and legs, causing him to bleed.
- c. While visiting a school for refugee children you speak to a young mother who tells you that she is the “girlfriend” of the programme director. You know that the director is married and has no intention of divorcing his wife. He will leave the duty station in a couple of months to take up another post (a promotion) in another country. Discreet questioning of the young woman reveals that her child is the child of the director and she has no idea that he is leaving.
- d. As a programme manager on one of your visits to a project, a teenage boy complains that the “director” has been touching him and other boys inappropriately. When you broach the subject with the director he gets very angry and demands to know who told you. He names the boy he thinks has told you and warns you he is always making up stories, as he is very disturbed.
- e. A male member of the local staff asks for a few days off to get married. After the congratulations, it becomes clear that the bride is only 14 years old.
- f. You start a new job and are told by a female colleague “no girl will get a job in this camp without having sex with NGO workers. NGO workers who are female are already “loving” with an NGO man. He will continue to go “loving” with other girls but girls see it as competition. It’s survival of the fittest”.
- g. One of your interpreters is married to a refugee woman. The wife recently came to your office and claimed that in fact she was forced into the marriage after being abducted by the staff member, raped

and held in sexual slavery for some weeks. She was finally able to escape and come to your office for help. The interpreter claims that he is a “poor innocent man” and that if your office is going to request emergency resettlement for the woman from UNHCR, he will block it as “it is not possible to resettle a wife without the husband’s consent”.

- h. Refugee leaders come to you and tell you that your co-worker, a fellow programme officer, is not welcome in the camp and that if he returns, they will not guarantee his security. When you enquire why, they inform you that the refugee women do not like him as he touches them “on the arm” when he speaks to them.



## 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 Court of Justice 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.

## Sources of international law

Customary law and conventional law are primary sources of international law.

- A. **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.
- B. **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.

Three separate bodies of international law work together to provide protection to refugees, displaced people and intended beneficiaries of aid. The differences are found not so much in the content or the substance of the bodies of law, but rather in the implementation mechanisms, international supervision and promotion and dissemination.

- i) **Human rights law** applies to all human beings without discrimination, in other words, to nationals, refugees and displaced persons – women and men, boys and girls.
- ii) **Refugee law** addresses specific refugee concerns, but does not address all of the basic and fundamental human rights of individuals that need to be protected. Therefore, human rights law can be read together with refugee law to provide wider protection for refugees.
- iii) **Humanitarian law** applies specifically during situations of armed conflict and provides protection for refugees and displaced persons, in circumstances where the other laws are not applicable.

### i) **Human rights law**

Human rights are inherent entitlements for all people. Human rights law is a system of laws intended to promote human rights and 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. Examples of international human rights treaties include: the Universal Declaration of Human Rights; the International Covenant on the Elimination of all Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination Against Women and the Convention Against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment.

### **The main instruments of human rights (customary and conventional law) are:**

1. The Universal Declaration of Human Rights – 1958
2. The International Covenant on the Elimination of all Forms of Racial Discrimination – 1965
3. The International Covenant on Economic, Social and Cultural Rights – 1966
4. The Convention on the Rights of the Child – 1989

5. The Convention on the Elimination of All Forms of Discrimination against Women – 1979
6. The Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment – 1975

#### ii) **Refugee law**

The basic structures and legal instruments ensuring the protection of refugees were established fifty years ago. The legal framework for protecting refugees is found in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol as well as in regional refugee instruments. It gives the general definition of the term “refugee” and formulates standards for the treatment of refugees by States. Refugee law is related to, but distinct from, international human rights law and international humanitarian law.

#### iii) **Humanitarian law**

In times of conflicts, international humanitarian law aims to protect persons who do not, or no longer, take part in the hostilities (i.e. are not bearing arms), and aims to regulate or restrict the methods and means of warfare. It develops 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 is also applied when the conflict is occurring on the territory of a single State, usually between government and dissident forces (internal conflicts). Specifically, **the 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. The 4<sup>th</sup> Geneva Convention deals specifically with the protection of civilians and therefore has the most relevance and importance to refugee and displaced populations.

## Regional instruments

It may be easier for States to agree on and implement regional instruments because they provide a common approach to certain issues and deal with problems specific to the region/countries concerned. Regional instruments are usually adopted in the framework of a regional organisation. There are various regional human rights systems in Africa, Europe, the Americas and the Islamic and Arab States.

## National law

In addition to international law, the national law of countries of asylum and residence govern the protection of refugee and displaced women and children. National law contains the practical provisions for protecting refugees including providing concrete implementation measures and mechanisms. The constitutions of some States guarantee the standards contained in international instruments. In some cases, international treaties can be directly invoked before the courts, while in others the provisions must first be incorporated into the national legislation.

## Non-binding instruments

Principles and practices of international law are often stated in declarations, resolutions, principles or guidelines. While they have no binding effect on States they nevertheless represent a broad consensus on the part of the international community and can provide detailed guidance.

The UN General Assembly Resolutions are not binding and not recognised as a source of international law. Nonetheless, they have been admitted as evidence before the International Court of Justice as *opinio juris*: Through such devices, progressive claims, such as the right and protection of women and children, may be advanced more forcefully.

## Humanitarian Codes

Although they are not legal standards, humanitarian codes set performance standards that many humanitarian agencies have agreed to be bound by. Moreover, they provide useful guidance to humanitarian workers on the standard of performance required of them.

- ▶ *The Code of Conduct for the International Red Cross and Red Crescent and NGOs in Disaster Relief* and *the Humanitarian Charter of Sphere* reinforce the right to dignity of all people affected by disaster and crisis.
- ▶ Codes of conduct of individual organisations require certain standards of behaviour for all staff and volunteers, usually making reference to avoiding actions that are or could be interpreted as abusive and exploitative.

## The SG's Bulletin

The Secretary General's Bulletin sets out the specific standards to protect vulnerable populations from exploitation and abuse. The Bulletin defines sexual exploitation and abuse, specifically prohibits certain behaviour on the part of staff and outlines the duties of managers.

The Bulletin is not a legally binding instrument, however, on the part of UN officials, there is a legal obligation 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 implementing partners: thus NGO partners are bound to the same principles as the UN through contractual relationships 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 of sexual exploitation and abuse, or
- ▶ take corrective measure when sexual exploitation and abuse has occurred

Those consequences may include termination of cooperative arrangements with the UN.

## HAP/Building Safer Organisations

### Investigations workshop

#### Denial – Module 1

HO3

## Denial

The term “denial” describes an action or process whereby abuse that has taken place is not or cannot be acknowledged by the abuser, the non-abusing caregiver, the victim/survivor child or adult, other family members or colleagues. Each party might deny different aspects of the abuse. There may be total denial that any abuse has taken place or it may be partial denial of:

- abusive circumstances
- damaging effects
- the addictive and repetitive nature of child sex abuse or abuse of vulnerable people
- the abuser’s responsibility

## The function of denial

Denial can relate to anxieties about:

- the legal consequences
- consequences for family relatives
- psychological consequences
- social consequences
- financial/work/career consequences

## Levels of denial

There are several levels at which abuse may be denied:

- primary or total denial of any abuse
- denial of severity of acts
- denial of knowledge of abuse (perpetrators may say they were drunk, asleep, depressed, tired etc)
- denial that the maltreatment was abusive (this may involve pretending that the abuse was a normal/educational activity)
- denial of the harmful effects of the abuse (the abusive act is said not to have harmed the child)
- denial of responsibility (the perpetrator makes the child responsible for the abuse, saying that the child triggered the abuse by their behaviour)

Denial is strongly associated with child maltreatment. The typical feelings of pain, helplessness, worthlessness and rejection that children, and also adult survivors, feel when they are maltreated tend to be hidden this way. There may also be a sense of collective denial in wider society that refuses to see child abuse or exploitation and abuse of vulnerable adults as a serious problem. Along side this, professionals who identify abused children or abuse of beneficiaries in humanitarian situations and highlight the problem, may be blamed rather than there being an acknowledgement that all is not well in society and particularly in the family or community where most abuse is known to take place.

## Case study – Background information

Armed conflict has erupted in Id, a small country in the Middle East. A minority ethnic group, the Mountainites, have fled the fighting in their semi-autonomous territory as they have become the target of attacks by the government of Id. They have escaped to a remote, mountainous region that is on the northern border of Id and the neighbouring country Oz. Given the remote rugged terrain and age-old land disputes, it is not clear if the Mountainites have crossed into Oz. The Mountainites share a similar religion and culture with the population living in the border region of Oz. The Ozzies are poor themselves but generous and welcoming to the Mountainites. This is facilitated by their common language.

Both the local population of Ozzies, and the Mountainites are small-scale agriculturalists and fishing folk (there used to be bountiful supplies of fish in the rivers, however these have been depleted due to over fishing and pollution). They share a traditional Muslim faith and their family structure, informal “laws”, values and lifestyle reflect this. Oral history through songs, stories and poetry are an important aspect of their culture, with communities gathering during the evenings to listen to the elders. Until the recent upsurge in violence, the Mountainites were not a strongly unified people, living in small villages, their family and small community played the most important role in their lives.

The Mountainites maintain social order through a traditional justice system in which heads of households bring forth their grievances to the community elder. The elder establishes guilt and reparation. Justice is usually swift and severe. This is viewed by most as a just and fair system. Grievances are rarely taken to the national judicial system, which is viewed as biased and unjust.

The Mountainites have been subject to discrimination from the Idiates, the main ethnic group of Id, since the founding of the country. They do not have equal access to education and their territory has received little to no development funding from the Id government. The Mountainites are amongst the poorest people in Id and only 38% of Mountainites are literate. Girls are often not sent to school as they are needed to assist their mothers in household chores. On average, boys attend primary school until age 12, when they are sent to fish with their fathers or tend the fields. The poor quality of the land, with limited nutrients leads to minimal harvests and high levels of malnutrition among the population.

Children are considered a great blessing and families are large. Polygamy is accepted but only if a man can afford to care for two wives and their children equally. In Id, women were largely excluded from public life and were more likely to be in the home caring for large families. However, with many men away fighting or dead, women have to take on non-traditional roles. In families without sons, women are now heads of households, while in families with sons, boys as young as 8 years old are the new heads of households (even when there is an adult woman in the house).

Winter is about to close in. When it does, the temperatures will be extreme and the mountain passes will close. Thus far there have been three deliveries of food, household items and emergency medical supplies. These deliveries have been based on standard relief packages supplied in the aftermath of an emergency. The international community is confident that the Mountainites have been supplied with adequate temporary shelter to last the winter. However, there is only a brief window during which it will be possible to get in food supplies.

Given that there have been new arrivals and clandestine departures from the makeshift camp, no one is sure exactly what the population of the area is.

An emergency team from the aid organisation, Operation Hope, has been living in the camp with the Mountainites for the last six weeks. They will go on MARS (Mandatory Absence for the Relief of Stress) leave while a replacement team comes to take a census. The replacement team will only be in place for two weeks so time is of the essence. Moreover, resources are limited so the team of five has only one vehicle and a driver. The “camp” is not set up in conformity with Sphere standards as mostly people arrived and settled where they could on the rough terrain. The designated meeting area is within the area where the staff tents are located about 3 kilometres on foot from the Mountainite tents. Census will be taken in a large tent that accommodates about 50 community leaders.

## HAP/Building Safer Organisations

### Investigations workshop

### Aid workers – Module 2

HO5

#### Role description – Operation Hope staff

You are a group of Operation Hope staff from Headquarters Registration Section sent out to replace the Emergency Team originally deployed to respond to the flow of displaced people to this region. You are only in the area for two weeks while the Emergency Team prepares to return for the winter.

Your task is to take an initial needs assessment and census of the population of refugees in order to supply adequate food/calories to the whole population to cover the three months when it will be impossible to get out except via helicopter (which is expensive and dangerous). In addition, you have been asked to check with the community leaders if there is any other issue they need addressed before winter sets in. For example, do they have adequate blankets, lighting, latrines, etc? Funds are limited so you should not give the impression that anything is possible but you do have the autonomy to weigh priorities and make a decision about what can be provided in addition to food.

You have called in advance and been assured that the community leaders know that they must come to the meeting point today to tell you in detail the numbers in the camp. Each leader is responsible for a sector. The leaders have been asked to count and number heads of households in their sector (both male and female) and provide family names and numbers of family members in order to come up with the figures. They also know that they are required to bring to the table any other issues of concern.

Attached is a population survey form.

#### Tasks

1. You have 15 minutes to decide how your team will function and whether you need any additional information added to the form.
2. You have 15 minutes to obtain the information you need. (A facilitator will bring the “beneficiaries” to your group.)
3. You have 15 minutes to formulate your report and recommendations to HQ.



## HAP/Building Safer Organisations

### Investigations workshop

### Refugees – Module 2

HO6

#### Role description – Mountainite women and children

You are a group of women and children from the sector of the camp that is headed by the local religious leader. He is well respected and well liked as he seems to know a lot about how aid workers think and operate. He went to religious school in the capital of Id and is accepted as a well-read scholar. His wives and children are also among your group.

Winter is about to begin and soon the weather will make travel in and out of the region impossible. Winter is always like that in this region and you know how to protect your families as best as is possible. You are concerned that the aid agency provides you with the right type of calories for the winter and for enough people as many of the women are pregnant so the numbers today will be increased by the late winter.

While these are concerns that you have, you are reasonably confident that the men will be able to bring these concerns to the aid workers as they too will go hungry if not enough food is provided.

You have several other concerns that need to be brought to the attention of the aid workers. Firstly, the Head of Sector (religious leader), beats his younger wife severely. Culturally, this is a sign of love and concern as he is disciplining her to make her a better wife. She is often injured after these assaults and the first wife must care for the whole family when this happens. Moreover, this is seen as a sign for other men to treat their wives similarly. You cannot tell the Head of Sector as he will obviously not report this matter.

Aside from feeding your children, the other pressing concern is that one of the aid workers that came with the Emergency Team is demanding sex from adolescent girls in return for food supplies. You are unable to bring this directly to the leadership as the girls in question will be murdered to protect her family's honour should this "secret" become public knowledge. However, you have mentioned on several occasions to your husbands (those of you that have husbands) that the aid worker in question (you do not know his name but he has black hair and a bushy moustache) should be sent away as he is not religious, he looks at women in a familiar way and he is trying to touch women on the arm. You have not mentioned any names of the girls involved. Moreover, you cannot really discuss it openly among yourselves as then you would "know" of the shame and be obligated to report it. That is as far as you can go without putting the girls at risk.

#### Task

You have 30 minutes to decide:

1. How will you bring your concerns about food to the leaders?
2. Will you mention the other problems you are facing?
3. What issues will you directly ask the leaders to take to the new team? How will you express them?
4. If the leaders do not ask you, how will you take the message to them or to the aid workers?
5. If it is not possible what alternative course of action will you follow?



## Role description – Mountainite leadership

You are the leaders of the Mountainite displaced population. Each of you is the leader of a sector of about 200 families. Families are of different sizes and composition but for the most part each family has between 6 and 10 members. You are all aware that the winter will be harsh and that you need to convince the aid team of the importance of sending enough food for everyone. In addition, some of the families in your sectors have members who are soldiers who will return to fight the Idiats on behalf of your people so you need stores to feed them when they return from the front and to supply to them when they are away. You are aware that foreign infidels working for aid organisations are not interested in your cause and that you should hide this particular piece of information from them.

You are all fairly traditional in your views and recognise that the best way to preserve order and avoid panic during this crisis is to maintain as much stability as possible by keeping to the old ways. You have chosen several men as your spokesmen and they are also responsible for maintaining law and order. So far there has been very little dissent.

The women are responsible for maintaining the family and have been managing reasonably well despite your reduced circumstances. Some of you feel that they complain too much about domestic issues given that there is a war raging at home and the Id Government appears determined to destroy your people.

There have been some murmurings about a particular aid worker who is disrespectful and may well have gone as far as touching some silly girl on the arm. She is a known trouble-maker and you do not wish to jeopardize your chances of getting adequate food by making too much fuss about it. However, others in your group think that this type of thing is typical of disrespectful westerners and should be addressed.

## Task

1. You have 15 minutes to determine how you will bring the relevant information regarding the census and food needs to the aid workers. You have been provided in advance with a form to help you.
2. You have 15 minutes to decide what other issues should be brought to the attention of the aid workers or to determine if you will handle the problem internally.
3. You have 15 minutes to speak to the aid workers and get your problem across.



**Additional information for one of the aid workers**

*(to be provided ten minutes into the exercise)*

During the pre-assignment briefing, one of the Emergency Response Team members made several comments regarding how attractive the Mountainite girls are. He said they are very friendly but terrified of Mountainite men who decide everything for them. He gave the impression that the Mountainite girls are happy to be friends with the aid workers but have to be sly about it to avoid any conflict in their families. Is this something worth raising with your team? What will you say?

## HAP/Building Safer Organisations

### Investigations workshop

### Complaints mechanisms – Module 2

HO9

It is the responsibility of all organisations to ensure that a safe, confidential, transparent and accessible complaints system is established in each location so that all staff and beneficiaries, including women and children, know where to go to make a complaint and receive assistance.

### Enabling beneficiaries to complain<sup>1</sup>

Organisations should develop their complaints mechanisms in consultation with beneficiaries in order to ensure that it adequately reflects their needs. In this way, organisations will be aware of the barriers beneficiaries face when making complaints. Beneficiaries should be informed of what their rights are and what they can and should complain about. This includes informing them of the organisation's Code of Conduct. A description of the complaint process must be provided to beneficiaries which outlines the stages of the process, timeframes for each stage, rules governing decision-making and who is responsible for the process. Beneficiaries must also be informed that the process will be kept as confidential as possible and that the organisation will try to protect them from retaliation. If necessary, it should be possible for complaints to be made on behalf of victims of exploitation and abuse with their consent.

Information on the complaints mechanism must be actively disseminated in a clear way in suitable forms and through appropriate media. Appropriateness will require consideration of gender, age, physical ability, language, level of literacy, ethnicity or any other factor that may affect people's ability to lodge a complaint safely. The contact details of a specific focal point in the organisation must be provided.

The design of the mechanism must cater to the situation and needs of the beneficiaries for which it is intended, particularly the most at risk in the population. This makes it necessary to have a number of entry points where reports can be made. These can include:

- Complaints boxes where written or typed complaints can be lodged
- Well-known and trusted community focal points such as the protection officers and health workers
- Youth focus groups in community centres or schools

The population can be informed of their rights and the complaints mechanisms through:

- Posters demonstrating that aid workers offering goods and services in return for sexual favours are wrong
- Educating women either through women's organisations within a camp or through women leaders, about their rights as persons of concern. This education can include information on existing legal frameworks, women's rights, organisational policies regarding allegations and avenues to social and physical refuge
- Having a safe space allocated to women and children who are victims of abuse
- Dramas or games developed to inform children of their rights

All NGOs working with a given population need to have a common approach to receiving and responding to allegations of sexual exploitation and abuse. To be effective, organisations should actively solicit, respond to and follow-up on complaints.

### Enabling staff to complain

All organisations must have a confidential complaints mechanism that is accessible to staff. The mechanisms must be published and described to staff at the time of entry into service. It should be easily accessible for staff in remote or isolated locations. Ideally, the system will require oral or written allegations to be lodged directly with the most senior manager in the duty station, unless that manager is implicated in the complaint. In this case the CEO should designate another staff member to be the focal point for receiving complaints, such as the Director of Human Resources.

<sup>1</sup> *Pathways to Accountability: A short guide to The GAP Framework*, Monica Blagescu, Lucy de Las Casas and Robert Lloyd.

Pursuant to the United Nations, *Secretary General's Bulletin on Special Measures for Protection from Sexual Abuse and Sexual Exploitation*, 2003/13, it should be explicit that it is mandatory for all staff to report when they have a concern or suspicion that a colleague or another staff member may be involved in exploitation and abuse. It should be clear that information on misconduct that is submitted in good faith with honesty and sincerity will be kept confidential.

## Protecting complainants from reprisals

No threats or action may be taken against a complainant as reprisal for making a report or disclosing information to, or otherwise cooperating with, an official investigation by the organisation. If an investigator receives information that the complainant may be at risk of reprisal for reporting allegations of misconduct or because of an investigation process, the investigator must immediately report this to her/his supervisor and together they should consider protective measures.

All organisations should have an official whistleblowing policy to protect staff lodging complaints from official and informal sanctions or reprisals from their colleagues or employer. Disciplinary proceedings may be initiated against any staff member who is proven to have retaliated against another staff member or other individual who made a complaint or cooperated with an investigation.

## Malicious or false allegations

When a complainant makes an allegation that they know to be false or that wilfully disregards the truth, this constitutes misconduct and disciplinary measures may be imposed<sup>2</sup>. As a result, the identity of this complainant may be disclosed during the subsequent administrative and disciplinary proceedings.

## Processing allegations

Once received, those responsible for the investigation must adhere to the process set out in the organisation's Sexual Exploitation and Abuse policy. It is therefore crucial that the organisations develop clear and exhaustive procedures for processing and investigating complaints. For example, all complaints however received should be directed to the Country Director, unless s/he is implicated in the allegation. For national or local organisations, the Director will appoint the investigators and supervise the investigation. If the organisation is regional or international, the complaint should be transmitted to headquarters where the Director of Human Resources will appoint investigators and supervise the investigation.

## Confirmation of receipt of complaint

When making an allegation of misconduct in writing, by telephone or in any other manner, the complainant should receive an official acknowledgement, in writing, within five working days of the allegation(s) being received. Some complainants may reveal their identities but be reluctant to receive written acknowledgement for fear their action may be revealed to their colleagues or other members of the community. In these cases, no confirmation should be sent. A note should be kept on file detailing this decision.

The manager of an office that may be affected by an investigation should also be informed, in general terms, by the investigator's supervisor about the investigation without prejudicing the investigative process. The identity of the complainant should never be disclosed. However, the complainant does not "own" the complaint and may not use it for any purpose other than to assist the organisation. At no stage during the investigation does the complainant have to be informed about the status of the investigation.

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<sup>2</sup> Point 16 of the *Draft Guidelines on the Application of the ST/SGB/2003/13*, 2005. Organisations should have a policy on how to deal with false or malicious allegations.

## HAP/Building Safer Organisations

### Investigations workshop

### Gender and Age – Module 3

HO10

## Defining terms

**Sex** – biologically determined differences between men and women that are innate, unchangeable and universal.

**Gender** – socially constructed differences between men and women that are learned, changeable over time and have wide variations both within and between cultures. Gender affects roles, responsibilities, constraints, opportunities and needs of men and women in any context.

**Gender roles** – learned behaviours in any given society/community or other social group, that condition which activities, tasks and responsibilities are perceived as male and female. Gender roles are affected by age, class, race, ethnicity and religion, as well as geographical, economic and political environment.

## Different ways of perceiving masculinity – nature or nurture?

### Biological determinism/essentialism

- men are born with the characteristics of masculinity, it is a biological reality

### Cultural/social construction and masculinity as a discourse of power

- masculinity is constructed in society via the relations of power

## Masculine socialisation entails expectations of...

### Power e.g.:

- patriarchy
- women's subordination
- male privilege
- access and control

### Authority e.g.:

- the boss and secretary syndrome

### Entitlement e.g.:

- "husband's rights"
- the "last word"
- respect and deference
- a job for life

### Servicing e.g.:

- hot meals
- meat and two vegetables
- sex on demand
- fresh laundry
- good kids

## Examples of gender gaps:

### Health

More boys immunised  
More boys treated in hospitals

### Nutrition

Girls weaned earlier  
Women/girls eat after men/boys

### Workload

Women work more than men  
Less recognition (housework)  
Collection of water and firewood

### Status

Son-preference cultures  
Boys/men higher than women/girls

### Rights

Inheritance  
Guardianship of children  
Access to productive resources

### Value

higher selective abortion for girls

### Education

Boys more access than girls

## Root causes of gender based violence:

### **Culture**

- cultural beliefs that socialise girls and boys into different gendered roles
- culture is dynamic and changing and contains practices that impact differently on boys, girls, men and women benefiting some groups and disadvantaging others
- other social structures such as race, gender, class and religion impact on perpetrators and survivors of abuse

### **Unequal power relations**

- In most cultures men often have power and control over women and girls. They often maintain this power through violence.
- Violence and abuse perpetuate inequalities in interpersonal relationships and reinforce structures that enable violence against women and children to continue. This creates a “cycle of oppression”.
- Unequal power relations are often perpetuated through structures that give men social, economic and political advantages over women and children.
- The treatment both girls and boys receive from adults can be affected. However, in general discrimination against women and girls disadvantages girls even more than boys in certain situations i.e. girls have less access to education.
- This gender inequality disempowers girls by giving them unequal access to resources and limiting girls’ and women’s participation in making decisions that affect them.

### **Poverty and displacement**

- Poverty and underdevelopment are also facilitating factors in the exploitation and abuse of women and children, trafficking of women and children, prostitution and pornography.

Men and women are different but these differences can never be accepted as the basis for discrimination. “Respect” for culture should never be used as an excuse for ignoring abuses of women and children.

## HAP/Building Safer Organisations Investigations workshop Faith – Module 3

HO11

### Questionnaire

	Agree/Disagree	
1. A gay man can find consolation and therapy in prayer and religious teachings.	<input type="checkbox"/>	<input type="checkbox"/>
2. Women should not behave in a provocative way around a religious leader.	<input type="checkbox"/>	<input type="checkbox"/>
3. People of faith are vulnerable to false allegations.	<input type="checkbox"/>	<input type="checkbox"/>
4. A sexual abuser who has been forgiven and redeemed his sins is less of a risk than an offender who has not.	<input type="checkbox"/>	<input type="checkbox"/>
5. Abortion is a women's issue and so it is a woman's right to chose if she wants an abortion.	<input type="checkbox"/>	<input type="checkbox"/>
6. You should not question a religious leader's opinions or behaviour when s/he states it's the usual practice of that faith.	<input type="checkbox"/>	<input type="checkbox"/>
7. Sexual intimacy should only take place in the confines of marriage.	<input type="checkbox"/>	<input type="checkbox"/>
8. Women and children who have been abused need to find some level of forgiveness in their hearts for the abuser.	<input type="checkbox"/>	<input type="checkbox"/>



## Principles case study

*You are an investigator and have just received the following case. You have also been assigned a principle; please think about your principle when reading through the case.*

### Task

When you have read the case study, spend 30 minutes discussing the following issues with your group. Record key points on flipchart paper.

- Why is the principle important to the investigation in this case?
- How can the principle be applied in the investigation from now on?

### POPAID Case

1. POPAID is an international NGO working with refugees and displaced populations.
2. POPAID has a Code of Conduct for its entire staff.
3. Peter is a POPAID driver. He approached Charles, the senior driver, to ask for advice. Recently Henry, the Senior Medical Officer, asked Peter to bring two refugee girls from the camp to a nearby guesthouse. Peter was not on duty at the time and so was unable to do as requested. He was not sure if anyone else had been approached by Henry, and had no additional information about what might have taken place on that evening. Charles suggested that Peter ask the other drivers if they knew anything.
4. One other driver said he had received a similar request and he had taken the two girls to the guesthouse as requested. This driver gave Peter and Charles the names of the girls.
5. Peter and Charles thought there may have been improper conduct by Henry, but they did not know what had gone on in the guesthouse. The other driver was a friend, so Charles and Peter were concerned about raising the matter with senior staff.
6. They decided to approach the girls to find out what had happened. Charles stopped one of the girls in the camp, to ask if she knew Henry. The eighteen year old said that yes she knew him, that he was a friend and she had the right to be friends with whom she chose. She suggested that Charles should concentrate on his job and leave her alone.
7. Later in the day, Peter saw the girl in the camp and also approached her, to ask what had happened at the guesthouse. The girl became angry and refused to answer any questions.
8. Peter and Charles decided that they had insufficient evidence to report this. They later heard that not reporting concerns would also be against the Code of Conduct, and they could get into trouble if it ever came out.
9. Peter still felt uneasy, and reported to Mary, the Field Coordinator. The Field Coordinator emailed the Deputy Director. The Deputy Director was on leave, and learned about the driver's story when he returned two weeks later. He then informed the Country Director. The Country Director decided to do a preliminary investigation and asked Mary, the Field Coordinator, to "find out what was going on".
10. All of the senior staff working in this location live together in a shared house.
11. In the meantime, the other girl, aged 14, who had been taken to the guesthouse, approached the Gender Based Violence programme, run by a different NGO. News had reached her father of her relationship with one or more of the humanitarian workers, and he had beaten her and then thrown her out of the

family barrack. Lydia, the GBV programme manager, reported this to UNHCR through the only means of communication in that field site – the radio. She included identifying details about the girl and her family, but did not mention the alleged perpetrator or his organisation. UNHCR had no protection officer in the camp for some days, but assured Lydia that they would follow up as soon as possible and investigate the allegation.

12. UNHCR, the organisation responsible for camp management and POPAID each decided on an investigation, and independently set out to gather evidence from all the parties concerned.

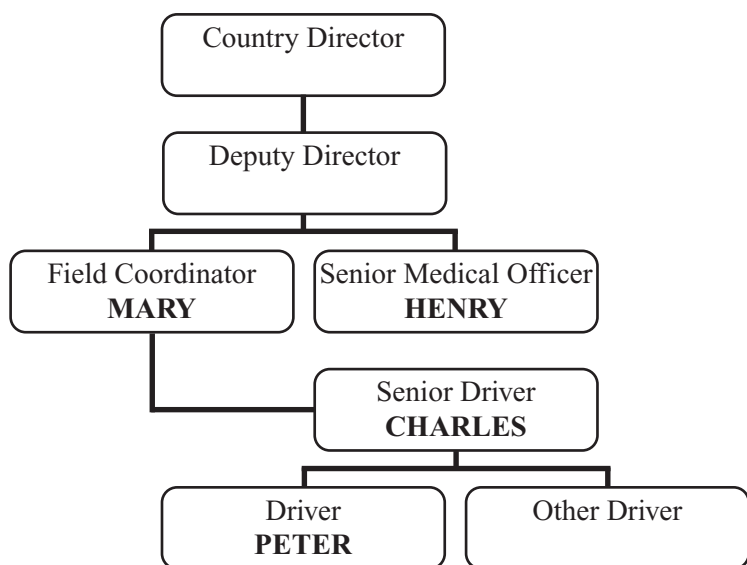
### Principles

1. confidentiality
2. anonymity
3. the safety and welfare needs of women and children
4. safety of girls, analysis of the risks
5. health
6. psycho-social
7. legal/justice
8. professional care and competence
9. thoroughness
10. independence
11. planning and review
12. respect for all concerned
13. timeframes
14. working in partnership with other interested parties
15. national authorities

### POPAID case study diagram:

**POPAID staff:**

**Other organisations:**



**If available, always have a specialist interviewing witnesses with special needs.**

### Witnesses with fear of authority

- Fear of authority may result in phobias, panic attacks or fears of persecution. It will be important to consider how this may impact upon questioning in terms of style, rapport, information giving etc.
- If a witness has a fear of authority, s/he may require support from trusted individuals to enable them to participate effectively.
- Also, such witnesses may wish to please the interviewer by giving information they think the interviewer wants to hear. It is important to reassure the witness that they should feel free to say if they don't know or are unsure of something.

### Witnesses with learning or intellectual disabilities

- Early assessment of needs is required and professional advice should be sought when possible. For example, people with learning difficulties may have difficulties with language skills relative to other skills or they may have a shorter attention span.
- Support prior to, during and post interview must be considered.
- The issue of consent should also be considered given that the witness must understand why they are being interviewed and give their consent to participate.
- Remain calm as the witness may become concerned by emotion or shouting.
- Be aware that unfamiliar sights, sounds and people may make the witness afraid.
- Do not sit with your back to the light and minimise any background noise.
- Close physical contact may cause stress to the witness.
- Direct eye contact may not be comfortable for the witness.
- A familiar environment may be the best place for the interview.
- Witnesses may be afraid of authority figures.
- If the witness has language difficulties, s/he may require assistance to understand your questions. Consider using alternative materials such as pictures.
- Words which sound similar may become confused.
- Keep sentences short. Do not include more than one concept in a sentence.
- The witness may be more vulnerable to leading questions.

### Witnesses with physical disability

- Consider access requirements and how the witness will be able to get to and from the interview site.
- A carer may be required to attend for physical assistance or an interpreter/intermediary if they have speech impairment and/or hearing loss.
- If the witness needs a supporter to assist, explain the role of the supporter to both witness and supporter.
- Build in additional rest and refreshment periods.

## HAP/Building Safer Organisations Investigations workshop Interviewing children – Module 4

HO14

**If available, always have a specialist interviewing children.**

### Preparation of children for interview<sup>1</sup>

- Explain role of interviewer to the child.
- Explain purpose of interview (without detailing the nature of complaint).
- Seek permission for child's information to be included in report.
- Explain the concept of confidentiality and who will see the information in a way a child understands.
- Explain ground rules of interview.
- Brief any supporter about his/her role.

### Engage and explain/rapport

- State day, time and place of interview for the record.
- Introduce everyone present and explain what everyone is doing (e.g. the supporter).
- Explain why the child is being interviewed without specifying the nature of the complaint (e.g. the interviewer has been told that something has happened to the child and it is the interviewer's job to find out what happened).
- Discuss neutral topics and reassure the child that they have not done anything wrong.
- Use open questions.
- Assess the child's ability to participate in the interview and their ability to understand.
- Inform the child that:
  - the interviewer was not there at the time of the incident and therefore needs the child to tell him/her what happened
  - if the interviewer asks questions the child does not understand the child should feel free to say so
  - if the child does not know the answer to a question it is ok to say that s/he does not know the answer
  - if the interviewer summarises the child's account incorrectly, the child should say so
- Explore the child's understanding of what is the truth and what is not the truth

### Account/free narrative

- Ask the child to describe what happened in their own words.
- Use active listening skills.
- If appropriate, use other mediums such as drawing, figures, modelling clay etc.

### Clarification/questions

- Remind the child of the ground rules (in explain/rapport section).
- Keep questions short and simple.
- Use child's vocabulary.
- Begin with open ended questions.
- Move on to specific questions (use "who", "what", "where" or "when" and avoid use of "why" questions).
- Stay focused (e.g. gather all the information you need on one topic before moving on to another, do not move from incident to incident and back again).

<sup>1</sup> When interviewing a child, whenever possible, take a verbatim record of the interview rather than making a summary of the most important points.

- Try not to repeat questions.
- When asking a child about specific issues like time, height, weight, age etc, avoid terminology s/he may not understand.
- If you need to use a closed question, clearly re-state to the child that if s/he does not know the answer or is unsure s/he should say so.
- Do not ask a leading question unless it is absolutely necessary (i.e. if you do not to ask it, the child's safety or the integrity of the investigation may be compromised).
- Where a child responds to a leading question with information not previously known or referred to, revert to open or specific questions.
- Be aware that if you give a child two options in a question, s/he will often repeat the last option. For example, if you ask "Was the car black or blue?", s/he will answer "blue".

## Closure

- Check that the second interviewer does not think that any more questions need to be asked.
- Summarise the information given by the child using the child's words.
- Answer any questions from the child.
- Thank the child for their time and effort.
- Tell the child whom to speak to if s/he has any problems.
- Return to the rapport phase.
- State time of end of interview.

## Evaluation

- Do not interpret the child's behaviour as a reliable indicator of the accuracy or otherwise of what s/he has said. Instead, consider:
  - what information has been obtained
  - how the account fits with the other information/evidence
  - whether any action needs to be taken and, if so, what
  - what further enquiries need to be undertaken
  - your performance (including how you can develop your skills)
  - the fact that children are vulnerable and easily intimidated

## HAP/Building Safer Organisations

### Investigations workshop

#### Hollywood Aid case study – Module 4

HO15

#### Victim

Sunita Akhtar	13 years	female
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#### Family

Rubina Akhtar	unknown	mother and complainant
Nasima Akhtar	10 years	sister
Hossain Akhtar	15 years	brother
Mohammed Akhtar	(deceased 4 years previously)	father

#### Address

Shanty, Kuril Slum, Dhaka, Bangladesh

#### Names of accused person

Adrian Smith	29 years	Hollywood Aid, male
Abdul Jabber	54 years	Hollywood Aid, male

#### Names of witnesses

Karim Hussein	11 years	local community, male
Sister Mary Murphy	42 years	Project Manager Hollywood Aid, nun, female

#### Incident – reported by mother

Nasima is in Dhaka Community Hospital being treated for dysentery. Sunita has been visiting daily to care for her. After a visit last month she has refused to go to visit her sister anymore. Eventually Sunita told her brother, Hossain, that on her last visit to the hospital two aid workers said if she let them take photos of her she would get extra food for Nasima. The aid workers had told Rubina (mother) that they were going to be “portrait” pictures. She and her mother had agreed not to tell Hossain before taking the pictures as they knew he would disapprove.

After Sunita returned from the Korean Church, she told her brother that pictures were taken of her and begged him not to tell anyone. Rubina and Hossain did discuss it and are very worried about Sunita. She has been withdrawn and depressed, often found crying. She refuses to go outside of the shanty unless she is with her mother or brother. She has not been eating and has said she is worried about Nasima being in the hospital. Hossain has managed to get work in another city and he will be away for some time. This also means the family will not receive any income from him for some months.

After Hossein left, Rubina talked to Sunita who broke down, begging not to have to get more photos taken. She then said the white man had “touched” her. They have agreed to complain about the two aid workers.

Rubina complained to the project manager, Sister Mary Murphy.

#### Preliminary information

Further account from Rubina Akhtar, Sunita’s mother –

She describes the two aid workers and recalls one name Abdul Jabber whom she knew from previous circumstances. She believes he is a “bad man” with “no respect”.

The two aid workers approached Sunita first and asked her if she’d like to earn extra food for having her photo taken. Abdul Jabber and a white man then came with Sunita to her house and asked Rubina’s permission explaining that she could earn food. Abdul said they were going to the Korean Church as that is where they had all the equipment.

Sunita returned about 2 hours later alone, with extra food parcels. Sunita was very upset, shaking and flushed faced. Rubina said at the time she didn’t ask about what had happened. At the time Sunita mentioned that she saw Karim Hussein outside the church when she left after the photo shoot.

Since then Rubina has been worried about her daughters and wants the matter looked into. She doesn’t want the police involved as this will bring too much shame on the family and they have no man to protect them.

## Local information

The local police are corrupt, accept bribes and are very physically violent. It is not expected that they would assist in this matter especially as there is not yet any clear evidence of illegal acts. If any sexual assault is identified, it is likely they would blame the victim and her mother and may initiate community “lashings”.

Sister Mary Murphy, the project manager, has identified the aid workers as follows:

### WORKER 1: Adrian Smith

British male,  
29 years old,  
Buddhist.

#### Physical description:

Blonde hair but shaved head, green eyes, two earrings in left ear, small beard.

#### Recent employment history:

Worked for Hollywood Aid since December 2003. He previously worked in Bangkok for Water Aid.

### WORKER 2: Abdul Jabber

Bangladeshi, male,  
54 years old,  
Ethnic Rohingya.

#### Physical description:

Black hair, moustache, brown eyes. Left leg physically impaired from polio.

#### Recent employment history:

Worked for Hollywood Aid for past 3 years, initially as a volunteer, then as a paid employee. Previously, he worked in a missionary organisation helping street children. He is highly regarded by Sister Mary Murphy and other Hollywood Aid colleagues.

# HAP/Building Safer Organisations

## Investigations workshop

### Four stages of interviewing – Module 5

HO16

## A. Rapport building and opening information

### Thank the witness for attending the interview. For example:

Thank you for coming today and speaking to us/me. I imagine it was difficult to fit this into your full schedule. I understand that today is your day off. How long have you worked for the organisation? Is it a good job?

### Outline the pre-interview information (ground rules):

- **Introduce yourself**  
Explain who you are, offer your card with contact details and introduce any other investigators, observers or interpreters present.
- **Honesty and accuracy**  
Staff members have a duty to cooperate and obligation to tell the truth. For witnesses who are not staff members, simply thank them for their time and explain it is important for them to be accurate.
- **Confidentiality**  
Staff members have an obligation to refrain from communicating with other persons interviewed in the framework of the same investigation. Explain that the investigation process is confidential for both witnesses and investigators alike. Describe who you, as the investigator, may have to share information with and why. If they are a staff witness, explain that breaching confidentiality can result in disciplinary measures.  
Non staff witnesses cannot be obliged to maintain confidentiality but the investigator should explain the importance of confidentiality to a fair process.
- **Purpose of note-taking**  
Explain who will be taking the notes i.e. the interviewer or the second interviewer. Explain the purpose of taking notes is to ensure accuracy when the investigation report is written up and to offer the witness a chance to verify the accuracy of what is written in the statement.
- **Acceptable to state when answer not known**  
Clarify to witness that it is ok if they cannot remember or do not know a particular piece of information.
- **Right to ask for short break**  
Tell the witness where the bathroom facilities are; offer them water and explain that they can ask for a short break if they need it. You should also ask if there are any other problems you can help with that might interfere with the interview i.e. if the driver has to drive the representative to an appointment in half an hour's time, offer to ask to have the interview rescheduled or to find an alternative solution.

Lack of cooperation, fraud, malicious reports and concealment of facts or evidence can lead to disciplinary measures for staff witnesses.

## B. Free narrative

- “Do you know why we are here today?”
- “I understand that there have been some problems in the office. Have you encountered anything like this?”
- “Tell me about that...”
- “I wasn't there and I'm not allowed to assume or guess anything so tell me about it in your own words.”
- “If you could tell me about that and try not to leave anything out.”
- “I understand that this might be difficult but it is important because...”



**Remember:**

Avoid interrupting or clarifying ambiguities. Have an “active listener” posture. Elicit more information by repeating key phrases used by the witness. Offer prompts that relate to the witness’ account only – not to other witnesses’ evidence. Work at the pace of the interviewee. Do not give positive or negative feedback. Beware of unintentionally communicating approval or disapproval through facial expressions and voice inflexions.

**C. Questions**

- Open questions (designed to elicit further information)
  - “Describe for me the exact events surrounding... (for example, collecting the girls and taking them to the guest house)?”
  - “Tell me what happened when she returned back from the church?”
- Specific questions (to clarify the information the witness has already given and to help the witness give relevant information s/he was unable or unwilling to give during the free narrative)
  - “Please tell me the names and physical description of the individuals involved.”
  - “Tell me what was said.”
  - “Who saw this?”
- Closed questions (designed to clarify something you already know or to specify some earlier information – usually involves a “yes” or “no” answers or one piece of information)
  - “What is that person’s name?”
  - “Did you personally witness these events?”
  - “Did someone else see this?”
  - “Did you have this instruction in writing?”
- Leading questions (interviewers should avoid asking leading questions as they may distort the witness’ testimony – use as a last resort only)
  - “Were you in the car at the time?”
  - “Are there women entering Mr. Michaelson’s home?”
  - “Did he ask you to pick them up at 8:20?”

**D. Summary and closure**

- “I am going to sum up now what I have heard you say, please tell me if I got anything wrong”.
- “I have summarised what I think I heard you say. Did I leave anything out? Would you like to correct anything?”
- “Do you have any questions for me”?
- “Explain what will be done with the information”.
- “Thank you for your time”.

**Remember:**

Check with second interviewer (recorder) if there are any outstanding matters before you summarise. Summarise what the interviewee has stated in his/her words. Answer any questions s/he may have. If any new information comes up during or after the summary, you must summarize the new information again.

## HAP/Building Safer Organisations

### Investigations workshop

#### Preparations for interviews – Module 5

HO17

### What you already have

Information about witness	Information known:	
	YES	NO
1.age		
2.preferred name		
3.culture, ethnicity, religion, and first language		
4.gender		
5.special needs, cognitive ability, linguistic ability		
6.health needs		
7.current emotional needs		

### Circumstances

Additional information on the victim	Information known:	
	YES	NO
1.family members, carers and nature of relationships		
2.routines (attendance at school, work, care for children)		
3.aid provision (what they are receiving, who provides it, is it still accessible)		
4.recent changes in circumstances contributing to vulnerability and/or reliance on others		
5.previous allegations of abuse		
6.whether witness is currently safe		

### Alleged incident

	Information known:	
	YES	NO
1.what type of and how many alleged incident(s)		
2.what happened immediately before incident		
3.what happened during incident		
4.what happened immediately after incident		
5.how did the subject of complaint come into contact with the victim		
6.how did the complaint come to the attention of investigators		

## Details of abuse/exploitation

	Information known:	
	YES	NO
1. victim's relationship with any protective adult and their reaction to complaint i.e. spouse, parent		
2. frequency and duration of abuse		
3. co-existence of different forms of abuse		
4. single or multiple subjects of complaint		
5. degree of violence and aggression used		
6. level of threat to life (e.g. withholding of food, water or essential items from victim or others on behalf of victim)		
7. form of coercion		
8. who the victim has told		

## Considerations

	Questions asked:	
	YES	NO
1. initial investigative findings (full record to be kept)		
2. need for support and/or intermediary/interpreter		
3. potential blocks to communication and methods for dealing with them		
4. willingness to talk to investigators		
5. whether the witness is currently in a safe environment		

## Planning the interview

Set objectives for interview and decide:	Decision made:	
	YES	NO
1. whether the objectives of the interview have been set		
2. who will be present and who will lead the interview		
3. where the interview will take place		
4. when the interview will take place		
5. how long will the interview last and the need for breaks		
6. what is likely to happen after the interview		

## Identification of vulnerable and/or intimidated witnesses

	Questions to ask before:	
	YES	NO
1. does the witness have a physical/learning impairment?		
2. does the witness have an identified mental health difficulty?		
3. what is the witness's current emotional state?		
4. what is the relationship between the witness and the subject of complaint?		
5. will the nature of the offence, i.e. levels of violence and aggression, impact on witness accounts and, if so, how?		
6. does the subject of complaint have access to the witness?		
7. is there evidence of previous intimidation by the SOC or any other party towards the witness?		
8. is the witness also a victim?		

## HAP/Building Safer Organisations

### Investigations workshop

#### Interviewing witness – Module 5

HO18

POPAID is an international NGO working with refugees and displaced populations. POPAID developed and disseminated its Code of Conduct to its entire staff. For background information, please read the POPAID Principles case study again (HO12).

### Role description

- David Kamara is the “other driver” referred to in paragraph 4 of the Principles case study (HO12) discussed on day 2.
- David has worked as a driver with POPAID for 2 years.
- He has received training on the Code of Conduct.
- He is married and has two daughters aged 17 years and 14 years.

### The facts

On 1 June 2005, Henry, the senior Medical Coordinator, called David on the radio and asked him to meet him at the guest house where all the POPAID international staff are lodged.

- David arrived at the guesthouse at 20:00.
- Henry then asked David to collect two girls, Ruby Coles and Penelope Moore, from a nearby restaurant.
- Henry requested that David bring Ruby and Penelope to the guest house at 20:20.
- He brought the girls to the Guest House at 20:30 due to a delay at the restaurant.
- He left the girls with Henry, drove the vehicle back to the office compound and walked back to his home about 2.5 km away.
- David has not seen the girls since the evening of 1 June 2005.

### Demeanour during the interview

David is extremely pleasant, helpful and co-operative. He is fully aware of his obligation under the terms of his employment contract with POPAID to assist the investigation.

### What you want to know from the interview

- name
- age
- job description
- what happened on the evening of 1 June 2005
- description of exact events surrounding collections of the girls and taking them to the guest house
- full names of the relevant individuals
- what the relevant individuals look like i.e. physical description
- what they were wearing and what they said
- whether other colleagues saw this and, if so, how many
- whom he spoke to

## Devise an interview plan

- rapport building and introduction to explain and engage
- free narrative to take statement and gather information
- questions to clarify
- summary to close

## Key issues

- What information do you want to give?
- Develop strategies around what you already know.
- What factual gaps have you got?
- What do you want to know?
- What background information is important?
- Use chronologies, timelines etc.
- Use other evidence to establish clarification.
- Be clear about timescales.
- Adopt an appropriate questioning style.
- Avoid judgmental words/approaches.
- Ensure body language is comfortable and reflects what is being said.

## During the interview establish the following

- Why is the witness being interviewed?
  - Explain the complaint/allegation without divulging the identity of the complainant or other witnesses.
  - Give a clear breakdown of why the allegation equates to a breach of the SG's Bulletin and your organisation's Code of Conduct.
  - Explain the procedure to be followed.
  - Explain that it is a condition of the employment contract and therefore they must co-operate.
  - Explain the duty of confidentiality owed by them and to them.
  - Explain what will happen to the information given e.g. where it will go, who will see it, how will it be reported.
  - Inform them that:
    - harassment of anyone involved in this investigation is misconduct
    - breach of confidentiality is misconduct
    - notes will be taken
    - investigation may lead to disciplinary and/or law enforcement action
    - information may be given to future employers
- Record the interview at the earliest opportunity.
- Both interviewers (or observer) should sign and date the record of interview.
- Present the record to the witness who should sign that the record reflects the content of the interview.
- Any amendments should be signed and dated by the witness and the interviewer.

HAP/Building Safer Organisations  
**Investigations workshop**  
 Interview statement – Module 5

HO20

**Interview statement<sup>1</sup>**

*This document is protected by the provisions of Hollywood Aid’s HAM/07/2001 – FOM/09/2002 of 24 May 2002 concerning the confidentiality of the proceedings related to an investigation into an allegation of sexual exploitation and abuse.*

Investigation Case Reference Number: INV/05/001

Investigation Officers	
Investigation Officer:	
Investigation Officer:	
Observer:	
Interpreter:	

Person Interviewed	
Name of the person:	
ID verified (Yes/No):	
Nationality:	
Occupation/Title:	

Interview Details	
Date:	
Language of interview:	
Place of the interview	
Explained to the interviewee:	<ul style="list-style-type: none"> <li>• Duty to cooperate and obligation to tell the truth.</li> <li>• Obligation to refrain from communicating with other persons interviewed in the framework of the same investigation case.</li> <li>• Purpose of note-taking.</li> <li>• Acceptable to state when answer not known.</li> <li>• Right to ask for short break.</li> <li>• Consequences of lack of cooperation, fraud, malicious reports, concealment of fact/evidence.</li> <li>• Confidentiality of the investigation procedure.</li> <li>• Does the witness have any questions?</li> </ul>

## Transcript of the Interview

Detailed record of questions asked and interviewee's responses

---

The interview starts at: (time)

**Q1.** Do you have any preliminary questions?

**Q2.** Are you ready to start the interview?

Please formulate as many questions as you might need to gather sufficient information from this witness. Add extra sheet if necessary.

**Q3.** -

**Q4.** -

**Q5.** -

**Q6.** -

**Q7.** Is there something else that you would like to add?

The interview ends at: (time):

This is a true and accurate record of the interview.

1) For the Interviewee: In accordance with the procedure outlined in Hollywood Aid's mandatory reporting procedures of 9 October 2003, I, the undersigned, declare to understand that my statement may be used in a disciplinary procedure and could be shared with staff under investigation, unless Hollywood Aid management advises that this would affect my security.

Date and signature:

2) For the Witness/Interpreter to the interview: I, the undersigned, undertake not to divulge any confidential information to which I have had access in the exercise of my capacity as witness/interpreter to the present interview.

Date and signature:

3) Date and signature of the Investigation Officer(s):

## HAP/Building Safer Organisations

### Investigations workshop

#### Ayegama case study – Module 5

HO21

### Victim

Mrs Mercy Okeye

### Family

Mr. Jeffrey Okeye	husband and complainant	
Justice Okeye	son	age 5
Eunice Okeye	daughter	age 3
Maryse Karaguba	foster daughter	age 8

### Address

Block D, Hopetown refugee settlement, Kenya

### Name of subject of complaint

Mr. Michael Ayegame, Feed the Hungry, African Regional NGO

### Names of witnesses

Mr. Jeffrey Okeye, husband

### Incident

Reported by Mr. Jeffrey Okeye. Jeffrey and Mercy are residents of the Hopetown refugee settlement. Jeffrey is employed by Michael as a cleaner and cook. Jeffrey claims that at 3am on 2 February 2005, he returned to his home from the local café where he had been meeting with friends. When he entered the family home, he found his wife semi-naked and being assaulted by Michael. He had his friend's camera with him and he immediately took photographs of the scene as evidence. Michael fled the scene.

### Preliminary information

At 4am on 2 February 2005, Michael called his supervisor, Ms. Kalista Rau, the Head of Office requesting an urgent meeting. At 5am that morning, Kalista met with Michael at the Feed the Hungry office. Michael explained the following:

He received an invitation to visit the home of his employee, Jeffrey for a drink on the evening of 1 February 2005. Jeffrey had insisted that Michael stop by for a drink and snack “no matter how late” even though Michael had made his excuses as he had a party to attend earlier. When Michael arrived at Jeffrey and Mercy's home, he was ambushed and at gunpoint forced to undress and assume compromising poses with Mercy while Jeffrey took photographs. Jeffrey then demanded money and said that if Michael did not pay, he would accuse him of sexual abuse.

### Local information

Hopetown refugee settlement was first settled 25 years ago. The majority of refugees are from Sudan but there are also Ethiopians, Eritreans and a few Rwandans. Many of the residents have been there for over a decade and there is little hope of return or resettlement. There are few work opportunities and those with jobs are considered privileged.



## Role description – Michael Ayegame

Michael is a Nigerian national. He is 32 years old, married with a wife and two children who live back home in Lagos. He is 175cm tall and wears his hair very short. He has worked for Feed the Hungry for 10 months of a 12 month contract. Previously he has worked for WaterAid in Chad for 11 months and the International Family Support in Niger for 8 months where he implemented a revolving loan fund for women as part of a gender empowerment programme.

He has employed Mr. Jeffrey Okeye to cook for him and clean his house since he first arrived in Hopetown.

## The facts

Michael has employed Jeffrey for 9½ months. During that time he has become friends with the family and offered additional food and financial support to enable the two older children to attend school. In return for this help, he has been coercing Mercy into having sex with him on Tuesday nights when Jeffrey is in town playing his regular backgammon game with friends. Mercy is distraught and finally broke down and told her husband who agreed to come home in time to catch Michael so that the matter could be reported.

## Demeanour during the interview

Michael is very aggressive during the interview. He regularly interrupts the interview to assert his innocence and to explain that he is a victim of extortion and blackmail. He asserts that he has an untainted reputation and comes from a good family. Both his father and his wife's father are in local government and highly respected in their communities. He appeals to the fact that both he and the investigator are expatriates and notes money is always a problem for the refugees who will do anything to augment their income. Now that the refugees know about the Feed the Hungry Code of Conduct they want to use that against the international staff.

Eventually he states that he has had sexual intercourse with Mercy on some four previous occasions but that it was a consensual relationship that has lasted some 6 months. He claims that Mercy told her husband that she was being sexually abused as she was fearful for her safety when her husband caught them having oral sex.

## HAP/Building Safer Organisations Investigations workshop Singh case study – Module 5

HO23

### Victim/Complainant

Maya Dinahli age 16

### Family

Arun Dinahli	brother	age 15
Vimmila Dinahli	sister	age 11
Harshini Dinahli	sister	age 6

### Address

SOS Street Children project shelter, India

### Name of subject of complaint

Rajeeva Singh, teacher

### Names of witnesses

Arun Dinahli

### Incident

The incident was reported by Ms. Maya Dinahli. Mr. Rajeeva Singh approached his student Arun Dinahli and told him that as Arun's grades were not good enough he would not be advanced to the next class at the end of the academic year. Arun was surprised and asked how he could improve his grades. Rajeeva told him that he needed to speak to his older sister and if Arun would bring her to the school on the evening of Saturday 25 December, he would make sure that Arun's grades improved.

Maya agreed to come to speak to Rajeeva about her brother's grades at the appointed time. She says that when she arrived at the school on 25 December 2004, it was dark. She became afraid and decided to leave. As she was leaving, Rajeeva approached her and forced himself on her. He told her that if she did not submit, her brother would fail classes.

### Preliminary information

Maya has been ill since the incident with severe abdominal pain and nausea. Her brother convinced her to speak to the Project Manager about what happened as he has heard another school student has been asked to bring his sister to meet with Rajeeva also.

### Local information

The Dinahli family is a child-headed family. Their mother died 6 years ago and their father left to find work in the city 2 years ago. They have not heard from him since. The children came to the SOS Street children project as they are fed and able to attend school. Maya does not go to school but takes in laundry to pay the bills while the other children are funded to attend school through the project. As they all receive their only daily meal at school, Maya's income is sufficient for the family to get by.

## Role description – Rajeeva Singh

Rajeeva Singh is 40 years old. His wife died after a long illness two years ago. He has 8 dependent children. He has been a teacher with the project for six years and prior to that he was a teacher at the state run high school. He came to the project highly recommended by his previous employer.

His wife died of AIDS and he recently discovered that he is HIV positive. He cannot afford the medication needed to keep him healthy but a local “wise man” informed him that if he only had sexual intercourse from now on with virgins the disease could be cured.

## The facts

Rajeeva forced Maya to have anal sex with him on the evening of 25 December. She submitted believing that if she did not, her brother would have to leave school and the family would never escape their current situation of poverty.

## Demeanour during the interview

Rajeeva weeps throughout the whole interview. He is full of self-pity because of his illness and he is desperately worried about who will care for his children if he dies. He is also responsible for the care of his elderly mother and mother-in-law who both live with the family. He has no other living relatives and the children are all still young. His income keeps the family in a situation of relative financial stability. He says that he has never done anything like this before and was driven to it through desperation to get better. He begs to be allowed to keep his job and promises this will never happen again. He is sure that Maya did not mind so much as she did not resist and was silent. In addition, she is still a virgin and can marry as he penetrated her anus with his penis in order to “protect” her virginity. He begs for mercy from God, Maya and the interviewer.

## HAP/Building Safer Organisations Investigations workshop Planning tool – Module 5

HO25

### Investigation planning tool

This document is designed to assist you to plan your investigation. However, every investigation is different so it is not exhaustive.

#### 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 complaint 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 HAP/BSO Guidelines?  
[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.

Table 2

Alleged violation	Law	Specific elements to be proven
e.g. sexual activity with a child	SG Bulletin Staff Code of Conduct	victim is under 18 sexual activity occurred SOC is staff member

**C. Timeframe?**

- i. When did the incident/alleged abuse occur?
- ii. When was the incident first reported?
- iii. When did the investigator receive the complaint?
- iv. 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?
- v. 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 SOC of the nature of the complaint. There are potential conflicts of interest in such situations.
- iv. The SOC 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:
  - complainant
  - victim(s) – if different from above
  - witnesses – if any exist
  - subject of complaint (SOC)

Table 3 gives an immediate way to view and organise who needs to be interviewed. For each witness, complete the following as part of the plan:

**Table 3**

Name	Role in complaint	Age	Language	Interpreter needed	Health needs	Protection needs	Location	Priority order
John Smith	Victim	12 years	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 substantiated, 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 SOC 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?

##### **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. investigator
- iii. co-investigator
- iv. interpreter (if necessary)
- v. specialists i.e. it technician, legal advisor

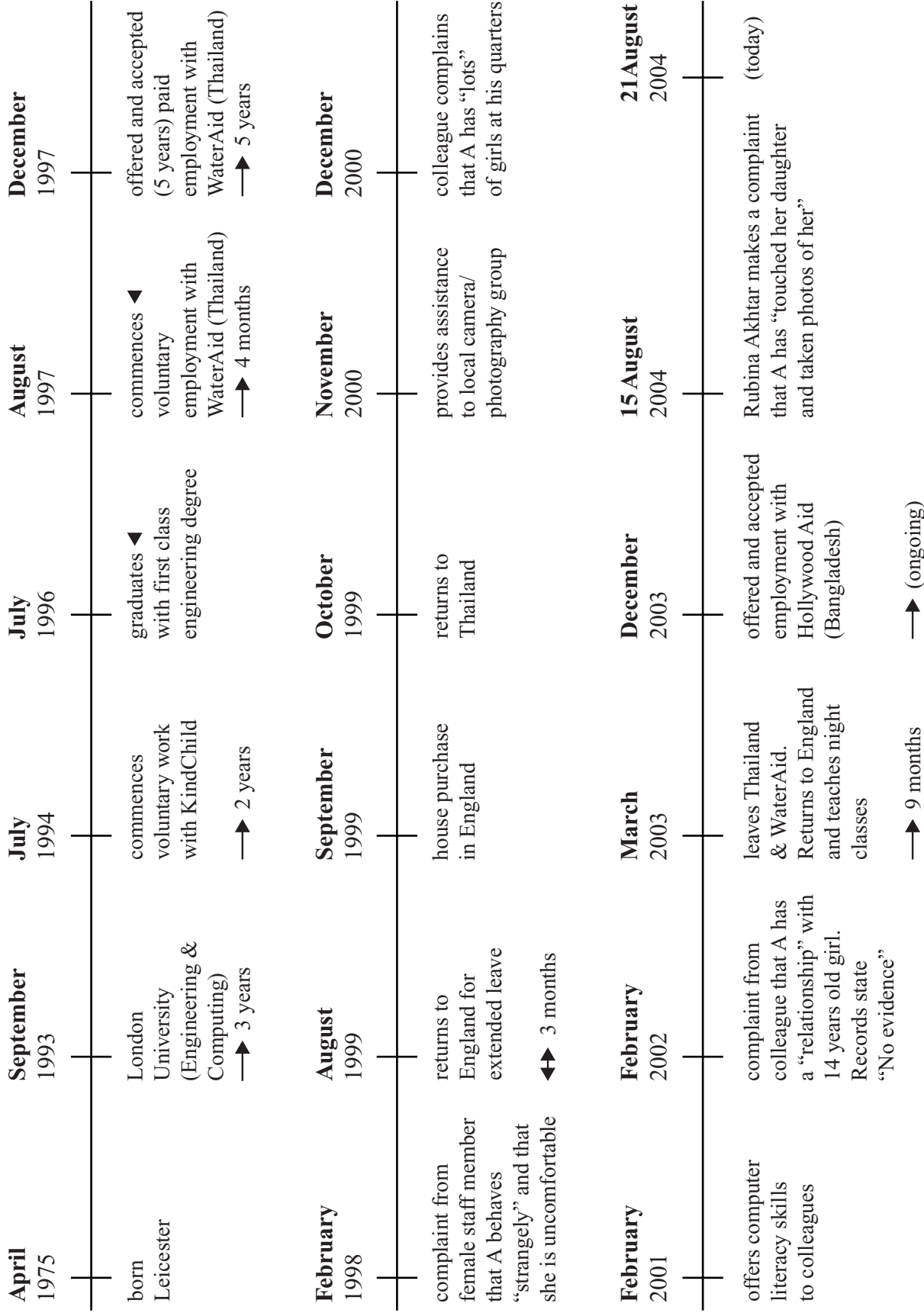
#### **J. Resources**

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?





# HAP/Building Safer Organisations

## Investigations workshop

### Interview schedule – Module 5

HO27

	RUBINA complainant	SUNITA victim	KARIM witness	MARY witness	ABDUL SOC2	ADRIAN SOC1
08.30	Planning and clarification about the interview process					
09.00	Team A	Team B	Team C			
10.15	BREAK					
10.30	Team D	Team E	Team A			
11.45	Plenary –Share information obtained thus far					
12:15	LUNCH					
13.15				Team B	Team D	Team E
14.30	BREAK					
14.45				Team D	Team C	Team B
16.00	BREAK					
16.15				Team E	Team A	Team C
17.30	BREAK					
17.45	Plenary feedback session (15')					

#### Team members

Team A	Team B	Team C	Team D	Team E

**45 minutes for interviews, 30 minutes feedback.**

Feedback order:

1. actor
2. interviewer
3. second interviewer
4. observer
5. facilitator

## HAP/Building Safer Organisations Investigations workshop Complaints referral form – Module 5

HO28

### Model complaints referral form (sexual exploitation and abuse)

Name of Complainant: Rubina Akhtar	Ethnic origin/Nationality: Bangladeshi
Address/Contact details: Shanty 68 Kuril Slum, Dhaka	Identity no: _____
Age: not known	Sex: Female

Name of Victim (if different from Complainant): Sunita Akhtar	Ethnic origin/Nationality: Bangladeshi
Address/Contact details: Shanty 68 Kuril Slum, Dhaka	Identity no: _____
Age: 13 years	Sex: Female
Name(s) and address of Parents, if under 18: Mother above	
Has the Victim given consent to the completion of this form? <input type="radio"/> YES <input type="radio"/> NO don't know	

Date of Incident(s): 28 July 2004    Time of Incident(s): 12.30    Location of Incident(s): Korean Church		
Physical & Emotional State of Victim (Describe any cuts, bruises, lacerations, behaviour, and mood): no known physical injuries. Very frightened for self & family.		
Witnesses' names and Contact Information: Rubina Akhtar (above) Hossain Akhtar (brother) but working away probably for few months, Karim Hussein, neighbour		
Brief Description of Incident(s) (Attach extra pages if necessary): see attached sheet		

Name of accused person (s): Adrian Smith Abdul Jabber	Job Title of Accused person(s): engineer aid worker
Organisation accused person(s) Works For: Hollywood Aid	
Address of accused person(s) (if known): Project office, Main Street, Dhaka	
Age: Adrian 29 years Abdul 54 years	Sex: male male
Physical description of accused person(s): Adrian – white British, blond, short hair, green eyes, small beard. Abdul – Bangladeshi national, black hair, brown eyes, moustache, walks with limp.	

Have the police been contacted by the victim? <input type="radio"/> YES <input type="radio"/> NO
If yes, what happened? _____ _____
If no, does the victim want police assistance, and if not, why? Fear of repercussions and loss of family honour

Has the victim been informed about available medical treatment? <input type="radio"/> YES <input type="radio"/> NO
If Yes, has the victim sought medical treatment for the incident? <input type="radio"/> YES <input type="radio"/> NO
If Yes, who provided treatment? What is the diagnosis and prognosis? _____ _____

What immediate security measures have been undertaken for victim? None identified

Who is responsible for ensuring safety plan (Name, Title, Organisation): Hollywood Aid

Any other pertinent information provided in interview (including contact made with other Organisations, if any): None

Details of referrals and advice on health, psychosocial, legal needs of victim made by person completing report: \_\_\_\_\_

Report completed by: Sister Mary    Project Manager, Hollywood Aid    3 weeks after alleged incident, Office

Name

Position/Organisation

Date/Time/Location

Has the Complainant been informed about the Organisation's procedures for dealing with complaints?

YES  NO

Signature/thumb print of Complainant signalling consent for form to be shared with relevant mgt structure\* and SRSR/RC/HC: \_\_\_\_\_

Complainant's consent for data to be shared with other entities (check any that apply): \_\_\_\_\_

Police     Camp leader (name)  \_\_\_\_\_    Community Services agency  \_\_\_\_\_

Health Centre (name)  \_\_\_\_\_    Other (Specify) \_\_\_\_\_

Date Report forwarded to relevant management structure\*: \_\_\_\_\_

Received by relevant management structure\*: \_\_\_\_\_

Name

Position

Signature

(\*Relevant management structure is the official(s) responsible for sexual exploitation and abuse issues in the Headquarters of the Organisation where the Accused person works)

**All information must be held securely and handled strictly in line with applicable reporting and investigation procedures.**

## Brief description of incident – reported by mother

Nasima (sister age 10) is in Dhaka Community Hospital being treated for dysentery. Sunita has been visiting daily to care for her. After the last Wednesday of last month, she has refused to go to visit her sister anymore. Eventually Sunita told Hossain (brother) that on her last visit to the hospital 2 aid workers said if she let them take photos of her she would get extra food for Nasima. The aid workers had told Rubina (mother) that they were going to be "portrait" pictures. She and her mother had agreed not to tell Hossain before taking the pictures as they knew he would disapprove.

Sunita was distraught telling her brother this and begged him not to tell anyone. Rubina and Hossain did discuss it and are very worried about Sunita. She has been withdrawn and depressed, often found crying. She refuses to go outside of the shanty unless with her mother or brother. She has not been eating and has said she is worried about Nasima being in the hospital. Hossain has managed to get work in another city and he will be away for some time. This also means the family will not receive any income from him for some months.

Rubina talked to Sunita who broke down begging not to have to get more photos taken. She then said the white man had "touched" her. They agreed to complain about the 2 aid workers. Rubina complained to the project manager.

## HAP/Building Safer Organisations

### Investigations workshop

#### Feedback – Module 5<sup>1</sup>

HO29

## Giving and constructing feedback

Feedback is one of the most effective ways of learning more about ourselves.

Constructive feedback increases self awareness, offers options and encourages self development, so it can be important to learn to give and receive it. Constructive feedback can contain both positive and negative feedback and it is therefore important to learn to give it skilfully. Destructive feedback is feedback which is given in an unskilled way and which leaves the recipient feeling bad. One of the disadvantages to this type of feedback is that the recipient is likely to reject what has been said.

## Skilled feedback

### Before:

- 1. Be clear about what you want to say in advance, practise if necessary. State the purpose of what you are about to say.**

If you are not absolutely clear about what it is you're going to say it is easy to forget the main message or deliver a confused message. Giving feedback is often as difficult as receiving it.

It is important to explain the purpose of what you are about to say so the recipient understands that you are not simply making gratuitous comments. This will also enable the recipient to understand that feedback is a two-way process and that they have a right to respond.

- 2. Encourage self assessment**

It can be very helpful if you can encourage an individual, through using gentle probing questions to identify a pattern of behaviour for themselves rather than by telling them. This can cut down your hard work and also means the individual is more likely to commit to change as they feel they have ownership of the problem.

### During:

- 3. Use the positive/negative sandwich**

Most people need encouragement, to be told when they are doing something well. When offering feedback it can really help the receiver to first hear what you like about them or what they have done well. Sometimes the focus of comments can be on weaknesses rather than strengths. In a rush to criticise, we may overlook the things we like. If the positive registers first, negatives are more likely to be listened to and acted upon. It is useful to apply the sandwich technique throughout your feedback session, prefacing each negative with a positive and ending on a positive note so the recipient does not feel totally disillusioned.

- 4. Be specific**

Avoid general comments which are not useful when it comes to development. Statements such as “could do better” or “reasonably good” may be pleasant or dreadful to hear, but they do not give enough detail to be useful sources of learning. Pinpoint exactly what the person did which led you to use the label.

- 5. Be descriptive rather than evaluative**

Give the person specific examples of what you saw or heard and the effect it had on you, rather than merely saying something was “good or bad”, etc.

- 6. Select priority areas**

Don't save it all up and give the person one huge bumper bundle, especially if there is considerable negative feedback to be given. This is not only likely to alienate the recipient entirely but also may mean they will never again value any feedback you give them.

<sup>1</sup> Originally written by Emma Jowett, independent consultant for the OCHA Consolidated Appeal Process Training of Trainers materials, 19 to 24 May 2002.

## 7. Offer alternatives

If you do offer negative feedback, then do not simply criticise. Rather, suggest what the person could have done differently. Turn the negative into a positive suggestion.

## 8. “Own” the feedback

It can be easy to say to the other person “You are...” suggesting that you are offering a universally agreed opinion about that person. It is important that we take responsibility for the feedback that we offer. Beginning the feedback with “I think...” or “In my opinion...” is a way of avoiding the impression that we are telling the person a “universally agreed judgement” about themselves.

**Finally:**

## 9. Leave the recipient with a choice

Commitment to change is achieved by reaching agreement. Feedback which demands change or is imposed heavily on the other person may invite resistance as it may feel to the recipient as if they must change in order to suit us. Skilled feedback offers people information about themselves in a way which leaves them with a choice about whether to act on it or not.

It can help to examine the positive consequences of any decision to change and identify appropriate ways forward for the individual. Gaining commitment by encouraging the individual to repeat back to you any planned change can help to reinforce commitment to that change.

## 10. Recap on good points

End on a cheerful note by reminding the recipient that there were lots of good points!

**Remember:**

Failure to give negative feedback can result in:

- a) No change in the person’s behaviour because they have never heard that it is causing difficulties.
- b) An enormous confrontation in the future as things build up until they blow up.
- c) Problems in our continuing relationship with the person which naturally develop when we are aware of something and they are not or when we are trying to keep something from them.

**Remember feedback should be non-judgmental, clear information to another person about how their behaviour affects you.**

## Receiving feedback

If you are on the receiving end of feedback you can help yourself by:

### 1. Listening to the feedback rather than immediately reacting or arguing with it.

Feedback may be uncomfortable to hear, but we may be poorer without it. People may think things without telling us and then we may be at a disadvantage. Remember that people do have their opinion about you and will have their perceptions of your behaviour and it can help to be aware of those. However, do remember that you are also entitled to your opinion and you may choose to ignore the feedback as insignificant, irrelevant or referring to behaviour which you wish to maintain.

### 2. Being clear about what is being said.

Avoid jumping to conclusions or becoming immediately defensive. If you do, people may cut down their feedback or you may not be able to use it fully. Make sure you understand the feedback before you respond to it. A useful technique can be to paraphrase or repeat the criticism to check that you have understood it.

### 3. Checking it out with others rather than relying on only one source.

If we rely on one source then we may imagine that the individual’s opinion is shared by everybody. In fact, if we check with others we may find that others experience us differently and we will have a more balanced view of ourselves which can keep the feedback in proportion.

### 4. Asking for feedback you want but don’t get.

Feedback can be so important that we may have to ask for it if it does not occur naturally. Sometimes we do get feedback but it is restricted to one aspect of our behaviour and we may have to request feedback we would find useful but do not get.

## 5. Deciding what you will do as a result of the feedback.

When we receive it, we can assess its value, the consequences of ignoring or using it and finally decide what we will do as a result of it. If we do not take decisions on the basis of it, then it is wasted.

In the final analysis it is always your choice whether to accept or reject the feedback.

Finally, thank the person for giving the feedback. We might benefit from it, it may not have been easy for the person to give and it is a valuable practice to reinforce in any organisation or relationship.

### Remember:

There are three types of criticism: justified criticism, unjustified criticism and put downs.

When dealing with justified criticism:

**Don't:** Deny criticism

Get defensive

Counter-criticise

**Do:** Listen

Respond – by asking for more direct specific information

When dealing with unjustified criticism:

**Don't:** Take the bait

Deny the criticism

Get angry

Counter-criticise

**Do:** Listen

Respond to what is said – not what is implied

**“Crumple buttons”:** These are criticisms, usually based on truth, which are so painful that we crumple inside. On the surface you may act angrily but inside you are feeling dreadful. The way to deal with these is to identify your crumple buttons and “de-sensitise” them by repeating them to yourself.

**“Put downs”:** These criticisms are not really criticisms at all. They are not designed to be helpful, only to hurt and humiliate you. “Put-downers” are usually insecure and they boost themselves by putting others down. Often they operate in groups, looking for a victim, someone who they can repeatedly ‘put down’ in order to get laughs from the audience. “Put downs” may be disguised as jokes or even as compliments.

When dealing with a “put down”:

1. Recognise the ‘put down’.

2. Expose the sender using negative enquiry:

i. “What exactly are you trying to say?”

ii. “Was that designed to be helpful?”

3. Keep your voice calm and assertive and try not to let anxiety show in your body language. Most importantly don't become the “put downer's” victim.

<sup>1</sup> Based on the United Nations High Commissioner for Refugees Interview Statement.

## Observer's sheet

### Observing who:

In observing the interview, consider:

- B = Behaviour – body language
- L = Language – tone, implicit/explicit questions, flow of interview
- C = Content

**Behaviour:**

**Language:**

**Content:**

Rapport building  
Free narrative  
Questions  
Summary/closure

# HAP/Building Safer Organisations

## Investigations workshop

### Report writing – Module 6

HO31

## 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 allegation in turn (if there is more than one) and summarise the evidence given by all interviewees in respect to each allegation in turn;
- describe other evidence - photos, work logs, emails etc;
- impartially state evidence to support and refute the allegation(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 - insufficient or unclear evidence;
- not established - based on evidence to clear the SOC or to establish a malicious complaint.

Any particular concern about possible reprisals against witnesses should be noted under recommendations.

### Possible outcomes

- Allegations established/substantiated:
  - The organisation's appropriate disciplinary procedures should be pursued by the disciplinary decision maker – not investigator.
  - Investigation report written.
  - Note on subject of complaints 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.

## Appendixes

- Timelines
- Signed interview notes
- Copies of relevant documentation
- Copies of relevant procedures

## Addition Report

- Management implication report - make recommendations *if* the investigation indicates poor practice or negligence (i.e. training, supervision, policy changes).

## 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 substantiated.

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



**HAP** Humanitarian  
Accountability  
Partnership  
Working together to prevent and respond to sexual exploitation and abuse

**WELCOME**



1

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**Building Safer Organisations  
Investigations Workshop**

**Humanitarian Accountability Partnership  
International (HAP)**

2

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**Investigations workshop  
Module 1**

**Defining abuse**

3

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Working together to prevent and respond to sexual exploitation and abuse

**The rationale**

"Humanitarian agencies have a duty of care to beneficiaries and a responsibility to ensure that beneficiaries are treated with dignity and respect and that certain minimum standards of behaviour are observed."

4

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**The rationale cont.**

"The goal is to create an environment free of sexual exploitation and abuse in humanitarian crises, through integrating the prevention of and response to sexual exploitation and abuse into the protection and assistance function of all humanitarian workers."

IASC Task Force on Preventing Sexual Exploitation and Abuse, 2002.

5

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Working together to prevent and respond to sexual exploitation and abuse

**Aim of the course**

Demonstrate how to conduct investigations into abuse and exploitation and to promote best practice within organisations.

6

**HAP** Humanitarian Assistance Programme

### Objectives

To increase understanding of:

- the contexts within which abuse and exploitation can occur
- the principles underpinning the BSO guidelines on investigating complaints
- the complaints and investigation procedures
- the SG's Bulletin
- what constitutes offending behaviour and the impact on victims

7

**HAP** Humanitarian Assistance Programme

### Objectives

To increase skills in:

- planning investigations
- conducting investigations
- keeping all parties safe
- interviewing witnesses/complainants
- interviewing the subject of complaint
- reporting findings and making recommendations

8

**HAP** Humanitarian Assistance Programme

### Six modules

Module 1: What is abuse?  
 Module 2: Complaints procedures.  
 Module 3: Factors influencing protection and abuse.  
 Module 4: Investigation procedures.  
 Module 5: Interviewing and conducting investigations.  
 Module 6: Investigation closure.

9

**HAP** Humanitarian Assistance Programme

### Building Safer Organisations exercise

1. Who is most vulnerable to sexual abuse and exploitation and why?
2. Who might be doing the abusing?
3. What can organizations do to reduce the vulnerability of these people?

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**HAP** Humanitarian Assistance Programme

### Stereotyping exercise

In pairs share an example of:

- one saying from your country about women;
- one saying from your country about children.

11

**HAP** Humanitarian Assistance Programme

### What is abuse? exercise

Read the 8 case studies and in your group discuss the following questions:

- Is this abuse or exploitation?
- Who is or might be abusing?
- Who is being abused?
- What should be done?

Rank the cases from most serious (1) to least serious (8).

12

**HAP** Humanitarian Assistance Programme

### Defining abuse

**“Sexual abuse”** is actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions; and

**“Sexual exploitation”** is any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes; including but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

SG's Bulletin  
13

**HAP** Humanitarian Assistance Programme

### Legal framework

- international treaties
- customary international law
- regional treaties
- national law
- BSO Guidelines

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**HAP** Humanitarian Assistance Programme

### Legal framework quiz

1. Describe three sources of international law that protect displaced people.
2. Which international convention specifically protects children?
3. Which international convention specifically protects women?
4. Name three prohibitions on, or obligations of, aid workers specifically mentioned in the SG's Bulletin under section 3.

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**HAP** Humanitarian Assistance Programme

### SG's Bulletin

- ✓ Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal.

Section 3.2 (a)

17

**HAP** Humanitarian Assistance Programme

### SG's Bulletin

- ✓ Sexual activity with children (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 defence.

Section 3.2 (b)

18

**HAP** Humanitarian Assistance Programme

### SG's Bulletin

- ✓ 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.

Section 3.2 (c)

19

**HAP** Humanitarian Assistance Programme

### SG's Bulletin

- ✓ 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.

Section 3.2 (d)

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**HAP** Humanitarian Assistance Programme

### SG's Bulletin

- ✓ 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.

Section 3.2 (e)

21

**HAP** Humanitarian Assistance Programme

### Causes for concern

A concern is expressed as:

- a breach of a code of conduct;
- an allegation of a breach of the code of conduct outside the work environment;
- exploitation of women and/or children;
- past behaviour of a staff member.

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### SG's Bulletin

- ✓ 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.

Section 3.2 (f)

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### SG's Bulletin

*Non-United Nations entities and their staff that are in cooperative agreements with the UN are also bound by the provisions of the SG's Bulletin.*

- ✓ Failure of those entities or individuals to take preventive measures against sexual exploitation or sexual abuse, to investigate allegations thereof, or to take corrective action when sexual exploitation or sexual abuse has occurred, shall constitute grounds for termination of any cooperative agreement with the United Nations.

Section 6.2

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### SG's Bulletin

- ✓ Where the SG's Bulletin establishes a stricter standard than local laws, the standards of the Bulletin will prevail.

Staff Guidelines on the application of UNODC/2007/11

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### Why do we want to understand sexual offenders?

- To assist us with investigations and in particular interviewing.
- To determine risks to vulnerable people, either current or future.
- To identify patterns of behaviour which can help us make our organisation culture and processes more effective at safeguarding.

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### Image exercise

- When you imagine who might be a sexual abuser, what sort of image comes to mind?
- What are the stereotypes in our culture about sexual abusers?

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### What is known from the UK, USA, Europe and Australia

- Most reported abuse against women and children is perpetrated by men.
- 5%-20% of sex offences against children are known to have been committed by women.
- 25% of all rapes in the UK are against children under 18 years old.
- Sexual offences are under-reported.

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### What is known from the UK, USA, Europe and Australia

- Charges are frequently withdrawn or there is insufficient evidence to proceed to trial.
- Lesser charges may be substituted to secure agreement by the defendant to plead guilty.
- Many sex abusers do not have previous convictions.

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### Sex offenders may be:

- good at their jobs
- charismatic, articulate, caring professionals
- influential or in a position of particular authority, responsibility and trust
- in alliances with outside people enabling them to avoid scrutiny
- isolated dutiful staff members
- from any culture, religion, race, age, sexuality

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### Why do sex offenders abuse?

- on an equal emotional level with children
- sexually aroused by children
- unable to sustain normal adult relationships
- lonely
- unable to see anything wrong with abusive sexual contact
- fail to understand or to care about the damage caused
- poor impulse control or
- desire to control others

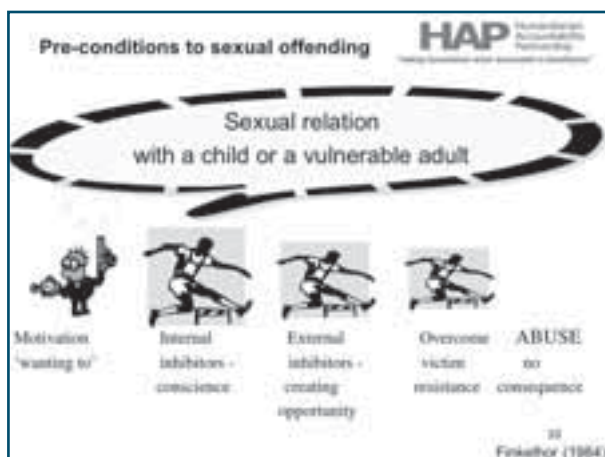
30  
Finkelhor (1986)

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### Why do sex offenders abuse?

- arrange the abuse of children and others for financial gain
- viewing of abusive images on the internet prompts others to see abuse as 'normal' and then to seek out opportunities to abuse
- opportunity that is not usually available.

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### Inhibitors exercise

- What are internal inhibitors and how do abusers overcome them?
- What are external inhibitors and how do abusers overcome them?

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### Grooming

- The organisation of the environment in order to gain maximum access to the intended victim or victims with minimum risk of discovery.

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### Four stage process of entrapment

- **Defensnaring** – providing gifts or expensive lifestyle
- **Defcreating dependency** – including encouraging the cutting of ties with family and friends
- **Defstating control** – over all aspects of the victim's life
- **Deftotal dominance** – creation of the willing victim

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Ramado (1999)

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### Perpetrators who work in 'caring professions'

- 90% of 'professional perpetrators' were aware of their interest in children by the age of 21.
- About 2/3 had committed a sexual offence against a child by age 21.
- Over half said their choice of career was wholly or partly motivated by gaining access to children or other potential victims.

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Sullivan (2003)

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### Distorted attitudes

Sex offenders have distorted thinking and attitudes. They *justify, minimize, excuse, legitimize and blame others* – particularly the victim – and most of all *deny* it.

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## Myths and prejudices

A sexual offender can be:

- in a trusted position or position of authority
- a parent
- in an adult heterosexual relationship
- a youth or gender programme manager or advocate

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## Sexual offender video exercise

- Discuss with your neighbour your first thoughts and feelings after watching the video.
- In plenary, discuss how he justified abusing.

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## Building Safer Organisations

### Module 2 Complaints procedures

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## Barriers to complaining exercise

Think of a situation, **NOT** related to child protection or sexual exploitation and abuse, where you wanted to complain about something but you did not.

In pairs, discuss what it was that stopped you from complaining.

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## Complaints mechanism Mountainites role play

- group A: aid workers
- group B: refugee population
- group C: refugee leaders

Move to your group and read:

- the handout that provides the background material
- your role description

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## Barriers to children complaining about sexual abuse

They think that they:

- will not be believed;
- will be killed or hurt if they tell;
- families will be hurt;
- will not receive presents, money, food, supplies;
- will be taken away from their families;
- are bad and it is their fault.

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## Why adults do not hear?

- No one could possibly abuse a child in that way.
- The child is too young, or too clever and therefore not trustworthy.
- The child is a liar or fantasising.
- The child is wicked and evil.
- The child is trying to get the adult into trouble.

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### Myths about abuse of the disabled

- Nobody would stoop so low.
- Disabled children and adults are less likely to become victims of abuse.
- It does not affect disabled people so badly.
- Disabled people are more likely to make false allegations.
- If it has happened it is best not to look into it.
- It is impossible to protect disabled children and adults from abuse.

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### Core principles of establishing beneficiary complaints mechanisms

- confidentiality
- transparency
- accessibility
- safety

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### The advantages of ensuring implementation

- Beneficiaries, particularly women and children are protected.
- NGO staff are protected.
- NGO's reputation is upheld.

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## Building Safer Organisations

### Module 3

### Factors influencing protection and abuse

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### *Punctuation is powerful!*

An English professor wrote the words:  
"A woman without her man is nothing" on the chalkboard and asked students to punctuate it correctly.

All the men in the class wrote:  
"A woman, without her man, is nothing."

All the women wrote:  
"A woman: without her, man is nothing."

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### UN Declaration on the Elimination of Violence against Women 1993 (CEDAW)

"Any act of gender based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering, including exploitation."

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### Convention on the Rights of the Child 1989 (CRC) Article 19.1

"...protection 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."

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### Vulnerability to abuse and exploitation

#### Children:

- physical status – smaller, less powerful, less strong, less resistant to ill treatment and ill health;
- societal status – unable to provide for most basic human rights/needs e.g. shelter, food, warmth;
- developmental status – less understanding generally, undeveloped conscience, undeveloped understanding of consequences.

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### Vulnerability to abuse and exploitation

**Women:**

- traditional subordinate status relative to men, traditional roles, responsibilities and culture;
- physical status, particularly strength and exposure to sexual violence;
- economic status relative to men.

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### Vulnerability to abuse and exploitation

**Refugee women and children:**

- access to protection and assistance programmes
- changing roles
- gender and age constructions

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### Definitions

**Sex:** Biologically determined differences between men and women that are universal.

**Gender:** Social differences between men and women that are learned, changeable over time and have wide variations both within and between cultures.

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### Boys and girls

In your groups discuss the following questions:

1. What messages were relayed to you when you were growing up that made you aware you were a boy or a girl?
2. As a child, do you recall a particular experience which reminded you of your gender?

On two flipcharts (one for boys, one for girls) write up your experiences under the following three columns:

- What was the message?
- Who gave you the message?
- How did it make you feel?

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### Cycle of gender gaps

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### Gender constructions

**Are:**

- socially constructed and vary over time and cultures;
- determine roles, responsibilities and values placed on the roles;
- systematic and self-reproducing;
- can cause limitations such as unfulfilled potential or emotional inhibitions.

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### Age Analysis

Think of an occasion as a child where you were unjustly treated.

- How did this make you feel?
- What mechanisms did you have for complaining?
- Were you believed?
- Did the adult apologize?

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### Why use gender and age analysis?

- Systematic investigation of the different impacts of development and humanitarian assistance on women/men and boys/girls.
- Examines how roles, including labour, reproduction, control of resources and assistance impact on risk of abuse and exploitation for women, men, boys and girls.
- Cuts across other categories such as poverty, caste, social class, race, culture and disability to impact risk of abuse and exploitation.

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**Root causes of violence affecting women and children**

- Culture and other social structures such as class, religion and ethnicity
- Unequal power relations
- Cycles of oppression
- Poverty and displacement

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**Faith and personal values**

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**Faith and personal values**  
**Faith team exercise**

- How does faith or religion impact on our daily lives whether or not we as individuals practice a religion or adhere to a belief system?
- In your group come up with three examples.

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**Faith and personal values exercise**

In your group, respond to the following questions:

- In what ways do faith communities protect women and children?
- What assumptions are made about people who work with vulnerable populations?
- What assumptions are made about religious leaders?
- What religious beliefs or practices potentially put women and children at risk?

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**Faith and personal values**  
**The individual**

Is influenced by:

- personal values and experience
- religion or faith
- media, law and culture

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**Faith and personal values**  
**Personal values and attitudes exercise**

Complete the questionnaire privately, without sharing your answers. Put down your immediate reaction i.e. do not analyse your responses.

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**Faith and personal values**  
**Personal values and attitudes exercise cont.**

- In pairs, discuss how the questions made you feel. Were you uncomfortable with any questions?

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**Faith and personal values**  
**Personal values and attitudes exercise cont.**

- How might your responses impact you as an investigator into allegations of sexual exploitation and abuse?

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### Faith and personal values Practical tips

When conducting an investigation:

- Find out and use the **correct terminology** for:
  - the venue/building where worship takes place
  - the religious leader, Rabbi, Priest, Pastor, Imam
  - the name of the deity, God, Jesus, Allah, Confucius
- It is ok to say you are unfamiliar with a religion and will need some help in understanding the context of that faith.
- Question practices that may seem harmful with authoritative sources.
- Take account of and **manage your own feelings and thoughts** about different faiths and religions.

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## Building Safer Organisations

### Module 4 Investigation procedures

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“When ma asked me to go to the stream to wash plates, a peacekeeper asked me to take my clothes off so he can take a picture. When I asked him for money he told me, no money for children - just a biscuit.”

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### Humanitarian Accountability Partnership

In 1995, the Joint Evaluation of the International Response to the Genocide in Rwanda found:

- No standards in quality/ quantity of services
- Low level of inter-agency coordination
- Agencies increasing but are unregulated
- Some staff abused beneficiaries rights and dignity
- No regard given to local capacities
- Lack of consideration for culture and context
- Negligence by some agencies led to increase in suffering and death
- Need to improve accountability by monitoring performance of humanitarian action

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### Humanitarian Accountability Partnership

Humanitarian organisations are unique in that:

- the consumers of their services have little or no influence upon their operations and,
- they rarely have means by which to appeal or complain

Disaster survivors are not represented in:

- NGO governance arrangements
- Donor resource allocation procedures
- UN coordination mechanisms

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### Humanitarian Accountability Partnership

Disaster survivors are often:

- Given no choice in who helps them
- Treated as though they are all the same
- Forced to remain for long periods of time in detrimental circumstances
- Not reported to by relief agencies

This results in a clear imbalance of power between humanitarian actors and the recipients of their services

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### Humanitarian Accountability Partnership

Accountability: the means by which power is used responsibly

- Power brings responsibility, and with responsibility comes accountability
- Accountability is about the right to a say and the duty to respond

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### Humanitarian Accountability Partnership

HAP is a partnership of member agencies that share a commitment to making humanitarian action accountable to disaster survivors.

HAP Members:

- Seek to comply with and promote the HAP Principles of Accountability
- Are committed to taking account of the views, needs and capacities of disaster survivors so that the quality and effectiveness of their humanitarian work is improved

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### HAP Accountability Principles

1. Commitment to humanitarian standards and rights of disaster survivors
2. Setting standards and building capacity to deliver
3. Communication, including transparency and consultation with intended beneficiaries
4. Participation (of intended beneficiaries) in programmes
5. Monitoring and reporting on compliance
6. Addressing complaints (from beneficiaries)
7. Implementing Partners (encouraged to comply)

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### HAP Standard

The HAP 2007 Standard in Humanitarian Accountability and Quality Management offers a means to help relief agencies measure, validate and improve their humanitarian activities

- A basic minimum requirement for agencies engaged in humanitarian action
- An objective measure against which agencies can be assessed
- The result of 7 years of research, consultation, and field tests
- Designed to be simple, affordable and effective

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### Why have the complaints and investigation protocols?

- Provides a framework to assist those responsible for ensuring standards and quality.
- Makes explicit what users of the service can expect.
- Provide a basis for accountability if practice falls below the expected standards.
- Is a basis for quality assurance, audit and inspection.

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### HAP/BSO Guidelines Aim

To clarify steps to be taken when the potential sexual exploitation/abuse of women and children is suspected and when that abuse is allegedly perpetrated by a NGO, United Nations or partner agency.

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### HAP/BSO Guidelines

This document:

- provides an overview of the key steps and issues organisations should consider when responding to allegations of SEA
- summarizes the 'who, what, where, when, why and how' of establishing effective complaints mechanism, investigating complaints and reporting on findings
- Identifies potential difficulties and offer practical responses and solutions.

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### HAP/BSO Guidelines

Document structure:

- Introduction
- Designing and implementing an effective complaints mechanism
- Steps for ensuring an appropriate initial response
- Conducting an effective and legally enforceable investigation
- Report writing and complaints follow-up

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### Principles

- We all have them!
- Our organisations have them ...
- And they are all different
- In pairs talk about a principle that you have.

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### Definitions of a Principle

- "A comprehensive and fundamental law, doctrine or assumption." *Merriam-Webster Dictionary online, 2008*
- "A rule or belief governing one's personal behavior." *Compact Oxford English Dictionary online, 2008*
- "A basic idea or rule that explains or controls how something happens or works." *Cambridge Dictionary online, 2008*

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**Core principles for investigations**

1. anonymity
2. confidentiality
3. safety
4. health and welfare
5. planning and reviewing
6. timeliness
7. thoroughness
8. professionalism
9. independence
10. respect
11. working in partnership
12. legality

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**Principles case study**

In your groups:

- Read the "POPAID" case study.
- Discuss and answer the questions of the principles allocated to you.
- Write your answers on a flipchart and paste the flipcharts around the room.

After you have completed your group work go around the room and read other groups' answers. Feel free to add comments to other's flipchart.

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**Basic principles of conducting an investigation**

- investigating the allegations, not an individual
- presumption of innocence
- the investigator is not the decision maker
- the investigator does not make moral judgments relating to any of the parties to the complaint

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**Stages of an investigation**

1. receive allegation
2. decide whether to investigate
3. plan the investigation
4. gather and study background material and documentary evidence
5. revisit investigation plan
6. interview witnesses
7. write investigation report
8. conclude the investigation

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**Interviewing witnesses and victims**

Principles of good practice:

- communication
- sensitivity
- awareness of barriers which may lead to fears

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**Interviewing witnesses and victims**

Factors to consider:

- age
- race, culture and ethnicity
- religion
- gender and sexuality
- special needs

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**Interviewing witnesses and victims**

Possible special needs to consider:

- physical/learning impairments
- specialist health needs
- cognitive abilities (e.g. memory, attention)
- linguistic abilities and preferred first language
- current emotional/psychiatric state
- significant other recent stresses

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**Safety issues for witnesses and victims**

- environment
- medical needs
- physical safety
- knowledge/understanding of process
- connections to subject of complaint and those supporting subject of complaint

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### Safety issues for victims and witnesses

- Is the victim/witness still at risk?
- Who is responsible for their welfare?
- Does victim/witness know how to report concerns re: harassment/intimidation?
- What family/friends/professional support networks are available?

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### Active listening cycle



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### Levels of active listening

- **Thinking** – what is the logic and the rationale of what is being said?
- **Feeling** – how am I reacting, how are others reacting?
- **Intent** – why am I being told this, are there any hidden messages?

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### Difference between a complaint and an allegation

- A complaint is: when someone comes in with a complaint
- An allegation is: a breach of the specific standards of the organisation's Code of Conduct or the SG Bulletin

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### Gathering information

What kind of information are we looking for?

**Information that is RELEVANT to prove or disprove the allegation**

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### Gathering information

Information can be gained through a number of sources:

- testimony (including that of experts)
- information about the subject of complaint
- information about complainant, victim and witnesses documentation
- previous complaints
- research
- examination of location

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### Gathering information Testimony

- is achieved through the interviewing of victims, witnesses and the subject of complaint
- should demonstrate adherence to guidelines and rules
- of experts should include status, experience and identify facts and opinion
- should be relevant to the complaint

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### Gathering information Information about SOC

- is achieved through timelines, personnel knowledge, employment status (during & prior to current post if possible)
- personnel file
- interview
- behaviours

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### Gathering information Documentation

- written complaint
- application for post and previous history
- personnel/HR information
- previous complaints against subject
- information previously given in similar incidents about/by others
- previous statements made by witnesses
- information relating to policy and/or procedure
- logs/rosters, stockpiles of rations, photos, e-mails etc

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### Gathering information Previous complaints

- may indicate previous patterns of behaviour;
- identify unclear boundaries of right and wrong;
- information about similar issues which may link the current incident and provide leads.

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### Gathering information Examination of location

- Does it fit with nature & circumstances of complaint?
- Are there considerations that would make the environment safer to others?
- Could the incident have taken place there?
- Do the statements make sense?
- Take pictures of location for future reference.

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### Gathering information Information about complainants

Any previous complaints:

- Vulnerability – did this make them more vulnerable to abuse and/or aware of abuse?
- Is there a possibility that complaints are malicious?
- Is there information to suggest that there is any other reason for making a statement?

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### Gathering information How information is obtained

Establish how the following information will be obtained:

- interviews with all relevant witnesses including complainant, victim, subject of complaint and others
- records & documentation
- visiting the scene/location of incidents if appropriate
- research & knowledge
- policy, procedure & protocol
- expert advice, assistance & interpretation

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**Gathering information  
Record keeping**

- Keep organised records of all information gathered throughout the investigation.
- All records should be kept in a locked, secure location to ensure they will not be tampered with.

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**Gathering information  
Which information becomes evidence?**

Evidence is information that **proves or disproves** the allegation.

The main goal of the investigation is to gather **evidence**.

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**Building Safer Organisations**

**Module 5  
Investigation planning  
and Interviewing**

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**Interviewing stages**

**Phase one - Establishing rapport**

- clarify purpose
- explain ground rules
- engage witness

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**Interviewing stages**

**Phase two - Free narrative account**

- victim's/witness' account of relevant events
- investigator acts only as facilitator not interrogator

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**Interviewing stages**

**Phase three - Questioning**

Use simple appropriate questions which follow this sequence.

- open ended
- specific
- closed
- leading (last resort only)

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**Interviewing stages**

**Phase four - Closure**

- summary
- answer any questions
- advice and next steps
- thanks
- return to rapport and neutral topics

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**Witness interview  
role play**

Read the handout:

- In your pairs choose who will be the investigator and who will be David Kamara.
- The 'investigator' will interview 'David', using the four stages for 20' minutes. Do not worry if you do not complete every phase.
- Then switch roles, once again the second interviewer will have 20 minutes to conduct the interview.
- Discuss for 5 minutes how it felt to interview or be interviewed and what you might do differently.

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**Using explicit language**

Think of an occasion when you felt uncomfortable using or hearing someone use sexually explicit language.

In pairs discuss why you felt uncomfortable.

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**Using explicit language exercise**

- Provide examples of alternative words we use to describe sexual acts or genitals.

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**Interviewing subjects of complaint**

Purpose is to establish whether there has been a breach of the code of conduct.

**Remember: you are investigating an allegation, not the person.**

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**Interviewing subjects of a complaint**

**Preparation:**

- Research the subject of complaint
  - Complete a timeline.
- Inform
  - Ensure that relevant investigators and managers are aware of interview plan.
  - Ensure that support staff are briefed about sensitive issues.
- Select appropriate interview team

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**Interviewing subjects of a complaint**

**Timelines**

**Include:**

- date of birth of subject of complaint
- dates of important life events
- events and summary underneath line
- age of subject at time of event

**Consider:**

- all allegations/complaints
- new incidents which come to light during investigation
- list start and end periods of alleged abuse

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**Interviewing subjects of a complaint**

**Chronologies**

- are useful where there is more than one victim, witness and/or subject of complaint
- can be “themed” e.g. relating to a specific set of circumstances
- can list all complaints and do not have to be subject specific

**Mapping**

- can be useful for planning and preparation.

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**Interviewing subjects of complaint**

**Interview Plan:**

- Develop strategies around what is known.
- Avoid judgmental words/approaches.
- Ensure body language is comfortable and reflects what is being said.
- Adopt an appropriate questioning style.

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**Interviewing subjects of complaint**

**Contact:**

- Introductions should be made by the interviewers to establish rapport.
- Timing of first contact is important – where will it take place? What will subject of complaint be doing (e.g. work, leisure time)?
- If initial contact is not made by interviewers then provide opportunity for introduction.

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### Interviewing subjects of complaint

**Investigators must:**

- clarify purpose of the interview
- advise on disciplinary procedures
- explain confidentiality
- check expectations of the subject
- advise on process (breaks, recording, next steps)

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### Interviewing subjects of a complaint

**Managing unexpected material and information:**

- Be aware of the need to manage difficulties.
- Do not be drawn into discussions of right/wrong.
- Think about how you will manage uncomfortable questions/remarks.

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### Interviewing subjects of complaint

**Post interview:**

- At the point of closure, maintain rapport.
- Explain how contact will be maintained with subject of complaint and how and by whom they will be informed of outcomes.
- Debrief with interview/investigation team.
- Consider any potential effects if a breach of confidentiality occurs.

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### Subject of complaint – Role play

In your pairs choose who will be the investigator and who will be the subject of complaint.

- Read the case study and prepare the interview (10').
- Conduct the interview (15').
- After the interview discuss the process (5').
- Exchange roles and repeat the process with the second case study.

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### The investigation planning tool

- what is/are the allegation/s and is an investigation needed?
- what rule(s) is/are violated by the alleged misconduct or wrong doing?
- timeframe
- confidentiality
- what documents will the investigating team need to gather?
- who will have to be interviewed?
- record keeping
- who will be the investigating team?
- resources
- strategy discussions and meetings

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### Hollywood aid exercise

In your teams construct a written plan for investigating this case using the investigations planning tool handout, HO25. (45 min)

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### Interview schedule

	Rubina	Sunila	Karin	Mary	Abdul	Adrian
08.30	Planning and clarification					
09.00	Team A	Team B	Team C			
10.15	BREAK					
10.30	Team D	Team E	Team A			
11.45	Plenary - Share information obtained thus far					
12.15	LUNCH					
13.15			Team B	Team D	Team E	
14.30	BREAK					
14.45			Team D	Team C	Team B	
16.00	BREAK					
16.15			Team E	Team A	Team C	
17.30	BREAK					
17.45	Plenary feedback session					

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Association  
Professionals

## Building Safer Organisations

### Module 6

## Closing an Investigation

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**HAP** Humanitarian Assistance Programme

### Interview schedule

	Rubina	Surtia	Karin	Mary	Abdul	Adrian
08.30	Planning and clarification					
09.00	Team A	Team B	Team C			
09.15	BREAK					
09.30	Team D	Team E	Team A			
11.45	Plenary – Share information obtained thus far					
12.15	LUNCH					
13.15			Team B	Team D	Team E	
14.30	BREAK					
14.45			Team D	Team C	Team B	
16.00	BREAK					
16.15			Team E	Team A	Team C	
17.30	BREAK					
17.45	Plenary feedback session					

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### Report writing

#### Recording and reporting

Reports should:

- provide all relevant information and outcomes of an investigation
- include records of all available information from interviews and from evidence gathering

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### Report writing

**Possible outcomes with respect to each complaint:**

- Substantiated by reasonable inference based on the evidence.
- Not substantiated due to insufficient or unclear evidence.
- Not substantiated based on evidence that clears the SOC or suggests a malicious complaint.

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### Report writing exercise

For each SOC, list the allegations in the language of the SG's Bulletin.

**Take each allegation in turn.**

- What are the elements that require proof?
- What evidence supports or refutes each element?
- Analyse your findings.
- Based on the findings, has the allegation been established or not established by reasonable inference?

Write your answers on a flipchart.

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### Considerations for exit strategies

**Determine a review process:**

- Are there lessons to be learned including areas of good practice?
- How will review findings be used to assist future investigations?
- Were principles adhered to?

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### Considerations for exit strategy

**Closing an investigation**

Exit strategy needs to be:

- planned and managed
- transparent
- informative
- conform to protocol/code of practice

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### Considerations for exit strategy

**Outcomes**

- Who needs to be informed?
- Inform relevant professionals and agencies of the outcome as necessary.
- Agree a plan of action for any victims/witnesses who may come forward later.
- Consider the need for aftercare strategies including protection, medical care, victim support.

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### Considerations for exit strategy

**Support and aftercare:** It is not the role of the investigator to establish a support and aftercare strategy. However the organisation should provide support as needed to:

- victims
- witnesses/complainant
- families
- subject of complaint
- colleagues
- staff undertaking investigation

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### Considerations for exit strategies

Consider retention of any evidence or data, reports and records from the investigation.

- How will these be stored?
- How long should they be kept?
- What procedure is to be used by those wishing to access the records?

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### Action Planning

**On the green card write:**

What have I learnt?

**On the pink card write:**

What does my organisation need to do?

Paste your cards on the board after you have written your responses.

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**THANK YOU!**

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