GUIDE TO CONDUCTING INVESTIGATIONS

2021

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10 May 2021
FOREWORD

The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) assists and protects a population of Palestine refugees residing in Jordan, Syria, Lebanon, Gaza and the West Bank. Any allegations of misconduct can negatively affect the reputation and credibility of the Agency.

Establishing an investigation capacity that meets United Nations standards is an important component of the Agency’s accountability framework. Misconduct investigations must be credible, accurate, timely, thorough and fair.

These guidelines prepared by the Investigations Division, Department of Internal Oversight Services (DIOS), are intended to be used as a practical guide by Agency personnel responsible for conducting misconduct investigations.

Scope and limitations of these guidelines

These guidelines reflect United Nations best practice and include information on investigative techniques, methods and procedures and should be considered advisory in nature. There is no expectation that all of these techniques, methods and procedures will be applied to any particular investigation. Regardless of their titles such as ‘board of inquiry’, ‘fact finding committee’ or other informal investigation, all investigative activity must comply with United Nations standards.

These guidelines do not create any substantive rights. They do not confer, impose or imply any new rights or obligations other than those contained in UNRWA regulations, rules and the UNRWA Investigations Policy. Furthermore, they do not limit staff members’ rights and obligations as provided in United Nations regulations, rules and other administrative issuances.
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I  RESPONDING TO AN ALLEGATION OF MISCONDUCT

This chapter provides a definition of misconduct, outlines the procedure for handling allegations of misconduct. It also provides advice to field and department directors on how to assess such allegations and tailor an appropriate investigative response.

I.A  Misconduct

1. Misconduct is any failure by a staff member to comply with his or her obligations under the Charter of the United Nations, UNRWA Staff Regulations and Staff Rules, or other relevant administrative issuances or to observe the standards of conduct expected of an international civil servant.¹

2. Examples of misconduct include fraud, theft, mismanagement, corruption, misappropriation, waste of resources and abuse of authority. It can include personnel management issues related to for example, retaliation or abuse of authority, harassment (including sexual), discrimination as well as breaches of confidentiality, corporal punishment, fraud and sexual exploitation and abuse.

I.B  Reporting suspected misconduct

3. Allegations of misconduct can originate from a variety of sources including staff members, anonymous complainants, the media and members of the public. In many instances a staff member, particularly those in supervisory positions, may receive information or suspect that another staff member has failed to comply with the required standards of conduct.

4. Staff members who receive information or suspect that someone has engaged in misconduct should not conduct their own inquiries to assess whether the complaint is credible.

I.B.1  Duty to Report

5. It is the duty of staff members, consultants, contractors, interns and United Nations volunteers to report suspected misconduct, including misappropriation of Agency assets, fraud, corruption or abuse of authority within the Agency or Agency programmes as soon as possible after becoming aware of the activity.

6. Internal allegations of misconduct should be directly forwarded to DIOS (preferably to its Central Intake Unit (CIU)), or through one of the following established mechanisms:
   - The individual’s immediate supervisor
   - The Field Director or Headquarters Department Head
   - A focal point appointed to receive reports of sexual exploitation and abuse and complaints of retaliation
   - The Director, Department of Internal Oversight Services (DDIOS)
   - The Director, Department of Human Resources
   - The Commissioner-General or Deputy Commissioner-General

I.B.2  Initial action on receiving a complaint

7. If a report of misconduct has been brought to the attention of a supervisor, they should maintain the confidentiality of the person making the complaint as well as the person who is the subject of the complaint. This ensures the integrity of any future investigation, ensures fairness, and minimizes the risk of harm to

¹ UNRWA, International Staff Rule 10.1, Area Staff Rule 110.1(1).
the reputations of all parties involved. It is also important to consider whether any potential evidence is at risk of destruction. If evidence may be destroyed, take early steps to prevent such loss.

8. It is not appropriate to inform a staff member that he or she is the subject of a misconduct allegation before the commencement of a duly authorized investigation. To do so, may compromise the investigation and lead to the destruction of evidence or the intimidation of the complainant or witnesses.

I.C Management Responsibilities

9. Except in circumstances involving a potential conflict of interest with DIOS, all reports of misconduct, will be immediately forwarded to the CIU by the person who receives or becomes aware of them.

I.C.1 Tailoring a response

10. It is the responsibility of the field Director, department Director or their delegate to evaluate allegations of misconduct and determine an appropriate response. To facilitate this, all complaints shall be referred to the CIU which shall then perform an assessment. Appropriate interim measures may be required for high-risk cases prior to or post-assessment.

11. A high-risk case can be assessed by reference to the following factors:

- credibility of the complainant
- credibility of the information (is it corroborated or part of a known pattern)
- impact on UNRWA’s operations
- impact on the program / project / office
- impact on the public perception of UNRWA
- impact on UNRWA funding
- timeliness (date of occurrence / urgency of the complaint).

12. The CIU assessment will generally involve contact with the complainant and consideration and analysis of any key corroborative evidence, along with directing appropriate staff on steps to preserve evidence. An assessment report will be prepared prior to an intake committee’s consideration on the next steps.

I.C.2 Response Options

13. At the conclusion of the CIU assessment (or ad-hoc form of assessment if CIU assessment is not feasible due to exigency etc.), the manager (based on Field Office Intake Committee recommendations) has several options available in determining the appropriate response.

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Decline</strong></td>
<td>The matter is declined on the basis that the complaint does not relate to an allegation of misconduct, or is considered of a nature which would normally be the subject of appropriate management action other than disciplinary measures. A complaint may also be declined because there is insufficient information to take any action or does not relate to a known staff member or Agency entity.</td>
</tr>
<tr>
<td><strong>Record for information</strong></td>
<td>The matter does not include sufficient information to proceed, and further clarification is not possible (e.g., anonymous complaints). In some cases of</td>
</tr>
</tbody>
</table>

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2 PDs A-10 and I-10 on Disciplinary Measures, paragraph 4 provide that “The purpose of the imposition of disciplinary measures is to address misconduct and to alert UNRWA staff to behaviours and actions that fall short of expected standards. Disciplinary measures are normally imposed for misconduct, irresponsible conduct, or a significant failure to perform assigned duties or to carry out specific instructions. Such conduct is distinguished from inefficiency or incapacity, the correction of which are normally the subject of appropriate administrative action other than disciplinary measures.”
sexual misconduct, the complainant may not consent to an investigation. The information is recorded for information only.

<table>
<thead>
<tr>
<th>Investigation</th>
<th>The allegation warrants investigation and is assigned to a staff member with the appropriate competencies.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suspend</td>
<td>The above options are unsuitable as the matter requires additional information to properly assess it. Once enough information has been obtained to assess the matter, it should be promptly returned to the next intake committee for consideration, suspended matters should be reviewed at least once a month to ensure they are being progressed.</td>
</tr>
</tbody>
</table>

**I.C.3 Authority to investigate**

14. Investigations into reports of misconduct can only be initiated by field and department directors, the DDIOS and the Commissioner-General.³

15. In the event of a high-risk case, an authorization to investigate may be initiated immediately by the appropriate Director or the Commissioner-General and referred to the CIU for post-facto recording. In initiating an investigation, the Director should provide a clear scope to the investigator and justify why they took immediate action.

**I.C.4 Assign the investigator**

16. The choice of investigator will be guided by the nature of the complaint and the experience, qualifications and training of staff. The investigation should not be conducted by anyone with direct involvement with the person or matter being investigated. One should avoid tasking a supervisor with the investigation of a subordinate, or vice versa.

17. No person who is perceived to represent or advocate on behalf of any of the parties involved in an investigation should be assigned as an investigator.

**I.C.5 Terms of reference**

18. The terms of reference (TOR) are a brief statement that sets out the purpose, parameters and scope of the investigation. The TOR should consider the practicalities of the investigation, particularly the resources that are available to the investigator.

19. TOR are necessary to ensure that the investigator only investigates matters that are material to the original allegations. This ensures that an investigation maintains focus and does not exceed reasonable timelines.

20. The TOR should also include a time frame for completion of the investigation. It should be remembered that a timely conclusion to the inquiry is in the interests of both the Agency, the complainant and the subject staff member.

21. In some cases, new facts and circumstances may require the investigator to inquire into matters not included in the original TOR. In such cases, the investigator should advise the authorizing manager and obtain authorization to expand the TOR.

22. In general, new lines of enquiry that are of a ‘similar fact’ nature, such as an additional subject involved in a fraud investigation, or an additional instance of fraud discovered against the same subject, would not require a new term of reference. Possible violations of other administrative issuances outside the scope of the current investigation, should be referred to the case authorizer.

**I.D DIOS and the investigation process**

23. DIOS’ mission is to provide internal oversight that adds value to the Agency through independent, professional and objective internal audit, investigation and consulting services and thereby promoting the

³ UNRWA, ‘General Staff Circular No. 5/2007 Allegations and complaints procedures and protection against retaliation for reporting misconduct and cooperating with audits or investigations’, p. 4, paragraph 16.
responsible administration of resources, a culture of accountability and transparency and improved programme performance.  

24. DIOS Investigations Division will generally handle all cases that amount to serious misconduct or implicate a senior UNRWA official. DIOS issues periodic guidance on which cases DIOS will investigate based on the resources of the Investigations Division and priorities of the Agency. 

25. The DIOS is the central point for the receipt of all allegations and complaints on possible violations of the Agency’s regulations, rules and other pertinent administrative issuances. DIOS therefore is required to maintain a confidential registry of allegations and complaints. To carry out this function (and except for cases involving a potential conflict of interest within DIOS) all reports of misconduct, which are not received in the first instance by DIOS will be forwarded to DIOS via the CIU. 

26. Field and Department Directors, and the Commissioner-General are also required to advise DDIOS of the results and recommendation of any investigation they undertake or initiate.

I.D.1 Further investigation by DIOS

27. Organisation Directive No. 14 authorises DIOS to provide advice on investigations conducted by Field and Department Directors and to conduct further investigation if not satisfied with the results or recommendation of any investigation carried out by the Field and Department Directors.

I.D.2 DIOS Authority

28. The Director and staff of DIOS have unrestricted access to all functions, records, property, premises and personnel. Also, all officers and staff members, consultants, contractors, interns and United Nations volunteers are required to cooperate with DIOS audits, investigations and inspections and provide access to all records, documents and information requested by DIOS in connection with such audit, investigations and inspection, except for medical records which require the prior written consent of the staff member concerned.

I.E Other Issues

I.E.1 Anonymous complaints

29. Where possible, anonymous complaints should be investigated. If the information contained in the complaint is insufficient to initiate an investigation then the information should be recorded in case further actionable information is received later.

I.E.2 Malicious complaints

30. Reports of misconduct should be made based on the reasonable belief that what is being reported is true. Persons making reports of misconduct may be called upon to support these allegations. Reports which are found not to have been made in good faith or on reasonable grounds may expose the complainant to administrative or disciplinary action.

I.E.3 Criminal matters

31. In some cases, misconduct may also represent a violation of national laws. Examples of this include allegations where an UNRWA staff member is accused of theft, embezzlement or taking bribes for

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4 UNRWA, Organisation Directive No. 14 ‘Charter of the Department of Internal Oversight Services’, paragraph 8
5 Defined under Area and International Personnel Directives: No,10, paragraph 10
6 Guidance on the referral of allegations of serious misconduct to DIOS, 8 September 2019
7 UNRWA, ‘General Staff Circular No. 5/2007 Allegations and complaints procedures and protection against retaliation for reporting misconduct and cooperating with audits or investigations’, paragraph 18.
9 UNRWA, ‘General Staff Circular No. 5/2007’ provides at paragraph 12 that ‘anonymous complaints or allegations may be considered taking into account a number of factors including the seriousness of the complaint or allegation, its credibility, and the extent to which it can be confirmed or corroborated by attributable sources.'
procurement contracts. Allegations of misconduct of a criminal nature may be referred with or without the findings of an internal investigation by the Agency through the Department of Legal Affairs to the relevant local authorities.

I.E.4 Complaint withdrawal

32. If a complainant withdraws their allegations, the Agency may still continue to investigate the complaint. The complainant may be withdrawing their allegations due to threats or intimidation, or because the matter has been resolved through local custom. This should be explored with the complainant and dealt with accordingly. The investigator should obtain a statement from the complainant outlining their reasons for withdrawing the allegations. This should be included in the investigation report and considered when assessing the complainant’s credibility as a witness.

33. With respect to sexual misconduct allegations, emphasis is given to ensuring that the victim gives informed consent to their personal information being passed to investigators. A victim of Sexual Exploitation and Abuse (SEA) or Sexual Harassment should usually not be obliged to give testimony.

I.E.5 Local Custom complaint resolution

34. Regional traditions may allow for the resolution of disputes through ta’aweed, taswieh or sulha. The settlement of disputes in this manner will have no bearing on the Agency’s obligation to conduct an investigation. Resolution of a complaint in this manner may provide evidence that can be used to assess an allegation of misconduct by an UNRWA staff member.

I.E.6 Subject Resignation

35. There may be instances where during an investigation of allegations of misconduct the subject staff member resigns before the inquiry is completed. Consider whether or not to continue with an investigation based on the gravity of the suspected rule violation as the subject may apply for other positions without an investigation report on file. Also, consider whether the Agency has suffered a financial loss or whether there is a significant risk to the Agency’s reputation from discontinuing the investigation. System deficiencies or policy gaps, which may have contributed to the complaint, also need to be considered and recommendations made to mitigate the likelihood of a repeat of the misconduct.

36. Sexual misconduct investigations will ordinarily be continued irrespective of the subject’s resignation. A subject found to have committed sexual misconduct will be recorded on the inter-agency ‘clearcheck’ database, from the outset of any decision to investigate, to safeguard against their re-employment within the UN system.

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10 ta’aweed, taswieh or sulha are forms of informal alternative dispute resolution mechanism.
II PRINCIPLES FOR CONDUCTING AN INVESTIGATION

This chapter explains the concept of administrative investigations and outlines the authorities required to conduct an Agency investigation. This chapter also describes the role of the investigator and the outlines standards for investigations in UNRWA.

II.A What is an investigation?

37. There are many terms used to describe an investigation. These include boards of inquiry, fact-finding committees, investigation committees, preliminary investigations and informal investigations.

38. All investigations including all types of related inquiries can be defined as a legally based and analytical process designed to gather information to determine whether wrongdoing occurred and, if so, the persons or entities responsible.

39. The process of investigating allegations of misconduct is one element of the Agency’s accountability system. The contract of employment places an obligation on employees to act in a certain manner, including cooperating with investigations into possible contravention of their duties. At the same time, the organization is bound to ensure procedural fairness to staff accused of misconduct.

II.B The role of the investigator

40. The role of an investigator is to independently and objectively gather and assess material relevant to an inquiry and make appropriate factual findings and recommendations.

41. To be effective, an investigator should aim to have the confidence of all the parties involved. To achieve this, the investigator must be neutral and consider all perspectives. An investigator may be aware of the motivations and stresses that have led to the complaint but should not identify personally with either the complainant or the subject. Facts not in dispute can be accepted at face value, while facts in dispute should be subjected to a rigorous process of checking and analyzing.

II.C Standards for investigations

42. The Uniform Guidelines for Investigations outline the fundamental standards for investigations conducted in the United Nations and state that:

- Investigators should maintain objectivity, impartiality and fairness throughout the investigative process and disclose promptly any conflicts of interest to supervisors;

- Investigators should endeavour to maintain the confidentiality of investigations material including testimony and identities of witnesses;

- The conduct of the investigation should demonstrate the investigator’s commitment to ascertaining the facts of the case;

- Investigative findings should be based on facts and related analysis, which may include reasonable inferences;

- Recommendations should be derived from the investigative findings; and

- The investigator should consider both inculpatory and exculpatory information.

43. In addition to the Uniform Guidelines for Investigations adhered to by UNRWA, the standards for UNRWA investigations are also based on UN General Assembly resolutions; UNRWA regulations, rules, and

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11 Uniform Guidelines for Investigations, as endorsed by the 10th Conference of International Investigators held on June 10-12, 2009 at the Dead Sea in Jordan
administrative issuances; the jurisprudence of UNRWA and the United Nations internal justice systems; and core principles and best practices for investigative activities.

**II.C.1 Investigator misconduct**

44. An investigator must conduct themselves with integrity and never resort to trickery, deception or unlawful means to obtain evidence.

45. Those performing an investigative function must comply with the highest standards of conduct expected of international civil servants. Investigators must responsibly use the authority of their position and abide by UNRWA regulations, rules and administrative issuances.

**II.C.2 Procedural fairness**

46. Procedural fairness is a principle that ensures fair decision-making and must be applied to any decision that can affect the rights, interests or legitimate expectations of individuals.

47. If misconduct is substantiated beyond the standard of proof specified herein, the outcome of associated disciplinary proceedings may result in imposition by the Agency of administrative or disciplinary measures. Disciplinary measures include:

- Written censure;
- Suspension without pay;
- Loss of one or more steps in grade;
- Deferment of salary increment:
- Fine;
- Demotion for misconduct;
- Dismissal or termination for misconduct;
- Summary dismissal for serious misconduct;¹²

48. Administrative leave on which a staff may be placed upon pending investigation until the completion of the disciplinary process is not considered a disciplinary measure.¹³

49. All subject employees are entitled to be treated equally, using established rules and principles. No adverse decision can be made until the subject has been advised of all allegations made against them and been given a reasonable opportunity to respond.

50. For an investigation to comply with the principle of procedural fairness, the subject must be advised of the allegations against them, at least 24 hours in advance of the subject interview. An investigator is required to offer the subject the opportunity to comment on any facts related to the allegations.

**II.C.3 Avoid bias**

51. It is crucial that an investigator remains neutral and unbiased throughout an investigation and not favour one person over another. An investigator must also be aware of perceived bias and try to avoid such perceptions when possible.

52. Allegations of bias are often made against investigators, and in deciding whether bias influenced the investigation, a tribunal will assess if a fair-minded observer, having considered the facts, would conclude a real possibility of investigator bias. If so, the tribunal may find that the investigation process has been undermined.

¹² International Staff Rules 2018, Rule 10.2 (a) and Area Staff Rules, 110.5; PDs A-10 and I-10 on Disciplinary Measures and Procedures 2017;
¹³ See International Staff Rules 2018, Rule 10.4 (e) and Area Staff Rules, Rules 110.2
53. It is important that an investigator recognises the potential for real or perceived bias and bring concerns to the attention of their supervisor. Consider if an investigator has a personal relationship with any of the people involved in the investigation. Whilst knowledge of a person (or the fact that the investigator has worked with them) is not enough to satisfy an allegation of bias, bias could be inferred if the relationship was a close friendship or conversely if there was a history of animosity between the investigator and any of the principals involved in the inquiry.

54. The investigator must not have been a participant in any of the issues central to the investigation either as a witness, or managed or supervised the area concerned.

55. Once it is known that an investigation is underway the investigator may be approached by people seeking an insight into the allegations and an assessment of the veracity of the complaint. To avoid allegations of bias the investigator should not comment on the investigation or engage in conversations related to the inquiry.

II.C.4 Subject Notification

56. A subject of an investigation has the right to be informed about the substance of allegations, usually in writing whenever possible, at least 24 hours prior to a subject interview, if written notification was not possible, the investigator should write a ‘Note to File’ detailing the circumstances.

57. An investigator should be conscious of the fact that prematurely alerting the subject to the existence of the investigation may result in the destruction of evidence, modification of records, production of pre or post-dated documentation and collusion between potential witnesses. These are all risks that must be managed and weighed against the requirement to comply with the principles of procedural fairness.

II.C.5 Presenting documents to Subjects

58. There is no need to present all of the evidence to the subject during an investigation. What is required is to make sure that the subject is provided with enough detail about an allegation to be able to respond. This would include showing the subject documents that are relevant to the facts in issue, so they have a chance to comment. For example, in a fraud investigation this may include showing the subject copies of invoices, ledgers or books of account. But there is no need to show the subject any witness statements.

II.C.6 Mistakes

59. No matter how well the investigation has been planned and executed, from time to time things will go wrong. However, in most cases the situation is retrievable if swift and appropriate action is taken. Investigators should always acknowledge mistakes, document them and present them to their case manager for consideration as to determine what corrective action may be taken.

At some point in the investigation, it may become apparent that there has been a failure to abide by the principle of procedural fairness. In most cases, this can be overcome by affording the particular aspect of procedural fairness that had been denied.
III  PREPARING THE INVESTIGATION

This chapter outlines the initial actions that should be taken upon being assigned an investigation.

III.A  Initial actions

III.A.1 Identify potential conflicts of interest

60. Conflicts of interest can undermine the entire investigation. It is important that the investigation be conducted impartially. An investigator must not have, and must not be perceived to have, any conflict of interest in relation to:
   • the complaint;
   • persons likely to be adversely affected by the inquiry;
   • the alleged misconduct;
   • the policies and procedures that are subject to review as part of the investigation process.

61. Confidence in the outcome of an investigation is undermined where there is an actual or perceived conflict of interest.

62. Although an investigation must be conducted impartially, it is not realistic to expect an investigator will be entirely independent and have no prior connection with the person under investigation. Casual association with the person being investigated or having worked with them before is not sufficient to justify an allegation of conflict of interest. If an investigator believes they may have a conflict of interest, the issue should be raised with the person who commissioned the investigation and established the original terms of reference at the outset of the investigation process.

III.A.2 Preserve evidence

63. As soon as a matter is referred, consider whether any potential evidence is at risk of destruction. If it is thought evidence may be removed, destroyed, or altered, ensure that material is properly preserved and made secure (see Chapter 4 on Gathering Evidence).

III.A.3 Maintain confidentiality

64. It is important to preserve the confidentiality of the person making the complaint and the person who is the subject of the complaint.\(^\text{14}\) This ensures the integrity of the investigation and minimises the risk of harm to the reputations of all parties involved.

65. Anonymity should not be promised to the complainant. Whilst the Agency will take all possible steps to ensure that the identity of the complainant is not disclosed, the nature of the information provided may inadvertently disclose the source or the management, or the UNRWA Dispute Tribunal may reveal the source, post investigation. Document the reasons the complainant or witness has requested anonymity to inform the decision-makers later in the administration of justice process.

66. The identity of the person under investigation and any other person involved in the investigation should also be kept confidential. Accordingly, any witnesses interviewed during the inquiry should be advised not to discuss the matter with other witnesses or third parties.

\(^{14}\) UNRWA, General Staff Circular No. 5/2007 at paragraph 22 requires that the ‘Agency and any person receiving a report of misconduct, misappropriation of Agency assets, fraud, corruption or abuse of authority shall protect the confidentiality of the identity of any individual making the report and all information and communications through these channels, to the maximum extent possible.’
67. Witness interviews should also be conducted in locations where the witness cannot be seen or heard by outside parties.

68. Investigation may require review of confidential internal documents such as personnel records or work-related emails. Ensure that all documentary or electronic material (including the product of inquiries) is properly secured.

III.B Complaint assessment prior to investigation

69. Prior to a decision to investigate an allegation, a manager should have the required information to make an informed decision on the appropriate response. An investigator of the Central Intake Unit, or otherwise assigned investigator, shall assess received allegations to ensure sufficient information is gathered to assist the relevant intake committee and manager in making their decision.

70. Unlike an investigation, assessment of an allegation is usually limited to obtaining further information from complainant and the collection of the most relevant and available information that does not require formal interviews or any overt seizure of documents or other material.

71. Whilst cases can be declined based on an assessment, disciplinary action should not be taken without first conducting an investigation.

III.C Interview the Complainant

72. During an investigation, the first step should be to conduct a thorough interview with the complainant and obtain as much information as possible about the alleged misconduct. In some cases, this will not be possible because the complainant wishes to remain anonymous. In these cases, analyze all of the information provided in the original complaint.

73. It is important to remember that sometimes the original complaint will allege one type of misconduct such as fraud, but after a more comprehensive interview with the complainant, the allegation is more appropriately identified as a different form of misconduct.

74. A Witness Statement template can be found at appendix 1. Further direction on how to conduct a complainant or witness interview can be found in Chapter 5 of these guidelines.

III.D Identify the relevant provisions of the regulatory framework

75. One important element of an assessment and later investigation is to identify the provisions of the regulatory framework that may have been breached. It is important to establish whether the alleged misconduct made by the complainant, victim or witnesses is proscribed as such, by reference to the rules, regulations or other administrative issuances. In other words, if there is no breach of the regulatory framework then there is usually no need for an investigation.

76. One should consider the full range of regulatory instruments applicable to the category of personnel against whom the complaint has been made. The applicable rules and regulations will vary, depending on whether the subject is an international staff member, area staff member, consultant, contractor, junior professional officer, daily paid staff member, or United Nations Volunteer. If the alleged misconduct occurred some time ago, it will be necessary to identify the regulatory framework that was in place at the time of the alleged breach.
77. The regulatory framework includes:

UN Charter

Standards of Conduct for the ICSC

Staff or Financial Rules, Regulations and Policies

Organisation/Personnel Directives

General/International/Area Staff Circulars

Technical Instructions, Manuals or Bulletins

78. If unable to identify the relevant provisions of the regulatory framework, an investigator should contact DIOS, the Department of Legal Affairs or the Department of Human Resources to clarify the rules, regulations and administrative issuances applicable to the different categories of UNRWA personnel. Individual departments may also have their own technical instructions and guidelines.

III.E Investigation planning

79. The way the investigation is managed is critical. Proper planning ensures that the investigation is carried out methodically and in a professional manner. It assists in identifying sources of evidence and avenues of inquiry and minimizes the opportunities for people to remove, destroy or alter evidence.

80. It is also important to note that investigations rarely proceed as originally planned and the investigator should be prepared to revise plans as new information emerges. An investigator should follow the evidentiary leads and not try to make the evidence fit into their investigation plan.

III.E.1 Formulate the plan

81. Investigation plans vary in complexity from case to case. Some are merely a summary of the allegations and a basic outline of the inquiries to be conducted, whilst others incorporate an evidence matrix listing the various facts at issue, the tasks to be completed for each issue, and the name of the person responsible for completing those tasks.

III.E.2 Components of the plan

82. An investigation plan may consist of the following components:

**Background**

Outlining the background to the case sets the context for the investigation and serves as a briefing paper to those not acquainted with the inquiry. It may include a brief narrative of the complaint and the results of any preliminary assessment.

**Allegations**
A list of the allegations. It is important to remember that a single complaint may contain several allegations. An investigation plan should include only those allegations that were authorized for investigation according to the terms of reference.

**Facts at issue and avenues of inquiry**

Matters that need to be established to determine the veracity of the allegation. In cases involving a complaint about the conduct of an individual, the facts at issue will usually include:

- the identity of the subject employee;
- the place and date that the alleged conduct occurred;
- whether the alleged conduct occurred and if it did not occur what did;
- whether the actual conduct is likely to be a violation of the regulatory framework of the Agency;
- whether the subject or any others engaged in the conduct alleged.

Identifying the potential sources of information or avenues of inquiry will assist in establishing the facts at issue. This will predominantly consist of interviewing witnesses and reviewing documents. This component of the investigation plan compels the investigator to consider what evidence is required to test the allegations, and what avenues are available to secure that evidence.

**Tasking list with expected timeframe**

The interview plan should include a list of specific tasks to be completed over the course of the inquiry, including expected timelines. This list will be based on the avenues of inquiry and should be listed in order of priority. The tasks will mainly consist of witness interviews and the collection and review of documents.

**Witnesses**

Witness testimony is critical to any investigation. The investigation plan should consider the timing of interviews based on witness availability, order of interview and whether an interpreter is required. A proposed schedule of interviews may be included in the tasking list.

**Documents**

Identification of relevant documents is also important, and the plan should address the means for obtaining those records and their subsequent handling and storage. If there is a need to obtain electronic evidence, then consideration should be given to immediately obtaining any records that are retained on back-up media that is periodically overwritten.

**Other Issues**

This section should include any issues that may affect the conduct of the investigation. The types of issues to consider include:

- whether the complainant or any witnesses wish to remain anonymous;
- whether there is a potential for destruction of evidence or interference with witnesses;
- have any key witnesses left the Agency or will they be unavailable for a prolonged period;
- consideration of previous cases, or records of information against the Subject.

**Resources**

Provide an assessment of the resources required to conduct the investigation. The types of issues to consider include the need for specialist assistance such as forensic IT support. In cases involving allegations of sexual assault against children the investigator might require support from Protection or medically trained staff, or a person experienced in conducting child forensic interviews. Also consider any logistical or security issues that are likely to affect the investigation. Where any specialist assistance is anticipated, early planning is required.

**III.F Advice to Managers**

**III.F.1 Reviewing the Investigation Plan**
83. An Investigation Plan is a tool for ensuring that the inquiry is carried out methodically and professionally. It is designed to get the investigator to think about the facts at issue and what information or evidence is required to prove or disprove the matter under investigation. However, it can also be used by managers to monitor the inquiry and to ensure that it is focused on the right subject matter.

84. In cases that are deemed particularly sensitive it may be helpful to submit the plan for approval prior to any investigative activity.

**III.F.2 Timeliness**

85. The amount of time that it takes to investigate an allegation will largely depend on the TOR and the amount of resources assigned to the inquiry. The complexity of the case, logistical issues and the availability of witnesses are all issues which will have an impact on the ability of the investigators to complete the inquiry within established timelines. Whilst a timely conclusion to the inquiry is in the interests of both the Agency and the subject staff member, it is also important that the investigation be thorough and that all reasonable avenues of inquiry be exhausted.

**III.F.3 Frivolous or malicious complaints**

86. At some point during the investigation, it may become apparent that the complaint lacks substance or credibility and that any further investigation would be an unjustifiable use of limited resources.

87. Whilst an investigator must keep an open mind and confine their analysis to a review of the available facts, there are some indicators that may suggest the complaint is frivolous or malicious

- the complainant has a history of making false or unsubstantiated complaints;
- there is no information to support the allegation;
- the allegation is of such a nature that a reasonable person could not treat it as being bona fide;
- the allegation appears to be designed to harass, annoy or embarrass the subject staff member.
- the allegation appears to be made as a retaliatory act by subjects of investigation or third parties on their behalf

88. If it is believed there are strong grounds to suggest the complaint is frivolous or malicious the case can be closed on that basis. Furthermore, if there is evidence to suggest the complaint was malicious, this may amount to misconduct and should be referred as a separate allegation of misconduct and considered for investigation. Malicious allegations fundamentally undermine confidence in the administration of justice process and should not be taken lightly.
IV GATHERING EVIDENCE

This chapter will explain the standard of proof in UN disciplinary proceedings and provide advice on how to identify and obtain the best evidence.

IV.A Standards of Proof

89. The standard of proof required in UNRWA disciplinary proceedings is a lower standard of proof than that required in criminal matters. Nevertheless, it is still incumbent upon the Agency to prove that the staff member engaged in misconduct. The United Nations Appeals Tribunal (UNAT) has stated that “Disciplinary cases are not criminal. Liberty is not at stake”, therefore, regulated by the internal law of the organisation two standards of proof should be noted:

- clear and convincing evidence, for imposing separation or dismissal of the subject. The UNAT have stated this means “highly and substantially probable that the factual contentions are true.”;
- preponderance of the evidence where separation or dismissal of the subject is not a possible sanction.\(^{15}\)

90. An UNRWA investigator may submit an investigation report based on satisfying the latter standard of proof. The decision maker must then decide which sanction they would impose and further consider whether the higher ‘clear and convincing’ standard is achieved if dismissal is likely.

IV.B Defining evidence

91. Direct evidence is evidence that does not require any inference. For example, a witness who states that they saw the subject steal money from a desk drawer gives direct evidence.

92. Circumstantial evidence is evidence from which facts may be inferred. For example:

- A fingerprint expert who says that their examination proves that the subject’s fingerprints were on the desk drawer gives circumstantial evidence from which the subject’s guilt may be inferred.
- A witness who saw the subject outside the office with a large sum of money on the same day of the theft of money from the desk drawer.

IV.C Sources of Evidence

93. The main sources of evidence are:

- witness testimony;
- documentary evidence;
- electronic evidence;
- physical evidence;
- forensic evidence.

94. In most investigations undertaken by UNRWA, the main sources of evidence gathered will be witness testimony and documentary evidence. However, it may also be necessary to conduct a scene examination or engage the services of specialists qualified to provide expert evidence about computer data or documentary evidence.

IV.C.1 Relevance

95. An essential element of evidence is relevance. The evidence should make the existence of any fact that is
of consequence to a matter under review more probable or less probable than it would be without the
evidence. There should be some logical connection between the information and the facts at issue. In the
early stages of an investigation it is often difficult to know what evidence is likely to be relevant, so the
general rule is that it is better to collect too much evidence than too little.

IV.C.2 Rules of evidence

96. Whilst there are no clearly defined rules of evidence in the UN internal justice system, there are core
principles which apply. It is useful to understand these principles so that the evidence obtained is the best
available.

97. Once relevant information is established, consider how valuable the information is to the investigation. The
tribunals may decide some relevant evidence may is inadmissible. Two important rules of evidence relate
to hearsay and opinion evidence. Although there is nothing to prevent the investigator from considering
hearsay and opinion evidence, it is generally accepted that unless certain circumstances exist, very little
weight should be attached to these types of evidence.¹⁶

IV.C.3 Hearsay evidence

98. Hearsay evidence is evidence based on what has been reported to a witness by others rather than what they
have heard themselves. For example, a witness who states ‘I was talking to Mark and he said that he saw
Jean take the money from drawer’ is giving hearsay evidence. This is useful information to the investigator
and informs them to go to the source and interview Mark to verify and obtain the information firsthand. In
this case, the information provided by the witness (hearsay evidence) carries less weight than the
information provided by Mark (direct evidence). In all cases, investigators should make every effort to
obtain direct evidence. If this is not possible, then attempts should be documented in a ‘Note to File’ and
referenced in the final report.

99. There are some exceptions to the hearsay rule. One important exception is admissions made by the subject.
This assumes that people do not tend to make damaging admissions against their own self-interest, and
consequently any admission is likely to be true. For example, if Mark said, ‘Jean told me that she took the
money from the drawer’, this could carry some weight.

100. Recent UN focus on sexual misconduct cases has highlighted the need to consider hearsay evidence of the
first or immediate persons spoken to regarding an incident soon after it occurred. This hearsay evidence
will be used to established additional credibility of direct evidence by the victim and may provide additional
investigation leads regarding the circumstances around the time of the occurrence. Hearsay evidence may
also be useful if there is other corroborating evidence.

IV.C.4 Opinion evidence

101. Some investigations will require assistance from persons with an expertise in a field relevant to the
investigation. In corporal punishment and sexual abuse cases the investigator may have to consult medical
personnel; financial irregularities may require the help of an auditor or information technology specialist;
and the analysis of documents may require the assistance of a document examiner. These experts may give
an opinion on issues relevant to their field of expertise. For example, a medical doctor may give an opinion
as to the cause of an injury.

IV.C.5 Medical evidence

102. To obtain the medical records of a person they must complete a medical release form. A Medical Release
template is annexed to these guidelines at appendix 2.

103. It is not uncommon to obtain medical records which only indicate that the person sought medical
assistance and was prescribed certain medication. In some cases, it may be useful to obtain a statement
from the medical professional who treated the victim. A doctor may be able to provide important
information on issues such as the demeanour of the alleged victim at the time they presented for treatment

¹⁶ El-Khalek (2014-UNAT-442)
and what the person said about their reason for seeking medical attention. Depending on their area of expertise, a doctor may also offer an opinion on whether the injuries were consistent with the person’s account of how they occurred.

104. Medical evidence can be an important source to assess or corroborate the victim’s account of events. Though a victim, witness or subject cannot be compelled to provide consent for medical evidence, it should be explained that negative inference could be drawn from not supplying key evidence to support their account, whilst respecting but also documenting any reasons for refusal to provide the medical evidence.

IV.C.6 DNA evidence

105. DNA analysis is rarely used, and samples can only be taken with the express permission of the complainant, witness or subjects and can only be used for the purpose for which consent was granted. If it is believed that DNA analysis may assist the investigation, consult DIOS for further information and direction.

IV.C.7 Electronic evidence

106. Electronic evidence can be an important element in investigations and can be gathered from a variety of locations including UNRWA computers, flash drives, computer discs, servers and telephone systems. The collection of this type of evidence requires special collection, handling and analysis techniques and should not be attempted without the appropriate authorization. Staff members engaged in investigations likely to require the collection of electronic evidence should review the provisions of Information Systems Directive (Organization Directive No. 26) and the IMTD SOP on Data Management in Investigations.

107. In many cases the witnesses and subject will freely share electronic evidence with the investigator if requested. If the investigator believes that the covert collection or special handling of electronic evidence is necessary to preserve evidence, they should consult DIOS for further information and direction regarding the necessary permissions.

IV.C.8 Fingerprint evidence

108. In rare serious cases fingerprint analysis of a document or other item might be worthwhile. Some elements to consider before fingerprint analysis might be pursued:

- The subject employee must have denied handling the document or item.

- There is little chance many others have handled the item since and it was properly seized and secured.

- Fingerprints are possible to obtain from the item, i.e., it has a suitable surface area.

109. Fingerprints can only be taken from a witness or subject with their express consent and can only be used for the purpose for which consent was granted. If it is believed that the collection of fingerprint evidence is necessary for the investigation consult DIOS for further information and direction.

IV.D Obtaining the evidence

IV.D.1 Duty to cooperate

110. Organization Directive 14 outlines the ‘Charter of the Department of Internal Oversight Services’. It grants unrestricted access to all functions, records, property, premises and personnel. It also requires all officers and staff members, consultants, contractors, interns and United Nations volunteers to cooperate with investigations and provide access to all records, documents and information requested by DIOS in accordance with their mandate.

111. It is a general principle of administrative investigations that staff cooperate with duly authorised investigations. This includes providing documents and making a statement if requested. Personnel who

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17 UNRWA, ‘General Staff Circular No. 5/2007 Allegations and complaints procedures and protection against retaliation for reporting misconduct and cooperating with audits or investigations’, p. 2.
refuse to cooperate or are later found to have lied, destroyed evidence or otherwise obstructed the investigation may themselves be subject to disciplinary action.

112. The only exceptions to this duty to cooperate relate to medical, ethics office records, or certain documents subject to legal privilege.

**IV.D.2 Search of Agency premises**

113. On some occasions it may be necessary to search an UNRWA office or workspace to locate material relevant to the inquiry. This search should always be conducted in the presence of an independent third person. If a search of a staff member’s desk is necessary then that search should be conducted in the presence of that staff member if practicable. If the staff member is on leave, then the search should be delayed, unless to do so would compromise the inquiry, or is likely to result in the destruction of evidence. Only conduct a search to obtain material that is the property of UNRWA such as Agency files or other documentation. It is not permissible to search through a person’s personal belongings such as a handbag or brief case without the owner’s consent. Document who was present and fill out a note for the file on the circumstances of the search.

114. In some cases, investigators may need to obtain material that is located outside UNRWA installations. Investigators may obtain public records such as land titles but will always require written authorisation from the subject employee to obtain personal records such as bank statements.

**IV.D.3 Failure to cooperate**

115. There may be times when staff members refuse to cooperate with requests for interview or to provide access to UNRWA documents, facilities, IT resources, telephones or personnel. Failure to cooperate with a duly authorised investigation may amount to misconduct. However, it is sensible to first make sure the staff member is aware of their obligation to cooperate. If access is still refused, the issue should be raised with the staff member’s immediate supervisor. Any refusal to cooperate should also be noted and recorded in the investigation report. A refusal to cooperate with any part of an investigation may also draw negative inference on the refusing party’s credibility.

**IV.D.4 Securing evidence**

116. When to secure evidence is one of the more difficult decisions to make. The investigator must find a balance between competing priorities, the requirements of confidentiality and discretion, and their duty to secure evidence to prevent its destruction, alteration or concealment.

117. In deciding on the timings associated with securing evidence consider the following factors:

- Is the evidence at risk of being destroyed, altered or concealed?
- Is the evidence under the subject employee’s custody, control or constructive possession? If so, can they create, delete or modify key documents or records?
- Are the same records available at another location not accessible to the subject employee?
- Will securing the evidence prematurely alert the subject to existence and purpose of the investigation?

118. The options for securing evidence should be considered. In most cases, this will simply involve moving the evidence to a secure environment. In a small number of cases, it may be necessary to consider recommending that the subject be placed on administrative leave to remove their access to or control over the evidence. This is an important consideration if information is received that the subject has destroyed evidence or is attempting to interfere with witnesses.

119. If it is believed that administrative leave is warranted, refer to Rule 110.2 of the Area Staff Rules or Rule 10.4 of the International Staff Rules. See the section titled administrative leave pending investigation in chapter 5 of this guide for further information.

**IV.D.5 Original documents or copies**
120. Best practice dictates that the investigator should always take original documents rather than accept photocopies. If the investigator requests photocopies, additional information contained on the original may be accidentally or purposely excluded by those preparing the copies. The investigator may also view the original and take copies themselves. Taking possession of the original documents also negates any suggestion that copies were altered by investigators, and provides the best material possible, should there be a need to submit the material for document examination.

121. In some circumstances, taking possession of original documents may have an adverse effect on UNRWA operations. In these cases, the investigator should consider providing a complete copy of the documents to the person who held them. If this is not feasible, then consider leaving the original documents in place and working from duplicates.

122. Once the investigator has taken possession of the original documents, they should have them copied and use the copies during the inquiry. The original documents should be kept secure.

123. Where appropriate, verify the validity of the documents with the author of the document or if the files are kept as a normal part of UNRWA operations, by the manager or other person who can speak to their origin and authenticity.

IV.D.6 Handling evidence

124. Evidence must be handled carefully to avoid allegations of tampering or other misconduct – allegations which can undermine the integrity of the investigation. This is done by maintaining the ‘chain of custody’. The chain of custody is the chronological documentation that shows the receipt, custody, control, transfer, analysis and disposition of evidence.

125. The moment an investigator takes possession of the evidence they need to maintain a record/note of its receipt, handling and disposal.

126. A receipt or other suitable record (i.e., contemporaneous email to the record holder) should be completed and a copy given to the person who is being requested to transfer the material to the investigator’s possession.

127. The information contained on the receipt includes:
   • the date and time the investigator took possession of the material;
   • the details of the person from whom the investigator received the material;
   • the details of the investigator taking possession of the material;
   • what was received.

128. The circumstances surrounding the receipt of the material, as well as the location the material was secured, should then be entered on an appropriate record of custody form. If the material is removed from storage, the circumstances surrounding its removal should also be documented in the same manner. The combination of the receipt and custody form should provide an accurate record of the chain of custody. *An Exhibit Record of Custody Form is included in appendix 3.*

IV.D.7 Scene examinations

129. In conducting a scene inspection, an investigator needs to be clear on what they are trying to achieve. If possible, arrange a time that coincides with the time of day when the original event took place. Take detailed notes, sketch the scene and if possible, photograph the area. The observations made at the scene, as well as any sketches or photographs, should be recorded on a ‘Note to File’ for inclusion in the permanent record of the investigation.

IV.D.8 Loss of evidence

130. Any loss of evidence should be recorded on a ‘Note to File’ and included in the investigation file and report.
V INTERVIEWING

Witness testimony is the most important element of any investigation. The way the interview is conducted can have an impact on the quality of information obtained. This chapter will provide advice on how to arrange, conduct and record with witnesses and subjects.

V.A Interviewing witnesses and subjects

131. The main objective of an investigative interview is to obtain all the evidence that is relevant to the subject matter.

132. The interview of a subject employee requires measures to ensure the staff member is afforded procedural fairness.

133. Never deceive the interviewee, always give them enough opportunity to respond to questions.

134. Witnesses are a valuable source of information because they may have directly perceived something with their senses. All witnesses who are relevant to the investigation should be interviewed. When deciding relevance, a helpful rule is to identify those that have directly witnessed or created key evidence that concern the subject matter under inquiry.

135. As with every other component of the investigation remain impartial and resist framing questions in a way that may indicate bias about the issue being discussed.

136. If the interviewee asks questions about the investigation, be as honest and transparent as possible, without compromising the inquiry or breaching confidentiality. At the outset of the interview, explain the investigation process and clearly inform the interviewee of the reason for their attendance.

137. Never make any statements that may cause an interviewee to believe that they will obtain any privilege, concession or immunity from disciplinary action. To do so, calls into question the veracity of the evidence provided, the motive of the person in cooperating, as well as the integrity of the investigator. Likewise, an investigator should never resort to threats to obtain someone’s cooperation.

V.B Order of interviews

138. The first interview is usually with the complainant. The order in which the remaining witnesses are interviewed will depend on the importance of their evidence, their degree of association with the subject and their availability.

139. Witnesses should be interviewed separately (never together) and told to keep the content of the interview confidential. A witness’s evidence can become corrupted if that person learns what other witnesses have said or done. It can inadvertently cause some witnesses to change their version of events or alter their own perceptions about what occurred.

140. Carefully constructed questioning should keep the witness focused on matters directly perceived by them and relevant to the subject matter of the inquiry. It is useful to check if their recollection of events is from direct experience or hearsay.

141. When arranging interviews, the location and timing should be discreet so that the person does not have to explain their absence to their colleagues.

V.B.1 When to interview the subject

142. Sometimes there is a compelling reason to interview the subject earlier in the inquiry, but the general rule is that the subject interview should occur towards the end of the investigation. This allows completion of the major aspects of the investigation, assessment of the evidence and ensures all relevant matters are raised with the subject in one single interview allowing them the chance to respond.
V.B.2 24-hour subject Notice

143. It is necessary to give the subject employee at least 24 hours’ notice of the impending interview. Where possible, the notification should be in writing either by memo or email. The notification and any response should be included in the investigation file. If written notification is not possible, then the subject should be notified orally, and a record of that conversation recorded on a ‘Note to File’ and included in the investigation file.

144. The notification should include the following information:

- that an internal investigation has identified possible misconduct by the subject;
- the general nature of the allegations;
- that the allegations may constitute violations of UNRWA staff rules, regulations or administrative issuances (the specific provisions of the regulatory framework should be identified);
- that the interview is part of the ongoing investigation and no findings have yet been made about the culpability of the subject employee; and
- that should the allegations be substantiated the Agency may initiate appropriate administrative or disciplinary action.
- a subject may be permitted to have a third-party observer present (see section V.D.6 below).

145. Providing this information in the manner described gives the subject an opportunity to prepare for the interview and respond fully to the allegations.

V.C  Interview planning

146. Careful preparation is an essential element of a good interview. The investigator should have a clear understanding of what information they are trying to obtain from the interviewee, including some indication of what information the witness is likely to have and whether the person is likely to be hostile or resistant to questioning. Anticipate how best to deal with these difficulties as well as having strategies for keeping the interview on track and relevant to the subject matter.

V.C.1 Developing the questions

147. Interviews must always be conducted in a cordial and professional manner. It is useful to develop a rapport with the interviewee, so they are more at ease during the interview process.

148. Properly managed, a reluctant or untruthful interviewee can be encouraged to cooperate and produce a greater amount of accurate and useful information. Consider reminding the interviewee of their responsibilities to assist and cooperate with the investigator when difficulties are encountered.

149. Avoid making assumptions - ask further questions to clarify the issue.

150. Prepare a list of essential issues to be covered.

151. After review of the case material, formulate a list of questions to ask the interviewee. The list of questions is only a guide and the interview should be allowed to flow naturally.

152. Prepared questions can be a useful tool for ensuring that the interview is brought back on track and that all the relevant issues have been covered.

V.C.2 Style of questions

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When developing questions, remember that the objective is to gather information that will prove or disprove the facts at issue. Open-ended questions do not lead the interviewee in any particular direction and provide them with the opportunity to answer in narrative form.

Closed questions are those which encourage a ‘yes’ or ‘no’ response, the continued and persistent use of such a technique is discouraged but may be necessary if there are difficulties obtaining a clear answer from a person who prevaricates or is providing an ambiguous response.

Avoid asking multiple questions as a single question (compound questions), for example: When did you see Mr. X, where and happened next?

V.D Arranging the interview

When arranging the interview consider the privacy of the witness or subject. Generally, the investigator should contact the interviewee by email unless there is reason to believe that the person's email account is viewed by others such as administrative support personnel. Consider any cultural, gender or special issues which may affect the ability to obtain cooperation. For example, with a child witness, contact the parents or guardian rather than contact the child directly.

Interviews of subject should be conducted by two investigators.

Subject and key witness interviews should be conducted face-to-face. Face-to-face interviews allow assessment a person's demeanour through their body language and physical response to certain questions. Nevertheless, circumstances may dictate conducting an interview by alternative means. Other options include telephone interviews, video conferencing and written requests for information.

Other telecommunication options may be appropriate and expedient for non-key witnesses.

Written requests for information will sometimes be an appropriate method of eliciting information, particularly if the investigator is requesting information related to policies or procedures. There may be a risk of loss of confidentiality and a heightened risk of collusion between witnesses using this method. Remind the witness of their obligations to keep the matter confidential.

V.D.1 Location of the interview

The interview location will vary according to the person being interviewed. Ideally, the location should be free of distractions and in a place that affords privacy.

V.D.2 Referring to documents

During some interviews it may be necessary to ask the interviewee to comment on a document. In these cases, it is advisable to show the person a copy of the document and ask them to read then initial each page. The document (now an exhibit) should be described on the record of interview in sufficient detail so that there is no dispute later about which document was discussed, when necessary have the witness or subject sign a copy of each page of the document presented to them.

V.D.3 Using interpreters

When a witness or subject does not have a good understanding of the language spoken by the investigators engage a suitably qualified interpreter to assist with the interview.

Avoid using the family, friends or close colleagues of the interviewee as an interpreter because of the possibility that the interpreter will lose objectivity, provide prompt responses or inaccurately interpret the questions and answers.

It is also important to inform the interpreter that they should interpret exactly what is being said and that they are not to add interpretations or clarifications.

When using an interpreter make sure to speak to the interviewee directly. Have the interpreter interpret the questions and answers.
167. The interpreter should be reminded of their obligation to keep the details of the interview and investigation confidential. Before their involvement in the investigation, they should be asked to sign a Declaration of Confidentiality. This is in addition to the interpreter’s declaration during the interview.

**V.D.4 Arabic and English translations**

168. It may be necessary to provide material in English so that it can be reviewed by decision-makers and other stakeholders in the Agency. This does not preclude taking a statement or conducting an interview in Arabic, however in some cases the investigator is required to provide an English translation of the Arabic interview record.

**V.D.5 Interruptions**

169. Ensure that interviewees are offered the opportunity for a break. Be mindful that some people may suffer from a medical complaint that requires them to take frequent breaks.

170. Note the reason for the break and the time that the interview is suspended and resumed. It is advised not to discuss the subject matter of the interview or the investigation with the interviewee during the break. When the interview is recommenced, ask the interviewee to confirm that nothing of relevance was discussed, or alternatively go over anything that was discussed during the break that was relevant to the investigation.

**V.D.6 Requests for a third party to be present**

171. Interviews with a child, that is a person under the age of 18 years, will require the presence of a parent, guardian or independent third person. This is to provide support to the child and to negate any allegations that the child was inappropriately questioned or otherwise mistreated during the interview process.

172. Interviewees will occasionally ask if they can have another person present during the interview, such as a lawyer or union representative. A witness or complainant interviewee has no right to have a third-party present (unless a child or due to medical reasons). However, the presence of a third person may make the interviewee feel more comfortable and therefore make the interview easier to conduct. Nevertheless, the request needs to be balanced against the need for confidentiality.

173. The subject of investigation has no right to the presence of Counsel during interviews. Subject interviewees, however, may be permitted to be accompanied by a staff member to act as an observer but who shall not participate in any way in the interview, including by speaking or gesturing. If the observer does not abide by this requirement, the observer will be removed from the interview. An observer may take notes of the interview in handwritten form only and must provide a copy of any notes to the investigator. If the subject decides to bring an observer to the interview, the subject shall ensure that the observer is available at the time scheduled. Interviews shall not be rescheduled owing to the unavailability of the observer. The presence of a third-party observer to any interview remains at the discretion of the investigator.

174. If any third party is proposed, ensure that this person is not otherwise involved in the inquiry either as a potential witness or subject.

175. The third party should be told before the interview that their role is simply to observe and not to take part in the interview. They should be instructed that they are not to advocate on behalf of the interviewee and that they are not to discuss the contents of the interview with any other person. Staff members who act as third parties should be requested to sign a Declaration of Confidentiality.

**V.E Interviews of children**

176. Whilst many of the principles associated with adult interviews apply, such as the use of open-ended questions, there are some additional techniques that may help in obtaining reliable and complete information.

177. An effective child interview should be conducted in a non-leading and non-suggestive manner that allows the child to relate his or her own version of events. The interview should take place in an informal, relaxed setting and in a location, which affords a high degree of privacy. Ideally, the interview team should consist of not more than two persons. In some circumstances it may be necessary to use just one investigator,
particularly if there are gender aspects to consider. The child should not be interviewed in the absence of the child’s parent, guardian or an independent third person who must consent to the interview, preferably in writing.

178. At the commencement of the interview, the investigator should:

- explain the purpose of the interview;
- explain to the child that is perfectly acceptable to tell the interviewer if they do not know the answer to a question.
- explain that to the child that they should correct the interviewer if they are mistaken.

179. It is also important that the investigator use short questions and simple sentences and words consistent with the child’s age and developmental abilities.

**V.F Use of Witness Statements**

180. The key requirement for the written statement is that the interviewee is invited to read the completed document and provide clarification or correction of any errors. The interviewee should then be invited to initial the bottom of each page and sign and date the statement. The statement will include a declaration of truth.

181. The investigator or (translator if required) who prepared the statement should also sign the finalized document.

**V.F.1 Documenting witness interviews**

182. Evidence from a witness can be recorded in audio or statement format. Before making a decision on how to record the interview consider the suitability and relative merits of each method.

**V.F.1.a Written statements**

183. Written statements may be obtained from witnesses in a variety of circumstances but any key witness, eyewitness, or lone witness ought to be audio recorded instead. Consider using a statement when:

- There is no concern that the witness closely considers their testimony and may have time to adjust their account for accuracy.
- There is no likelihood of collusion or the witness has no apparent incentive to collude.
- The witness is an expert needed to explain policy, procedure or documents presented to them.
- There is already an abundance of direct witnesses to the same facts.

**V.F.1.b Audio recording**

184. Digitally recorded witness interviews have the advantage of providing an accurate and generally indisputable record of the conversation that took place during interview. The recording can be reviewed to settle any dispute about the questions and answers.

185. Use audio recorded interviewing for cases when:

- The victim may describe trauma that directly affected them.
- They are a direct witness to events, as they will need to describe how they saw or heard events in detail and be subject to probing of the validity of their evidence.
- The witness is key to the case being proven or disproven. This is common if they are the only witness or the case rests of the evidence they possess.
- When the interviewee is a subject.
186. Recording the interview electronically allows the interviewer to concentrate on the questions and answers rather than being distracted by the process of writing or typing the responses. The result is a free-flowing interview that usually covers more ground than a written statement.

187. The digital/audio file forms part of the electronic investigation file and should be secured like any other evidence.

188. At the conclusion of an audio recorded interview, the investigator must prepare a comprehensive summary of the interview for inclusion in the investigation file. In some cases, disputes over the content of the interview or a need to review the interview, may mean the investigator will be requested to prepare a full transcript of the interview.

V.G  Interview structure

189. There are no strict rules for structuring an interview. One commonly used format is to separate the interview into four parts – the introduction; open-ended questions; closed questions and the conclusion.

V.G.1 Introduction

190. The introduction should follow the following structure:

- The time, date and place of the interview
- The names of everyone present at the interview
- The name, position, workplace location of the witness
- The purpose of the interview
- The witness should be asked whether they have questions about procedure only. Those questions and responses should be recorded as part of the witness’s statement
- A declaration/affirmation that the witness will undertake to answer truthfully any questions asked of them.

V.G.2 Questions

191. This segment of the interview should consist of questions that engender a narrative response from the witness. Questions that allow the witness to describe what happened in their own words. Closed questions should only be used to confirm answers that have been provided by the witness or if the witness is prevaricating or providing an ambiguous response.

192. The point of an interview is to allow the interviewee to talk. Encourage narrative. The investigator may wish to challenge the accuracy of the narrative presented by the interviewee. It is advised to do this later in the interview. Once the interview feels challenged, they may begin to lose rapport with the investigator. Note it is also unnecessary to challenge every inaccuracy perceived.

V.G.3 Conclusion

193. At the end of the interview ask the witness whether they have any further information that they wish to add and whether they have any objections to the manner in which the interview was conducted.

194. Inform the witness that the information they provided will be assessed and it may be necessary to conduct a second interview should clarification be required or if new facts become known. Invite the witness to contact the investigator if they think of anything else that might be relevant. *A Witness Statement template can be found at appendix 1.*

V.G.4 Witness admissions of wrongdoing

195. During an interview, the investigator may obtain information which suggests that the person being interviewed has committed misconduct, related or unrelated to the allegations under investigation. If
convinced that the person may have committed misconduct the investigator should conclude or suspend
the interview if the admission is relevant to the case, under investigation. If it is a separate matter, ensure
referral of any new allegations, through appropriate channels.

**V.G.5 Witnesses not entitled to statement copy**

196. Only a subject is entitled to a copy of their interview (audio or otherwise) for verification and correction, if
necessary. At the conclusion of the interview some witnesses may also ask for a copy of their statement.
These requests should usually not be granted, doing so could undermine the confidentiality or integrity of
the investigation.

197. The intentional or unintentional circulation of the statement will identify other persons as witnesses and
could lead to collusion. If instead the investigator intends to grant access to the statement, it may be
prudent to retain the statement until the conclusion of the inquiry. Explain to witnesses that if their
statement is required in subsequent disciplinary proceedings, they would have a chance to review it at that
time.

**V.H Documenting subject interviews**

198. The structure of the subject interview should generally follow the format recommended for the interview
of witnesses. Some additional elements are below:

**V.H.1 Introduction and preamble**

199. The introductory statements should include the elements of a witness statement but also:

- Notifying the subject that they are in fact a subject and may face disciplinary proceedings;
- A brief summary of the allegations and mention that those allegations if true may constitute a violation
  of UNRWA regulations, rules or administrative issuances:
- Notifying the subject that if a report of investigation is prepared it will be forwarded to the relevant
  manager who may take further action.

200. After the interview has been concluded the subject will be given a copy of the interview audio record
and any subsequent summary or transcript produced.

**V.H.2 Conclusion and closing questions**

201. At the end of the questioning there are several matters which should be raised with the subject before
finalizing the interview.

202. The subject should be asked:

- If there anything else that has not been discussed they think is relevant to this matter;
- If they have any documents which they wish to provide;
- If there are any persons the investigator should interview.

203. The subject should also be reminded of the Agency’s retaliation policy General Staff Circular No. 5/2007
regarding protection against retaliation for staff members cooperating with investigations. Inform the
subject that any harassment of complainants or others involved in the investigation may be viewed as
misconduct and could lead to disciplinary action.

**V.H.3 Content of the interview**

204. The investigator is obliged to allow the subject to respond to every matter that has adverse implications
for them. The subject must be made aware of the allegations and be provided with enough detail to be able
to respond.\textsuperscript{19} This includes the names of witnesses, except in circumstances where the witness or witnesses may be endangered by such a disclosure. Any non-disclosure on these grounds must be reasonable in the circumstances and must not deny the subject procedural fairness.\textsuperscript{20} A Record of Interview with Subject template can be found at appendix 4.

205. Remember, procedural fairness requires that the subject be given the opportunity to respond to the allegations. Subjects are required to cooperate with a duly authorised investigation. If they refuse, they shall be advised of their obligation to cooperate and if they decline to be interviewed record their decision and include it in the Report of Investigation.

**V.H.4 Administrative leave pending investigation**

206. In some circumstances it may be appropriate to request that the subject be placed on administrative leave pending investigation until the completion of disciplinary proceedings. This may be necessary where there is an unreasonable risk that the subject employee will interfere with witnesses or destroy, conceal or otherwise tamper with evidence; or where the continued presence of the subject employee at the UNRWA facility poses a danger to other staff members or beneficiaries.

207. Area Staff Rule 110.2 and International Staff Rule 10.4 outline the three basic matters to be considered before an area staff member is suspended with or without pay pending investigation:

- Where there is an allegation of serious misconduct;
- Where the allegation is prima facie well founded; and
- Where the staff member’s continuance in the office pending an investigation would prejudice the interests of the Agency.

208. Similarly, Area Staff Rule 110.2 and International Staff Rule 10.4 provides that if an allegation of misconduct is made against a staff member and the Commissioner-General so decides, the staff member may be placed on administrative leave pending investigation. The Commissioner-General retains the exclusive right to place any staff member of administrative leave without pay.

209. The decision to request suspension of a staff member should not be taken lightly. Whilst suspension either with or without pay is not considered a disciplinary measure, it may have a detrimental effect on the staff member’s career and will increase the pressure on investigators to complete the inquiry quickly.

210. The need to suspend a staff member is something that should be considered in the investigation planning stages and monitored over the course of the inquiry. If considered necessary, raise the matter with the person who commissioned the investigation and set the TOR for the inquiry.

\textsuperscript{19} United Nations Administrative Tribunal (30 January 2004) Judgement No. 1154, Reference AT/DEC/1154

\textsuperscript{20} United Nations Administrative Tribunal (21 November 2000) Judgement No. 983, Reference AT/DEC/983
VI REPORTING ON INVESTIGATIONS

This chapter provides guidance on how to assess evidence and report findings and recommendations. It provides a suggested structure for reporting on cases and advice to managers on assessing whether the investigation is complete and conducted according to United Nations standards.

VI.A Overview

211. After completion of an investigation the investigator should prepare and submit a document summarising the investigation and making recommendations based on verifiable facts. The report must be factually correct, impartial, concise, and logically organised.

212. DIOS has created two reporting templates. A Report of Investigation should be used when the investigator makes adverse findings against the subject. Closure reports are used to outline facts that are established during the investigation which support a conclusion that the allegations could not be substantiated, or that an investigation of the allegations is no longer viable.

VI.B Evidence assessment

213. In drafting a report, an investigator may be faced with evidence that is conflicting or ambiguous. In drawing conclusions or making findings carefully weigh the evidence and explain why one piece of evidence was given greater weight than another.

214. In making this determination discuss the evidence in light of one or more of the following factors:

VI.B.1 Corroboration

215. All attempts should be made to confirm or support (through additional evidence) the accounts provided by witnesses and the subject. Whilst corroboration might come from a variety of sources such as other witnesses, any objective evidence is particularly valuable. Depending on the circumstances of the matter being investigated independent corroboration may be found in email records, attendance records, personnel files or financial records.

VI.B.2 Credibility

216. Explain the quality that makes a witness or a particular piece of evidence worthy of belief.

217. In determining the credibility of a witness, consider anything that has a tendency and reason to prove or disprove the truthfulness of the account provided by them. This may include the extent, opportunity or the ability of the witness to see or hear or otherwise become aware of matters constituting the facts at issue; the ability of the witness to remember and communicate their account; and the existence or non-existence of potential bias that may have tainted the witness’s account or motivated them to lie.

218. In assessing credibility, consider whether the statement made by the witness is consistent or inconsistent with any previous statements. In making this assessment it should be remembered that a changed recollection of facts or events is not uncommon and should not necessarily result in the witness being discredited. Two persons witnessing an incident or transaction will often perceive it differently. Whether a discrepancy pertains to a fact of importance, or only to a trivial detail, should be considered in weighing its significance.

VI.B.3 Subject Denials

219. Do not attach too much weight to the attempt of a subject to deny allegations against them. However, an inference of dishonesty that damages the subject’s credibility can objectively be made to refute their denial,
especially if the investigator presented the apparent contradiction to the subject and allowed them a chance to comment.

VI.C  Report of Investigation

220. The Report of Investigation should explain the steps taken to gather the evidence provide an analysis of the issues and explain why one piece of evidence was given more weight than another. The analysis should be free of speculation and no theoretical, moralistic or psychological analysis should be included.

221. Once it is completed the Report of Investigation should be forwarded to the person who commissioned the investigation for further action. A Report of Investigation template is provided at appendix 5.

VI.C.1 Format of the Report of Investigation

Allegations

This section should provide a brief summary of the complaint as expressed by the complainant. It should specify and number each allegation and include the date, time and place the incident(s) occurred.

Scope of The Investigation

This section cites the TOR for the investigation and may be used to communicate to the reader any setbacks or issues that impeded the investigation goals, such as delay or inadequate file documentation.

Applicable Rules

This section should reference the relevant provisions of the regulatory framework applicable to each allegation. The regulatory framework will reference UNRWA rules, regulations, administrative issuances, policy and procedures.

Background

This section details the steps taken prior to the commencement of the investigation. It also should be used to present the evidence in possession of the investigator at the outset of the investigation such as, the original complaint or the evidence supplied by the complainant.

Investigative Summary

This section should include a brief summary of how the investigation was conducted, including names of persons interviewed, the details of key documents obtained and a summary of any specialized investigative techniques that were utilized during the inquiry. A narrative of the case is required, outlining which facts are undisputed and where witnesses differ. Citations will be included. All statements and documents relied upon will form attachments.

Subject’s Account

This section should include the main points arising from the subject’s interview, including the person’s response to each of the allegations. The section may expand into post subject enquiries to show any actions taken after the subject interview, such as the accounts of new witnesses interviewed.

Findings

This is arguably the most difficult section of the report to complete and is often the subject of debate. This section is basically an analysis of the evidence and an opinion by the investigator as to whether the evidence gathered substantiates the allegations.

If there is more than one allegation, then they should be addressed under sub-headings and numbering that corresponds with the numbering in previous sections. Findings should be reached for each allegation. It may be necessary to explain inconsistencies in the evidence and to give an assessment of the reliability of the witnesses interviewed.

If the evidence is insufficient to establish the allegations, the investigator’s conclusions should state that there is insufficient evidence to support any administrative action.

Conclusions
The conclusions are the logical argument supported by the facts established and the findings. An investigator does not make a legal determination of guilt or innocence, instead establishes what they consider to be the facts in the case, and if their conclusions provide sufficient evidence (i.e., more likely than not), that wrongdoing occurred.

Ensure that conclusions and findings are firmly supported by the evidence.

**Recommendations**

If the investigator considers the evidence can substantiate the allegations, then a recommendation should be made to the decision-maker that appropriate action should be taken against the subject.

It is important that the nature of the appropriate action be left for the decision-maker. The investigator should never recommend specific actions to resolve or address the allegations.

If the investigation has identified any issues, system deficiencies or policy gaps, then an additional memorandum or note to decision-makers may make recommendations for systems improvement, policy amendments and misconduct prevention.

**Attachments / Exhibits**

The investigator should ensure that original or copies of relevant documents are numbered and available with the report. They must be also uploaded to the Agency’s Case Management System.

**VI.D  Subject suggested witnesses**

222. An investigator should make every attempt to interview witnesses identified by the subject of the investigation. However, the investigator may sometimes decide not to interview all those mentioned by the subject if they are assessed not to be witnesses to events under investigation, simple character references or whose evidence is unlikely to be relevant to any facts in dispute. As part of the report, the investigator should explain their decision not to interview suggested witnesses and explain their justification with relevant evidence (for example documenting any calls or preliminary enquiries made with those potential witnesses).

**VI.E  Closure reports**

223. Closure reports follow the same principal as investigation reports but represent either complete investigation where there was insufficient evidence to conclude wrongdoing or an incomplete investigation where there is substantial evidence contrary to the original allegations. These reports contain descriptions of the reported misconduct, the steps taken to investigate the allegations and the reasons for the case being closed.

224. Closure reports are prepared to ensure accountability of the process underpinning the decision to close an investigation.

225. Usually, the reason for closure will be that there is evidence undermining the allegation that has reduced any reasonable likelihood wrongdoing occurred.

226. Reports which do not substantiate the allegation shall be submitted to the person who authorized the investigation and if duly authorized for closure, uploaded on the Case Management System for potential DIOS review. All parties who were informed of the identity of the subject of the investigation, e.g., witnesses, complainants who are also victims and any subjects who had been notified of their status as a subject, should usually be informed that the allegation was not substantiated. A Closure Report template is provided at appendix 6.

**VI.F  Disclosure of reports**

227. All investigation related material contains confidential and sensitive information concerning individuals or the Agency’s operations and activities. No Report of Investigation or Closure Report should be disclosed to unauthorised personnel either inside or outside the Agency.

**VI.F.1 More than one Subject**
228. Reports of investigations can address multiple violations of the regulatory framework, even if those matters arise out of separate sets of circumstances. If more than one staff member is implicated in the misconduct, a separate report is required for each subject staff member.

VI.F.2 Inform the Complainant

229. The investigator can tell the complainant about the status of their complaint, that the matter is being assessed, under investigation or that investigation file has been referred to the decision-maker for review. There are some exceptions but there is usually no requirement to discuss case findings and facts with any party. This will be handled by subsequent case reviewers and decision-makers.

VI.F.3 Finally

230. The report and any attachments should be forwarded to the person who commissioned the investigation and established the terms of reference.

231. The conclusion of the investigation is not the final step in addressing potential misconduct. It is simply the point at which a decision is made that there is a factual basis upon which to make recommendations about possible misconduct, or that the matter should be closed.
VII CASE FILE MANAGEMENT

The investigation file is the Agency’s permanent record of the inquiry. It is important that the file be maintained in such a way as to facilitate review by peers, managers and decision-makers.

VII.A Overview

232. Proper management of the investigation file is an important aspect of the investigation function. Effective file management and retention practices help organise and track the investigation and facilitates audit and review upon its completion.

233. The key to effective file management is to ensure that all the documents necessary to conduct a complete and thorough investigation are maintained in such a manner as to be readily accessible at short notice.

234. Document organisation should also make it relatively easy for another investigator to review the file and quickly determine what investigative tasks have been completed and what still needs to be done to complete the inquiry.

VII.B Securing the file

235. At the first available opportunity, copy any original documents including witness statements and secure the originals in a locked cabinet. Confidentiality requirements mean that strict security should surround the conduct of any investigation and it is critical to prevent unauthorized access to original material.

236. Original documents should be stored in such a way that maintains their original condition. A working copy of the file can be maintained electronically. A similar level of security should be applied to the working copy to prevent unauthorized access.

VII.C Electronic copy of the file

237. It is recommended that investigators maintain an electronic copy of the investigation file. This is particularly useful if there are a large number of documents, and if access to the file is required away from the investigator’s assigned duty station. Given the confidentiality requirements, it may be appropriate to keep the electronic copy of the file on a USB drive or some other portable memory data storage device rather than on the shared drive of a work computer. The portable drive should also be secured as one would a hard copy of the file. Back-up copies of stored documentation are advised.

VII.D Notes

238. Notes, diagrams and other records made during interviews or contact with witnesses may become exhibits in some circumstances and should be retained.

239. It is essential to note of all investigative activity that is not documented in a witness statement or subject interview. Notes to file provide a means for recording such information. The type of information that should be recorded includes but is not limited to:

- Case discussions with supervisors or other investigators
- Details of phone calls
- Attempts to interview witnesses
- Issues relating to the chain of custody

240. ‘A Note to File’ template is provided at appendix 7.
VII.E Finally

241. DIOS recommends that each field and department director establish local procedures for centrally storing and securing material arising from completed investigations. Electronic versions of the investigation file must be uploaded to the centralized case management system.
ANNEX A

I. WITNESS INTERVIEW & STATEMENT

II. MEDICAL CONSENT FORM

III. CHAIN OF CUSTODY FORM

IV. RECORD OF SUBJECT INTERVIEW

V. REPORT OF INVESTIGATION

VI. CLOSURE OF INVESTIGATION

VII. CONFIDENTIAL NOTE TO FILE
WITNESS STATEMENT - UNRWA STAFF MEMBER

CASE N°:

DATE:

TYPE OF CONVERSATION:

NAME OF PERSON INTERVIEWED:

POSITION:

CONTACT:

INTERVIEWER(S):

INTERVIEW LOCATION:

OTHER PERSONS PRESENT:

INTERVIEW START TIME:

INTRODUCTION:

The interview was conducted in [English/Arabic].

The investigative team introduced themselves and advised the interviewee that they are being interviewed as a witness as part of a duly authorised administrative investigation.

The interviewee was informed of the following:

- DIOS has requested an interview with you as a witness as part of an ongoing investigation to establish facts. At this stage this is a fact-finding interview, however the investigation may result in a report that informs senior management whether any administrative, legal and/or disciplinary action should be taken against any person or entity that is found to have violated UNRWA rules, regulations and policies. The interview will give you an opportunity to provide information relevant to the current investigation.

- As an UNRWA staff member you have an obligation to unreservedly cooperate with any investigation by UNRWA of allegations of misconduct. Therefore, you are requested to provide all relevant information. If you do not understand a question, please ask us to repeat or clarify the question.

- This interview is confidential, so you are obliged to keep the interview confidential and refrain from discussing the interview with anyone. Please take into account that the
investigator cannot provide absolute confidentiality. For example, your name as a witness may be required to be disclosed during this investigation and in the post-investigation disciplinary process to fulfil the due process rights of the subject. However, the investigator will take all possible measures to prevent any unnecessary disclosure of information.

- Short breaks may be taken upon request.
- A summary/statement of this interview will be prepared, you may be asked to review it to ensure it is an accurate reflection of the statements you made during the interview. [The interviewee was informed that they may then be requested to sign the finalised version].

(If the interview is audio recorded):

- The interview is being audio-recorded to act as corroboration of this interview.

**AFFIRMATION**

Do you have any questions about the procedure and your obligations for this interview?

Please confirm that you are telling the truth by answering the following:

> Do you sincerely and honestly declare that the answers you will give to the following questions will be the truth and nothing but the truth?

**THIRD PARTIES PRESENT**

If an interpreter is present, the following must also be asked.

Do you undertake to interpret to the best of your ability and knowledge, and give a faithful rendering of the original communications made during this interview, without deliberate addition or omission?

[Answer]

If an interpreter or support person is present, the following must also be asked.

Do you undertake not to divulge any confidential information to which you will have access in the exercise of your role as a support person/interpreter during this interview?

[Answer]

Do you undertake not to use such information for private gain, or to favor or prejudice any party?

[Answer]
CONFIDENTIAL

STATEMENT:
[INSERT STATEMENT TEXT]
CONCLUSION:

The interviewee was asked whether they wished to clarify any of the answers given or to add anything that they believed was relevant to the investigation. The interviewee was also informed that should they recall, after the interview, any information that may be of relevance to the investigation, they should provide this to the investigators as soon as possible. In addition, the interviewee was reminded that if they are in possession of any documents or other items of relevance to the investigation, these should be submitted to the investigators at the earliest available opportunity.

The interviewee was reminded of their obligation to maintain confidentiality.

INTERVIEW END TIME:

INTERVIEWEE DECLARATION

I hereby acknowledge that this statement is a true and correct reflection of my interview.

Interviewee name (please print):

Name: _____________________________ Date/Time: ______________________

Signature: ________________________

Statement taken and received by:

Name: _____________________________ Date/Time: ______________________

Signature: ________________________

Name: _____________________________ Date/Time: ______________________

Signature: ________________________
CONFIDENTIAL

Interpreter:

Name: ____________________________ Date/Time: __________________

Signature: ______________________
WITNESS STATEMENT - NON-UN STAFF MEMBER

CASE N°:

DATE:

TYPE OF CONVERSATION:

NAME OF PERSON INTERVIEWED:

POSITION:

CONTACT:

INTERVIEWER(S):

INTERVIEW LOCATION:

OTHER PERSONS PRESENT:

INTERVIEW START TIME:

INTRODUCTION:

The interview was conducted in [English/Arabic].

The investigative team introduced themselves and advised the interviewee that they are being interviewed as a witness as part of a duly authorised administrative investigation.

The interviewee was informed of the following:

- DIOS has requested an interview with you as a witness as part of an ongoing investigation to establish facts. At this stage this is a fact-finding interview, however the investigation may result in a report that informs senior management whether any administrative, legal and/or disciplinary action should be taken against any person or entity that is found to have violated UNRWA rules, regulations and policies. The interview will give you an opportunity to provide information relevant to the current investigation.

- It would be appreciated if you cooperate with any investigation by UNRWA of allegations of misconduct and if you provide all relevant information. If you do not understand a question, please ask us to repeat or clarify the question.

- This interview is confidential, so it would be appreciated if you keep the interview confidential and refrain from discussing the interview with anyone. Please take into account that the investigator cannot provide absolute confidentiality. For example, your
name as a witness may be required to be disclosed during this investigation and in the post-investigation disciplinary process to fulfil the due process rights of the subject. However, the investigator will take all possible measures to prevent any unnecessary disclosure of information.

- Short breaks may be taken upon request.

- A summary/statement of this interview will be prepared, you may be asked to review it to ensure it is an accurate reflection of the statements you made during the interview. [The interviewee was informed that they may then be requested to sign the finalised version].

(If the interview is audio recorded):

- The interview is being audio-recorded to act as corroboration of this interview.

AFFIRMATION
Do you have any questions about the procedure for this interview?

Please confirm that you are telling the truth by answering the following:

Do you sincerely and honestly declare that the answers you will give to the following questions will be the truth and nothing but the truth?

THIRD PARTIES PRESENT

If an interpreter is present, the following must also be asked.

Do you undertake to interpret to the best of your ability and knowledge, and give a faithful rendering of the original communications made during this interview, without deliberate addition or omission?

[Answer]

If an interpreter or support person is present, the following must also be asked.

Do you undertake not to divulge any confidential information to which you will have access in the exercise of your role as a support person/interpreter during this interview?

[Answer]

Do you undertake not to use such information for private gain, or to favor or prejudice any party?

[Answer]
CONFIDENTIAL

STATEMENT:

[INSERT STATEMENT TEXT]
CONCLUSION:

The interviewee was asked whether they wished to clarify any of the answers given or to add anything that they believed was relevant to the investigation. The interviewee was also informed that should they recall, after the interview, any information that may be of relevance to the investigation, it would be appreciated if they could provide this to the investigators as soon as possible. In addition, the interviewee was reminded that if they are in possession of any documents or other items of relevance to the investigation, it would be appreciated if these could be submitted to the investigators at the earliest available opportunity.

The interviewee was reminded of their obligation to maintain confidentiality.

INTERVIEW END TIME:

INTERVIEWEE DECLARATION

I hereby acknowledge that this statement is a true and correct reflection of my interview.

Interviewee name (please print):

Name: ___________________________ Date/Time: ___________________________

Signature: _______________________

Statement taken and received by:

Name: ___________________________ Date/Time: ___________________________

Signature: _______________________

Name: ___________________________ Date/Time: ___________________________

Signature: _______________________

Name: ___________________________ Date/Time: ___________________________

Signature: _______________________
CONFIDENTIAL

Interpreter:

Name: _____________________  Date/Time:  _____________________

Signature: ___________________
**CHAIN OF CUSTODY FORM**

**CASE NUMBER:** __________________________

**Description of Item/s:**

**Obtained from:** (Name, title, location)

**Date Obtained:**

**Disposition of Item:** (Where stored)

**Investigator Name & Signature:**

**Released by:** (Name & Signature)

**Released to:** (Name & Signature)

**Date:**

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**CASE NUMBER:** ______________

**AUTHOR:** ______________

**Description of Item/s:**

**Obtained from:** (Name, title, location)

**Date Obtained:**

**Disposition of Item:** (Where stored)

**Investigator Name & Signature:**

**Released by:** (Name & Signature)

**Released to:** (Name & Signature)

**Date:**

---

**CASE NUMBER:** ______________

**AUTHOR:** ______________

**Description of Item/s:**

**Obtained from:** (Name, title, location)

**Date Obtained:**

**Disposition of Item:** (Where stored)

**Investigator Name & Signature:**

**Released by:** (Name & Signature)

**Released to:** (Name & Signature)

**Date:**
INTRODUCTION:

The interview was conducted in [English/Arabic].

The investigative team introduced themselves and advised the interviewee that they are being interviewed as the subject of a duly authorized administrative investigation.

The interviewee was informed of the following:

- DIOS has requested an interview with you as a subject as part of an ongoing investigation to establish facts. At this stage this is a fact-finding interview, however the investigation may result in report that informs senior management whether any administrative, legal and/or disciplinary action should be taken against any person, including yourself as a subject, or against any entity that is found to have violated UNRWA rules, regulations, policies. We will discuss each allegation that has been reported and provide you an opportunity to respond.

- As an UNRWA employee you have the duty to unreservedly cooperate with this investigation. Failure to do so may constitute separate grounds for misconduct. Therefore, you are requested to provide all relevant information. If you do not understand a question, ask us to repeat or clarify the question.

- This interview is confidential, so you are obliged to keep the interview confidential and refrain from discussing the interview with anyone. Please take into account that the
investigator cannot provide absolute confidentiality. For example, your name as a subject may be required to be disclosed during this investigation and in the post-investigation disciplinary process. However, the investigator will take all possible measures to prevent any unnecessary disclosure of information.

- Short breaks may be taken upon request.
- A summary/ statement Record of Interview (ROI) will be prepared and that you will be asked to review it to ensure that it is an accurate reflection of the answers you gave during the interview. [The subject was informed that they will then be requested to sign the finalised version.]

Or:

- A verbatim transcript of the interview will be prepared and shared with the subject.
- The interview is being audio-recorded to act as corroboration of this interview.

The subject was asked to confirm he/she has read the Notification of the allegations and signed his acknowledgment.

The subject was further informed of the following:

**AFFIRMATION**

Do you have any questions about the procedure and your obligations for this interview?

Please affirm you will tell the truth by answering the following:

> Do you sincerely and honestly declare that the answers you will give to the following questions will be the truth and nothing but the truth?

**THIRD PARTIES PRESENT**

**If an interpreter is present, the following must also be asked.**

Do you undertake to interpret to the best of your ability and knowledge, and give a faithful rendering of the original communications made during this interview, without deliberate addition or omission?

[Answer]

**If an interpreter or support person is present, the following must also be asked.**

Do you undertake not to divulge any confidential information to which you will have access in the exercise of your role as a support person/interpreter during this interview?

[Answer]

Do you undertake not to use such information for private gain, or to favor or prejudice any party?

[Answer]
CONFIDENTIAL

STATEMENT:

[INSERT STATEMENT TEXT]
CONCLUSION:
The interviewee was asked whether they wished to clarify any of the answers given or to add anything that they believed was relevant to the investigation or if there is anyone else who the investigators should speak to about this matter. The interviewee was also informed that, should they recall, after the interview, any information that may be of relevance to the investigation, they should provide this to the investigators as soon as possible. In addition, the interviewee was reminded that if they are possession of any documents or other items of relevance to the investigation, these should be submitted to the investigators at the earliest opportunity.

In concluding the interview, the interviewee was cautioned to avoid any behaviour, even unintended, that could be perceived as intimidation or retaliation.

The interviewee reminded of their obligation to maintain confidentiality.

INTERVIEW END TIME:

INTERVIEWEE DECLARATION

I hereby acknowledge that this statement is a true and correct reflection of my interview.

Interviewee name (please print):

Name: __________________________ Date/Time: __________________________

Signature: ______________________

Statement taken and received by:

Name: __________________________ Date/Time: __________________________

Signature: ______________________

Name: __________________________ Date/Time: __________________________

Signature: ______________________
CONFIDENTIAL

Interpreter:

Name: _____________________    Date/Time: _____________________

Signature: ___________________
[COUNTRY] FIELD OFFICE

INVESTIGATION REPORT

INVESTIGATION REPORT ON ALLEGATIONS OF [ALLEGATIONS] BY A [COUNTRY] FIELD OFFICE STAFF MEMBER

Report Reference

[XX/YYYY]

Case Reference

INV-YY-XXXX

XX Month YYYY
EXECUTIVE SUMMARY

On [Day Month Year], [name of Field Office] received allegations ..... Furthermore, it was alleged that ....

[DIOS/ Field Office] findings are summarized as below:

• ..... 
• ..... 

As a result, the investigation concludes that there is sufficient evidence to substantiate that ..... [DIOS/ Field Office] therefore recommends that:

• The Field Office Director takes appropriate action against ....
• Further, ...
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Exhibit 4  Photograph by investigator, Date produced
Exhibit 5  Medical report Dr. Nasser, Date produced

LIST OF TESTIMONY

C01  Witness Name, Audio Record /Statement, Date of Interview
V02  Witness Name, Audio Record /Statement, Date of Interview
W03  Witness Name, Audio Record /Statement, Date of Interview
W04  Witness Name, Audio Record /Statement, Date of Interview
S01  Subject Name, Audio Record and Transcript, Date of Interview

GUIDANCE BOX – FOR DELETION

Exhibits: Something relied upon to show the allegations are more or less likely.

All administrative documents or materials gathered that were unused in the report, must be retained, including within the case management system, however, are not required to be listed as exhibits.

Testimony: Evidence of a person under declaration/affirmation of truth.

Designation:  C-Child, V-Victim, W-Witness, S-Subject.

Omit the names of victims of sexual misconduct or other highly sensitive allegations, from the report. Use designations as shorthand in the report once you have introduced the witness with their full title for the first time, in the body of the report.
I OVERVIEW

1. On [Date], .... reported a complaint of .... to .... ¹
2. Summary paragraphs of the complaint.

II SCOPE OF INVESTIGATION

3. The investigation was conducted in line with the Terms of Reference (TOR), authorized by [Director] of [Country] Field Office on [Date].
4. Any required paragraph explaining issues or limitations encountered in the investigation.

III IMPLICATED PERSONNEL

5. Mr. /Ms. X joined UNRWA on [Date] as a [title of post] in [Field Office], a position he/she still holds on a [fixed term/temporary contract].

IV APPLICABLE RULES

6. The following Regulations, Rules and related policies were considered relevant to the investigation:
   • Charter of the United Nations, Chapter XV, Article 101;
   • UNRWA Area/International Staff Rule/ Regulations, YYYY, Rule/Regulation [XX]; and
   • General Staff Circular No. X/YYYY, paragraphs X and Y.
7. Any violations may, in turn, amount to misconduct within the meaning of General Staff Circular 5/2007.

V METHODOLOGY OF INVESTIGATION

8. This investigation included but was not limited to the collection and analysis of all available information and documents related to the allegations. DIOS interviewed relevant UNRWA staff members, beneficiaries and other witnesses who had knowledge of the matter under investigation.
9. On [Date], [subject name] was formally notified of the allegations against him/her.² He/she was interviewed on [Date], provided a full opportunity to respond to the allegations against him/her and provide any evidence in support of his/her statement.
10. This investigation was conducted in accordance with the 2009 Uniform Guidelines for Investigations, the UNRWA Staff Rules and Regulations, and the 2010 DIOS Guide to Conducting Investigations.
11. [Insert here any information to indicate if the investigation was hampered].

¹ Exhibit 1, Original Complaint
² Exhibit x – Notification to subject, [Date]
VI BACKGROUND

12. This section details the steps taken prior to the commencement of the investigation. It also should be used to present the evidence in possession of the investigator at the outset of the investigation such as, the original complaint or the evidence supplied by the complainant.

VII INVESTIGATION SUMMARY

13. This section should include a brief summary of how the investigation was conducted, including names of persons interviewed, the details of key documents obtained and a summary of any specialized investigative techniques that were utilized during the inquiry. A narrative of the case is required, outlining which facts are undisputed and where witnesses differ. Citations must be included. All statements and documents relied upon will form cited attachments. Example text is given below:

14. In the interview CO1 described the pain he felt and how he used an arm to defend himself, while he remained seated at his desk. C01 heard S01 walking away and cursing him about his lateness. C01 remained in the class until the end of the lesson.3

15. Later that day C01 was walking towards the school yard and was in the corridor when C01 recalled S01 calling out towards him, threatening to hit C01 again if he was late. Ms. Suzi Teacher, Science Teacher UNRWA school (W03), witnessed this incident and heard S01 say to C01 "I hope you've learned your lesson; you are stupid and next time I'll beat you with a stick in front of all the students in the school yard". W03 was also leaving the school at the time and was about five meters behind S01 in the corridor and could see how afraid C01 appeared.4

16. Photographs of the injuries were obtained from the mobile phone of W04.5

17. A copy of the medical report from 'Family Hospital' was received from Dr Said Hassan, who also confirmed the medical report was a correct record of his examination conducted on 30 May 2020. The report described bruising to C01’s back and arm.6

VIII SUBJECT RESPONSE TO ALLEGATIONS

VIII.A Subject Interview

18. This section should include the main points arising from the subject’s interview, including the subject’s response to each of the allegations.7

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3 Testimony C01, Summary 8-12 minutes & 17-20 minutes.
4 Testimony C01, Summary 5-10 minutes; Testimony W03, paragraphs 4 & 7.
5 Exhibit 4, Photograph by investigator; Testimony W04, paragraph 10.
6 Exhibit 5, Medical report Dr. Nasser; Exhibit 6, Email from Dr. Nasser.
7 S01 Transcript page 18 & 19.
VIII.B Post-Subject Interview Enquiries

19. The section may expand into post-subject enquiries to show any actions taken after the subject interview, such as the accounts of new witnesses interviewed.

IX FINDINGS

20. This section is an analysis of the evidence and an opinion by the investigator as to whether the evidence gathered substantiates the allegations.

21. If there is more than one allegation, then they should be addressed under sub-headings and numbering that corresponds with the numbering in previous sections. Findings should be reached for each allegation. It may be necessary to explain inconsistencies in the evidence and to give an assessment of the reliability of the witnesses interviewed.

X CONCLUSIONS

22. The conclusions are the logical argument supported by the facts established and the findings. An investigator does not make a legal determination of guilt or innocence, instead establishes what they consider to be the facts in the case, and if their conclusions provide sufficient evidence (i.e., more likely than not) that wrongdoing occurred.

23. Ensure that conclusions and findings are firmly supported by the evidence.

XI RECOMMENDATIONS

24. If the investigator considers the evidence can substantiate the allegations, then a recommendation should be made to the decision-maker that appropriate action should be taken against the subject.

Authorised by Director [X Field Office]:

Name: ______________________
Date: ______________________
Signature: __________________
XII ANNEX A – APPLICABLE RULES

I. CHARTER OF THE UNITED NATIONS, CHAPTER XV, ARTICLE 101

Paragraph 3:
“The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.”

II. UNRWA AREA STAFF REGULATIONS 2018

Regulation x.:
“[Quote provision]”

III. UNRWA GENERAL STAFF CIRCULAR NO. 0X/20XX

Paragraph xx:
“[Quote provision].”

GUIDANCE BOX – FOR DELETION
This Annex contains an example of the formatting of possible applicable rules/policies.
[COUNTRY] FIELD OFFICE
CLOSURE REPORT

CLOSURE REPORT ON ALLEGATIONS OF [ALLEGATIONS] BY A [COUNTRY] FIELD OFFICE STAFF MEMBER

Report Reference
[XX/YYYY]

Case Reference
INV-YY-XXXX

XX Month YYYY
EXECUTIVE SUMMARY

On [Day Month Year], [name of Field Office] received allegations ..... Furthermore, it was alleged that ....

[DIOS/ Field Office] findings are summarized as below:

- ..... 
- ..... 

As a result, the investigation concludes that there is insufficient evidence (no evidence) to substantiate that ..... 

[DIOS/ Field Office] therefore recommends that: [this case to be closed].
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LIST OF TESTIMONY

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W03  Witness Name, Audio Record /Statement, Date of Interview
W04  Witness Name, Audio Record /Statement, Date of Interview

GUIDANCE BOX – FOR DELETION

Exhibits: Something relied upon to show the allegations are more or less likely

All administrative documents or materials gathered that were unused in the report must be retained, including within the case management system, however, are not required to be listed as exhibits.

Testimony: Evidence of a person under declaration/affirmation of truth.

Designation: C-Child, V-Victim, W-Witness, S-Subject.

Omit the names of victims of sexual misconduct or other highly sensitive allegations from the report. Use designations as shorthand in the report once you have introduced the witness with their full title for the first time, in the body of the report.
I OVERVIEW

1. On [Date], .... reported a complaint of ..... to .... \(^1\)
2. Summary paragraphs of the complaint.

II SCOPE OF INVESTIGATION

3. The investigation was conducted in line with the Terms of Reference (TOR), authorized by [Director] of [Country] Field Office on [Date].
4. Any paragraphs explaining issues or limitations with the investigation.

III IMPLICATED PERSONNEL

5. Mr. /Ms. X joined UNRWA on [Date] as a [title of post] in [Field Office], a position he/she still holds on a [fixed term/temporary contract].

IV APPLICABLE RULES

6. The following Regulations, Rules and related policies were considered relevant to the investigation:
   - Charter of the United Nations, Chapter XV, Article 101;
   - UNRWA Area/International Staff Rules/ Regulations, YYYY, Rule/ Regulation [XX]; and
   - General Staff Circular No. X/YYYY, paragraphs X and Y.
7. Any violations may, in turn, amount to misconduct within the meaning of General Staff Circular 5/2007.

V METHODOLOGY OF INVESTIGATION

8. This investigation included but was not limited to the collection and analysis of all available information and documents related to the allegations. DIOS interviewed relevant UNRWA staff members, beneficiaries and other witnesses who had knowledge of the matter under investigation.
9. On [Date], [subject name] was formally notified of the allegations against him/her. \(^2\) He/she was interviewed on [Date], provided a full opportunity to respond to the allegations against him/her and provide any evidence in support of his/her statement.
10. This investigation was conducted in accordance with the 2009 Uniform Guidelines for Investigations, the UNRWA Staff Rules and Regulations, and the 2010 DIOS Guide to Conducting Investigations.
11. [Insert here any information to indicate if the investigation was hampered].

---

\(^1\) Exhibit 1, Original Complaint

\(^2\) Exhibit x – Notification to subject, [Date]
VI  BACKGROUND

12. This section details the steps taken prior to the commencement of the investigation. It also should be used to present the evidence in possession of the investigator at the outset of the investigation, such as the original complaint or the evidence supplied by the complainant.

GUIDANCE BOX – FOR DELETION

Information included in Sections VI (Background) to VIII (Subject's account) must be supported with citations matching the list of exhibits or testimony.

VII  INVESTIGATION SUMMARY

13. This section should include a brief summary of how the investigation was conducted, including names of persons interviewed, the details of key documents obtained and a summary of any specialized investigative techniques that were utilized during the inquiry. A narrative of the case is required, outlining which facts are undisputed and where witnesses differ. Citations must be included. All statements and documents relied upon will form cited attachments. Example text is given below:

14. In the interview CO1 described the pain he felt and how he used an arm to defend himself, while he remained seated at his desk. CO1 heard S01 walking away and cursing him about his lateness. CO1 remained in the class until the end of the lesson. 3

15. Later that day CO1 was walking towards the school yard and was in the corridor when CO1 recalled S01 calling out towards him, threatening to hit CO1 again if he was late. Ms. Suzi Teacher, Science Teacher UNRWA school (W03), witnessed this incident and heard S01 say to CO1 "I hope you've learned your lesson; you are stupid and next time I'll beat you with a stick in front of all the students in the school yard". W03 was also leaving the school at the time and was about five meters behind S01 in the corridor and could see how afraid CO1 appeared. 4

16. Photographs of the injuries were obtained from the mobile phone of W04. 5

17. A copy of the medical report from 'Family Hospital' was received from Dr. Said Hassan, who also confirmed the medical report was a correct record of his examination conducted on 30 May 2020. The report described bruising to CO1's back and arm. 6

VIII  FINDINGS

18. This section is an analysis of the evidence and an opinion by the investigator as to why there is no realistic prospect of substantiating any allegations of misconduct against the subject, or any other reasons why the case should be closed.

3 Testimony CO1, Summary 8-12 minutes & 17-20 minutes.
4 Testimony CO1, Summary 5-10 minutes; Testimony W03, paragraphs 4 & 7.
5 Exhibit 4, Photograph by investigator; Testimony W04, paragraph 10.
6 Exhibit 5, Medical report Dr. Nasser; Exhibit 6, Email from Dr. Nasser.
IX  CONCLUSIONS & CLOSURE AUTHORITY

19. Ensure that conclusions and findings are firmly supported by the evidence.

20. If the evidence was insufficient to establish the allegations, the recommendation should be that closure of the case is appropriate.

21. [Attach to the report a copy of the written permission to close the case as received from the decision-maker].

GUIDANCE BOX – FOR DELETION

A closure report is appropriate when no subject interview has been conducted, otherwise complete an Investigation Report and conclude that the allegations could not be substantiated by the facts.

Authorised by Director [X Field Office]:

Name: ______________________
Date: ______________________
Signature: __________________
X ANNEX A – APPLICABLE RULES

I. CHARTER OF THE UNITED NATIONS, CHAPTER XV, ARTICLE 101
Paragraph 3:
“The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.”

II. UNRWA AREA STAFF REGULATIONS 2018
Regulation x.:
“[Quote provision]”

III. UNRWA GENERAL STAFF CIRCULAR NO. 0X/20XX
Paragraph xx:
“[Quote provision].”

GUIDANCE BOX – FOR DELETION
This Annex contains an example of the formatting of possible applicable rules / policies.
NOTE TO FILE

DATE:

CASE NUMBER:

AUTHOR:

RE:

___________________________________________________________________________

BACKGROUND:

INFORMATION:

FOLLOW UP ACTION:

Name: ___________________________ Date: ___________________

Signature: ______________________