

**Inter-Agency Misconduct Disclosure Scheme**

***Inter-Agency Scheme for the Disclosure of Safeguarding-related Misconduct in Recruitment Processes within the Humanitarian and Development Sector***

**Preamble**

The purpose of this scheme is to establish a minimum standard for humanitarian, development and other civil society organisations to share information as part of their recruitment process about people who have been found to have committed sexual harassment, sexual abuse or sexual exploitation during employment. It complements the work that organisations are already doing as part of their recruitment processes.

This scheme ensures that all organisations who sign up to it work to a common minimum exchange of relevant sensitive information, while respecting applicable legal and regulatory requirements. By so doing it contributes to organisations' work to prevent and address the consequences of sexual harassment and sexual exploitation and abuse in the humanitarian and development sector.

Organisations committed to this scheme hope that it can be a good start and the basis from which to explore further collaborative approaches

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#### **1. Introduction**

- 1.1 This Scheme has been developed by a group of humanitarian, development and other civil society organisations to describe their commitment to share relevant information about individuals who have been found to have committed sexual harassment, sexual exploitation or sexual abuse in the course of their employment or terms of their position.
- 1.2 This Scheme is premised on the belief that sharing relevant information in the recruitment process will allow employers to be more confident that individuals they recruit are fit to participate in development and humanitarian activities and/or other relevant activities, which will help mitigate the pressing safeguarding concerns within the sector.
- 1.3 This Scheme is intended to be consistent with and support implementation of the Core Humanitarian Standard on Quality and Accountability (CHS).
- 1.4 For further information on the development of this Scheme or interpretation of its provisions please see the Explanatory Notes.

#### **2. Purpose**

- 2.1 The safeguarding and related obligations of humanitarian, development and civil society organisations require them, individually and collectively, to take appropriate measures to prevent harm from occurring to the people that these organisations interact with and those who work for these organisations. These obligations require organisations to apply high standards in their recruitment process, which requires that they have access to reliable information to be able to form an accurate picture of whether a candidate may pose a safeguarding risk to their beneficiaries, staff and those of partner organisations.
- 2.2 This Scheme enables organisations participating in the Scheme (“Participating Organisations”) to disclose and receive relevant information about individuals found to have committed misconduct relating to sexual exploitation, sexual abuse or sexual harassment, in order to make informed recruitment decisions.
- 2.3 Participating Organisations will implement this Scheme to the full extent possible having regard to applicable legal and regulatory requirements. Participating Organisations will be transparent about any difficulties they encounter in applying this Scheme.

#### **3. Definitions**

When used in this document:

“**Authorised Personnel**” refers to the individual(s) within the Participating Organisation who is/are authorised to access a Candidate’s Misconduct History, and who are responsible for managing and processing Statements of Conduct.

“**Candidate**” refers to an individual who works, or has worked, for a Participating Organisation as an employee, or in a governing position (i.e. as a member of a Participating Organisation’s

corporate bodies, such as Trustee / Board Director, etc. unless prohibited by the Participating Organisation's constitutional documents).

**"Disciplinary Measure"** means the sanction applied by a Participating Organisation to a Candidate who is found to have committed a Misconduct as a result of an Investigation Process, or the sanction that would have been applied in circumstances where an Investigation Process concluded with a finding of Misconduct after the Candidate has left the Participating Organisation. Typical Disciplinary Measures include warning, suspension or termination.

**"Investigation Process"** for the purposes of this Scheme refers to each Participating Organisation's internal investigation process, including any subsequent disciplinary process, to determine whether a Candidate has committed Misconduct.

**"Misconduct"** for the purposes of this Scheme covers sexual exploitation, sexual abuse and sexual harassment, as defined by each Participating Organisation. As part of a Statement of Conduct, Participating Organisations shall make clear how they define these three terms, or whether they adopt the United Nations definitions of these terms.<sup>1</sup>

**"Misconduct History"** means the following information relating to a Candidate held by a Participating Organisation:

- the type of Disciplinary Measure imposed for Misconduct;
- the type of Misconduct for which the Disciplinary Measure was imposed (sexual exploitation, sexual abuse or sexual harassment); and
- the date of the Disciplinary Measure.

**"Participating Organisations"** refers to organisations participating in this Scheme (see Appendix 2).

**"Recruitment Process"** means the process by which Participating Organisations assess the suitability of a Candidate for a position, to decide whether to hire the Candidate.

**"Requesting Organisation"** means the Participating Organisation requesting a Statement of Conduct about a Candidate.

**"Responding Organisation"** means the Participating Organisation providing a Statement of Conduct about a Candidate.

**"Statement of Conduct"** means a statement from the Responding Organization substantially in the form and substance set out in Appendix 1, or a version of this form tailored by a Participating Organisation but which as a minimum contains substantially the same information.

#### 4. Scope

4.1 This Scheme sets out the principles and processes according to which Participating Organisations will share a Candidate's Statement of Conduct as part of the Recruitment Process.

4.2 This Scheme is complementary to and separate from any other forms of due diligence that Participating Organisations may carry out as part of the Recruitment Process for the purposes of assessing a Candidate's suitability for a position, such as provision of references and background

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<sup>1</sup> Sexual harassment is defined in the [UNSG's bulletin ST/SGB/2008/5](#) Sexual exploitation and abuse is defined in the 5 Oct 2016 [UN Glossary on Sexual Exploitation and Abuse](#).

checks or other vetting and screening mechanisms. In this context, it is within the discretion of each Participating Organisation to request or provide further information than the minimum required within the Statement of Conduct.

4.3 The Scheme is also complementary to and separate from other forms of information sharing which may or may not be part of the Recruitment Process, for instance providing certificates of employment, updates to employee record books, and confirmations of employment for administrative purposes, to the extent that these do not conflict with the Scheme.

4.4 This Scheme does not apply to vetting and screening measures concerning consultants, as the contractual processes for engaging consultants are different from those that apply to employees or those in governing positions. Participating Organisations endeavour to work together to achieve appropriate information sharing for consultants, so as to appropriately mitigate safeguarding-related risks.

## **5. Common Principles**

Participating Organisations agree that they will cooperate in the context of the Recruitment Process in accordance with the following common principles:

5.1 Each Participating Organisation will ensure that the provision of, and the request for, a Statement of Conduct is a mandatory part of the Recruitment Process.

5.2 Each Participating Organisation will ensure that Statements of Conduct are only provided by Authorised Personnel within the Participating Organisation.

5.3 Participating Organisations will endeavour to ensure that:

5.3.1 Allegations of Misconduct are followed up and acted upon appropriately, including through conducting and concluding a robust, fair and reliable Investigation Process, even if the subject's employment or position ends before the commencement or conclusion of the Investigation Process.

5.3.2 Disciplinary Measures are appropriate to the Misconduct and documented so as to ensure that a Candidate's Misconduct History is accurate and reliable.

5.3.3 A Candidate's Misconduct History is processed internally by Participating Organisations in accordance with applicable data protection legislation, regulations and internal policies. Participating Organisations will ensure that a Candidate's Misconduct History is accessible to the Candidate at all times and to Authorised Personnel, and that appropriate measures are taken to protect a Candidate's Misconduct History from deletion, alteration and unauthorised access.

5.4 If a Participating Organisation in a particular case is not able to request or provide the information contemplated with the Statement of Conduct for reasons owing to compliance with applicable legal and regulatory requirements, or an investigation, inquiry, or decision from a competent authority or judicial body, the Participating Organisation should be transparent about the reasons for this, including by documenting these reasons within the Statement of Conduct. More generally, Participating Organisations are encouraged to communicate with each other about any challenges in implementing this Scheme within the countries in which they operate.

5.5 Participating Organisations will inform Candidates about this Scheme, during the Recruitment Process and as relevant, during their time as employees.

5.6 Participating Organisations will endeavour to raise awareness of this Scheme within the humanitarian, development and civil society sector more broadly, with a view to increasing the number of Participating Organisations and the effectiveness of the Scheme, and to strengthen public trust in sector safeguarding and related procedures.

5.7 Each Participating Organisation is encouraged to adopt a policy and / or procedures as may be necessary to ensure implementation of this Scheme.

## **6. Providing a Statement of Conduct**

6.1 Authorised Personnel within the Responding Organisation will provide a Statement of Conduct on request for Candidates who are currently employed by the Responding Organisation or who have left the Responding Organisation within five years prior to the request, and who are undergoing a Recruitment Process for a position with the Requesting Organisation.

6.2 If an Investigation Process is commenced or concluded only after a Statement of Conduct has been provided, and the Investigation Process concludes with a finding that Misconduct has been committed by a Candidate, the Responding Organisation will provide an updated Statement of Conduct for that Candidate to the Requesting Organisation.

6.3 Participating Organisations may at their discretion choose to disclose the fact of an ongoing Investigation Process within a Statement of Conduct. An option for this is provided at Section 3.2 of the Template Statement of Conduct, at Appendix 1.

6.4 Responding Organisations are encouraged to take necessary measures to ensure that the Candidate is informed of the content and provision of the Statement of Conduct, including the possibility to amend it pursuant to section 6.2 above. To that end, and as referred to in section 5.3.3 above, Participating Organisations will ensure that a Candidate's Misconduct History is accessible to the Candidate, upon request, at all times, so as to ensure transparency for the Candidate on the content of a Statement of Conduct, if and when requested.

6.5 Participating Organisations should retain copies of Statements of Conduct in line with applicable data protection legislation, regulations and internal policies.

## **7. Requesting a Statement of Conduct**

7.1 Authorised Personnel within Requesting Organisations will request a Statement of Conduct from a Candidate's current or most recent employers to cover a period of at least the five years preceding the request.

7.2 Requesting Organisations will inform Candidates about their request for Statements of Conduct as part of the Recruitment Process.

7.3 Participating Organisations will make all offers of employment or other position, or the commencement of employment or position, contingent on receipt of Statements of Conduct.

## **8. Recruiting Candidates from non-Participating Organisations**

8.1 When a Candidate has not been previously employed by a Participating Organisation, Participating Organisations will, as part of the Recruitment Process, endeavour to seek information from the Candidate's previous employers within the spirit of this Scheme.

8.2 If a Requesting Organisation does not receive the information requested as part of a Statement of Conduct, for instance if the Candidate has not been previously employed by or held a position with a Participating Organisation, if the previous employer is not in a position to provide the information requested, or if the Candidate has had a period of unemployment, the Requesting Organisation it will take reasonable steps to procure satisfactory answers to the questions posed as part of the Statement of Conduct request, including by:

8.2.1 Ensuring that self-declaration of a Candidate's Misconduct History forms part of the Recruitment Process.

8.2.2 Seeking Statements of Conduct on the Candidate from other, potentially older, sources.

## **9. Adoption, implementation and revision of the Scheme**

9.1 This Scheme is applicable as from [insert].

9.2 Participating Organisations will endeavour to review this Scheme annually together to ensure it remains up to date and implementation challenges are identified and addressed.

**Appendix 1 – Template Statement of Conduct**

**ORGANISATION XXX**

*Organisation XXX participates in the Inter-Agency Misconduct Disclosure Scheme. This Statement of Conduct adopts the definitions used in the Scheme.*

**STATEMENT OF CONDUCT**

***This Statement is provided in answer to a request by (name), (title), (organisation)***

**1. Name of Candidate:**

**2. Duration of employment / term with Organisation XXX:** from to

**3. Was the Candidate found to have committed Misconduct (sexual exploitation, sexual abuse or sexual harassment) during this period?**

Yes

The nature of the Misconduct is

I am unable to specify the nature of the Misconduct because of the following legal / regulatory requirements:

No

**3.1. If the answer is yes, what was the Disciplinary Measure imposed upon the Candidate?<sup>2</sup>**

Disciplinary Measure:

Date of Disciplinary Measure:

I cannot provide an answer because of the following legal / regulatory requirements:

**3.2. [Is the Candidate currently being investigated for an allegation of sexual exploitation, sexual abuse or sexual harassment?**

I am unable to provide an answer

Yes

No

]<sup>3</sup>

**4. Organisation XXX adopts the following definitions of sexual exploitation, sexual abuse and sexual harassment:**

OR

**Organisation XXX adopts the United Nations definitions of sexual exploitation, sexual abuse and sexual harassment.<sup>4</sup>**

**Name and Title:**

**Date:**

**Signature:**

<sup>2</sup> Organisations are encouraged only to include warnings within the Statement of Conduct where they have been issued within the last two years of the Candidate's employment or position within the organisation.

<sup>3</sup> In accordance with section 6.2.1 of the Scheme, section 3.2 of the Template Statement of Conduct is optional; it is within each Participating Organisation's discretion whether to include it.

<sup>4</sup> Sexual harassment is defined in the [UNSG's bulletin ST/SGB/2008/5](#). Sexual exploitation and abuse is defined in the 5 Oct 2016 [UN Glossary on Sexual Exploitation and Abuse](#).

**Appendix 2 – List of Participating Organisations**

[INSERT]