

## **APPENDIX 3: STANDARDS FOR MANAGING MISCONDUCT**

This Appendix sets out the responsibilities of the Partner with regard to having in place minimum standards for managing misconduct pursuant to Art. 5.1 to 5.13 of Appendix 2. It contains:

- A listing of types of misconduct;
- A set of recommended minimum investigation standards;
- Standards on ensuring protection from sexual exploitation and abuse; and
- Procedures for reporting of misconduct.

The Partner is expected to have reasonable and appropriate measures, policies, procedures and standards in place for preventing, detecting, reporting, investigating and sanctioning misconduct as outlined below, or as a minimum have a plan and timeframe in place for the progressive realization thereof.

### **1. Types of misconduct**

For the purpose of this Agreement misconduct shall be defined as “a failure (i) to protect persons of concern from misconduct, and (ii) to observe the rules of conduct or the standards of behaviour prescribed by the Partner, pursuant to this document”. This definition shall include, but not be limited to:

- Sexual harassment
- Work place harassment and abuse of authority
- Assault or threats
- Non-compliance with local laws that are compatible with international norms and standards
- Breach of confidentiality
- Sexual exploitation and abuse
- Fraud (including entitlement fraud)
- Corruption and bribery
- Theft
- Gross negligence
- Discrimination
- Conflict of interest
- Misrepresentation or false certification on claims, benefits or UNHCR funded project reports
- Misuse of assets (including funds, in-kind relief items, office equipment, files, vehicles, etc.)
- Risk of life to staff, persons of concern or others
- Substantial violations of principles and terms of this Agreement
- Violations to the applicable procurement rules
- Act or behavior discrediting the UN, or that could impact severely on UNHCR's reputation

### **2. Minimum standards to have in place in relation to managing misconduct and investigations**

The Partner shall refrain from all forms of misconduct, protect persons of concern from exploitation and abuse, and report as well as investigate allegations of abuse, corruption, fraud and other possible misconduct against its personnel. As such, the Partner shall have minimum standards and procedures in place, or a plan to develop and/or improve them, in order to be able to take effective preventive and investigative action. The minimum standards should include the following:

- Code of Conduct policy

- Complaints Mechanism
- Investigation Guidelines
- Where multiple agencies are implicated, procedures for conducting a joint investigation when warranted
- Human resources policies on personnel confidentiality, staff induction, training and staff development
- Policies on confidentiality of data and information disclosure
- Policies on child protection, sexual exploitation and abuse,
- Policies on 'whistleblowing' / protection against retaliation,
- Policies against the misuse of resources, fraudulent acts, corruption, and other forms of misconduct subject to investigation,
- Disciplinary system, including disciplinary proceedings and applicable disciplinary and administrative measures, such as recovery of assets,
- Investigative capacity, including protocols and trained investigators (or alternatively, collaboration with another agency or UNHCR to utilize investigators.)

### **3. Ensuring protection from sexual exploitation and abuse**

Sexual exploitation and abuse is a type of serious misconduct. For the purpose of this Agreement, sexual exploitation and abuse are characterized and defined as follows:

Sexual exploitation and sexual abuse may occur in many different forms. Sexual exploitation is defined 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. Sexual abuse is the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions:

- Sexual exploitation and abuse by personnel of the Partner constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including dismissal.
- Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally<sup>1</sup>. Mistaken belief in the age of a child is not a defence.
- 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 refugees or other persons of concern of UNHCR.
- Sexual relationships between Partner personnel, and refugees or other persons of concern to UNHCR may undermine the credibility and integrity of the work of the UN, and UNHCR in particular, and are strongly discouraged since they are based on inherently unequal power dynamics.
- Where Partner personnel have concerns or suspicions regarding sexual abuse or exploitation by a fellow humanitarian worker, regardless by whom this fellow humanitarian worker is employed, he or she must report such concerns to UNHCR and the Partner pursuant to the reporting section 4, below.
- The Partner and UNHCR shall create and maintain an environment that prevents sexual exploitation and abuse and promotes the implementation of their codes of conduct. Managers at all levels have particular responsibilities to support and develop systems that maintain this environment.

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<sup>1</sup> The executive head of the Partner may use his/her discretion in applying this standard where an employee is legally married to someone under the age of eighteen but over the age of majority or consent in their country of citizenship.

These six standards are not exhaustive. Other types of sexually exploitative or abusive behaviour may be grounds for disciplinary measures, including dismissal.

#### **4. Reporting of misconduct**

The UNHCR IGO is responsible for ensuring that possible misconduct involving any entity or person having a direct contractual link with UNHCR is properly investigated. A personnel member of the Partner or UNHCR that learns about possible misconduct related to activities under this Agreement should contact the Partner, the UNHCR IGO or UNHCR Head of Office in the country of operation, as appropriate.

The UNHCR IGO may be contacted at: [inspector@unhcr.org](mailto:inspector@unhcr.org) as well as through the UNHCR website: [www.unhcr.org/php/complaints.php](http://www.unhcr.org/php/complaints.php).

Guidance for partners on additional information on standard operating procedures, sharing sensitive material case information, confidentiality, managing case files and evidence may be sought from UNHCR IGO.