

POLICY ON SEXUAL HARASSMENT

UNDP/ADM/93/26

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To: UNDP/UNFPA Staff Members
From: William H. Draper III, Administrator
Subject: Sexual Harassment

I am pleased to issue a policy for UNDP/UNFPA on sexual harassment and a set of informal and formal procedures for dealing with this unacceptable behaviour. This policy is based on the principles and policies enunciated in the Secretary-General's Bulletin ST/SGB/253 entitled "Promotion of Equal Treatment of Men and Women in the Secretariat and Prevention of Sexual Harassment" and Information Circular ST/IC/1992/67 entitled "Guidelines for Promoting Equal Treatment of Men and Women in the Secretariat", both dated 29 October 1992, which are issued as attachments A and B to this circular and apply to all staff members.

You may recall that at the annual UNDP staff meeting in January 1991, the need was clearly expressed for UNDP to develop a policy on sexual harassment. Since then, information and advice from Division of Personnel-sponsored informal working groups, and surveys of staff, as well as from other confidential sources, have fully confirmed the existence of sexually offensive behaviour. That such behaviour or conduct is rarely reported only underscores the apparent frustration of some staff members that nothing will be done to look into their claims of sexually offensive behaviour or conduct, and the fear among other staff members to raise the issue at all out of concern over possible retaliation or breach of confidentiality. Thus, over the past year, as the Division of Personnel has supported and contributed to the efforts of the UN Secretariat working groups in their development of a sexual harassment policy, a set of informal and formal procedures for dealing with sexual harassment has been developed. These procedures are the product of a Task Force led by the Division of Personnel and made up of representatives from the Staff Council, the Ombudsman Panel, UNFPA, and the UNDP/UNFPA Joint Disciplinary Committee. I urge all staff members to read this circular carefully, and become more aware of how such unacceptable behaviour can affect others.

Sexual Harassment Policy and Procedures for UNDP/UNFPA Staff

I. POLICY STATEMENT

1. Sexual harassment in the UNDP/UNFPA workplace, or in connection with the work of UNDP/UNFPA, constitutes unacceptable behaviour. Such behaviour or conduct is contrary to the provisions of the Charter of the United Nations and is a violation of the standards of conduct expected of every international civil servant. Staff members are advised that sexual harassment in any form will not be tolerated at Headquarters or in Field Offices, and may lead to disciplinary action as set forth under Chapter IX of the Staff Rules.

II. DEFINITION

2. Sexual harassment is defined as "any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature, when it interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. It is particularly serious when behaviour of this kind is engaged in by any official who is in a position to influence the career or employment conditions (including hiring, assignment, contract renewal, performance evaluation, working conditions, promotion) of the recipient of such attentions."

Sexual harassment can take many forms and may include, but is not limited to: unwelcome sexual advances, the forcing of sexual attention, verbal or physical, on an unwilling person; or the attempt to punish the refusal to comply. Specific examples are: verbal harassment or abuse, subtle pressure for sexual activities, unnecessary touching, patting, or pinching, leering at a person's body, constant brushing up against a person's body, demanding sexual favours accompanied by implied or overt threats concerning employment or advancement, physical assault including rape. It includes both unwelcome heterosexual and homosexual sexual advances.

3. In general, sexual harassment falls into two main categories:

- **Quid Pro Quo**

Under this category of sexual harassment, submission to sexual advances, requests for sexual favours or other verbal or physical conduct is made a condition of employment; or submission or rejection of the unwelcome conduct is used as a basis for an employment decision. These cases normally involve persons who have authority or power over a staff member's job status or working conditions.

- **Hostile Work Environment**

Under this category of sexual harassment, the sexual conduct interferes with work, or creates an intimidating, hostile, or offensive work environment.

2. It must be emphasized that behaviour or conduct of a sexual nature that is unwelcome by a staff member may constitute sexual harassment whether or not the alleged offender believes that such behaviour or conduct is inoffensive or otherwise appropriate. The staff member is encouraged to inform the alleged offender that such behaviour or conduct is unwelcome; however, there may be instances where the work relationship of the two parties may make such direct confrontation difficult. In such instances, the staff member is encouraged to review the procedures for dealing with sexual harassment for advice on how best to proceed, as set forth below in paragraph 7, and following.

III. RESPONSIBILITY OF SUPERVISORS

4. Supervisors are fully expected to support both the letter and the spirit of this policy and the procedures on sexual harassment. It is the affirmative responsibility of supervisors to ensure that the working environment is free of sexual harassment, and to take immediate corrective action

whenever they become aware of an incident which may constitute such unacceptable behaviour.

IV. GENDER AWARENESS TRAINING

5. It is essential that all UNDP/UNFPA staff members, especially those in management and supervisory roles, develop a greater awareness of the issues surrounding sexual harassment in the workplace and a fuller appreciation of the pernicious effect that such unacceptable behaviour can have on the morale and productivity of staff members. Therefore, as an integral part of this policy on sexual harassment, the Division of Personnel will train those most likely to handle complaints in their working capacities (Ombudsman Panel, DOP and members of the Grievance Panel on Sexual Harassment - see paragraph 13) and initiate together with UNFPA arrangements to develop greater gender sensitivity both at Headquarters and in Field Offices - for staff members and management.

V. INTRODUCTION TO PROCEDURES FOR DEALING WITH SEXUAL HARASSMENT

6. The procedures set forth below provide staff members with a range of options when faced with situations that might constitute sexual harassment. These options include:

- Confidential guidance and counselling (see section VII);
- Informal resolution of a complaint of sexual harassment through confidential mediation between the parties concerned (see section VIII);
- Formal resolution of a complaint of sexual harassment through investigation and fact-finding conducted by a panel of three staff members trained in the sensitive and confidential handling of such complaints (see section IX).

VI. DEALING WITH PERCEIVED HARASSMENT

7. It is advisable for an individual who believes that he or she is subject to sexual harassment to deal with this situation at the earliest opportunity.

8. An individual who believes that he or she is being harassed is encouraged to immediately notify the alleged offender that this behaviour is unwelcome. It is recognized, however, that power or status disparities may make direct confrontation difficult. Thus, it is also advisable to keep a written record of events, as soon as possible after the incident(s), noting date(s), place(s), a short description of what happened, date and form of notification to the alleged offender, names of witnesses and anyone to whom the incident(s) may have been mentioned.

9. Whether or not the alleged offender has been notified of the unwelcome behaviour, the individual may wish to discuss the matter with a colleague or a friend, or with a member of management, as appropriate.

VII. CONFIDENTIAL GUIDANCE AND COUNSELLING AT HEADQUARTERS AND FIELD OFFICES

10. In dealing with a situation which may constitute sexual harassment, informal guidance and counselling may be obtained on a strictly confidential basis in the following ways:

- a. Ombudsman Panel: Staff members at Headquarters and in Field Offices may contact the Ombudsman Panel. The Ombudsman Panel is a mediating body which seeks to reach agreement between a staff member and management, and to provide guidance to staff members on how to obtain action or redress through official channels. A member of the Ombudsman Panel will explain the UNDP/UNFPA Sexual Harassment Policy and Procedures and suggest ways to deal with the situation. Panel members handle cases in strictest confidence. Staff members may contact the Ombudsman Panel in writing or by

telephone. A list of its membership is published periodically. (See circulars UNDP/ADM/HQTRS/1372 and UNDP/ADM/FIELD/692 of 18 December 1985, UNDP/ADM/92/57 of 7 July 1992);

b. Division of Personnel: Individuals at Headquarters and in Field Offices may seek confidential counselling from a Staffing Specialist with the Division of Personnel, UNDP or a Personnel Officer with the Personnel Branch of UNFPA, as appropriate (hereinafter referred to as "Staffing Officer"). A Staffing Officer will explain the UNDP/UNFPA Sexual Harassment Policy and Procedures and suggest ways for the individual to deal with the situation. Individuals in Field Offices may contact a Staffing Officer in writing or by telephone;

c. Programme for Staff Assistance (PSA): In addition, for UNDP/UNFPA staff members serving at Headquarters, the Programme for Staff Assistance (PSA) provides short-term professional counselling on a strictly confidential basis. The PSA is staffed by experienced social workers and psychologists who will explain the UNDP/UNFPA Sexual Harassment Policy and Procedures and suggest ways for a staff member to deal with the situation. Staff members may contact the PSA by telephone to make an appointment. (See circular UNDP/IC/92/20 of 11 November 1992).

VIII. INFORMAL APPROACH TO RESOLVE COMPLAINTS AT HEADQUARTERS AND FIELD OFFICES

11. The informal approach is intended to resolve a complaint of sexual harassment through mediation between the parties involved and by providing advice and counsel on a strictly confidential basis. An individual may bring a complaint to the attention of any member of the Ombudsman Panel or to a Staffing Officer for informal resolution. The request may be made orally or in writing.

12. In cases where an individual at Headquarters selects the informal approach, a member of the Ombudsman Panel or a Staffing Officer shall review the case and shall approach the alleged offender on a strictly confidential basis. However, staff members should be aware that a Staffing Officer, in cases which appear to indicate that misconduct has occurred that may warrant administrative action or disciplinary measures as described in Staff Rule 110.3, is required to bring the matter to the attention of the Director, Division of Personnel, UNDP, or the Director, Division for Finance, Personnel and Administration, UNFPA ("Personnel"), as appropriate, and recommend that the matter be referred to the Grievance Panel on Sexual Harassment (the "Grievance Panel"), as described in paragraph 16.

13. In cases where an individual in a Field Office selects the informal approach, a member of the Ombudsman Panel or a Staffing Officer will, in consultation with the complainant, normally nominate a member of UNDP or UNFPA management in the Field Office or, if there is a perceived conflict of interest, a senior manager from one of the UN agencies represented at the field level, to review the matter and approach the alleged offender on a strictly confidential basis to resolve the situation. The member of the Ombudsman Panel or the Staffing Officer will notify the nominated party and explain the UNDP/UNFPA Sexual Harassment Policy and Procedures and suggest ways of dealing with the situation. The nominated staff member will inform the Staffing Officer or the member of the Ombudsman Panel of the outcome.

14. No formal record of the complaint will be entered into any official status or other file of the parties concerned.

15. In cases where the situation revealed by the informal approach appears to indicate that misconduct has occurred which may warrant administrative action or disciplinary measures as described in Staff Rule 110.3, the Staffing Officer will recommend in writing that Personnel refer the matter to the Grievance Panel. In making this recommendation, the Staffing Officer

concerned shall prepare a report indicating the reasons why the matter warrants further examination. In such cases, the complainant and the alleged offender shall receive a copy of the report.

IX. FORMAL APPROACH TO RESOLVE COMPLAINTS AT HEADQUARTERS AND FIELD OFFICES

16. The formal approach is intended to resolve a complaint of sexual harassment through a process that includes initial investigation and fact-finding conducted by a panel of three staff members. This process for initial investigation and fact-finding shall govern in all cases where a complaint of sexual harassment has been made as provided under this section, notwithstanding section II of circular UNDP/ADM/93/13 of 30 March 1993 entitled "Disciplinary Measures and Procedures".

17. In circumstances where the informal approach is not considered appropriate by a complainant or has not yielded a satisfactory resolution, a formal written complaint may be made by the complainant to Personnel as described in paragraph 20, below. In cases where the informal approach was handled by the Ombudsman Panel, the complainant may request the assistance of the Ombudsman Panel in the preparation of a formal complaint to Personnel. The complainant may also request that the Ombudsman Panel prepare a report on its findings, which shall be attached to the complaint to Personnel. If the complaint is lodged against a staff member assigned to the Division of Personnel, UNDP, or the Division for Finance, Personnel and Administration, UNFPA, the written complaint shall be addressed to the Office of the Administrator, UNDP, or the Office of the Executive Director, UNFPA, as appropriate. The written complaint shall be referred by Personnel to the Coordinator of the Grievance Panel within three business days of receipt.

18. The Grievance Panel shall function as follows:

- a. The Grievance Panel shall be composed of ten staff members who are jointly recommended by Personnel and the UNDP/UNFPA Staff Council and approved by the CGSM. The Grievance Panel shall be gender -balanced.
- b. The members of the Grievance Panel shall be appointed for two year terms. Among the first ten members appointed, five shall be appointed for a three-year term in order to ensure continuity in the functioning of the Grievance Panel. Upon expiration of the terms of members appointed for three years, their successors shall be appointed for two-year terms.
- c. The Grievance Panel shall select a Coordinator who shall be responsible for appointing a three-member panel to conduct an initial investigation and fact-finding of each case.

19. The written complaint should describe the specific act(s) or behaviour(s) which are being objected to, the date(s), time, location(s) and circumstances, and include any other information and evidence relevant to the matter. The complaint should identify the alleged offender, any witnesses, and anyone to whom the incident might have been mentioned. It should be dated and signed by the complainant.

20. At the time a complaint is referred to the Coordinator of the Grievance Panel, a copy of the complaint shall be forwarded by Personnel to the alleged offender who will be informed in writing of the following : i) the right to respond in writing and to produce countervailing evidence within a specified time (the amount of time allowed for the response shall take account of the seriousness and complexity of the matter); ii) the right to seek the advice of another staff member or retired staff member to assist in his or her response; and iii) the right to request that the Ombudsman Panel prepare a report on its findings, if any, under the informal approach.

21. The Coordinator shall appoint a three-member panel to conduct an initial investigation and fact-finding of the case. The panel shall be constituted as follows:

- a. In case of alleged sexual harassment at Headquarters, the Coordinator shall designate three members of the Grievance Panel to examine each case;
- b. In cases of alleged sexual harassment in a Field Office, the Coordinator shall select at least one member of the panel from the Grievance Panel and the remaining panel members from staff assigned to the duty station. In cases involving senior management, i. e. Resident Representative, Country Director or Deputy Resident Representative, all three members of the panel may be selected from the Grievance Panel;
- c. The Coordinator shall excuse any panel member from consideration of a specific case if it appears that there may be conflict of interest;
- d. The Coordinator may disqualify a panel member from consideration of a case at the request of either party. The Coordinator may also excuse any member at that member's request from consideration of a specific case.

22. The three-member panel shall promptly conduct the initial investigation and fact-finding which shall normally include an interview of the complainant, the alleged offender, any witnesses and others that may be able to provide relevant information.

23. The three-member panel shall submit a written report on the initial investigation and fact-finding directly to the Director, Division of Personnel, UNDP or the Director, Division of Finance, Personnel and Administration, UNFPA, as appropriate, within normally one month from receipt of the complaint by the Coordinator. In cases of complaints addressed to the Office of the Administrator, UNDP, or the Office of the Executive Director, UNFPA, the panel shall submit a written report directly to the Administrator, UNDP, or the Executive Director, UNFPA. The alleged offender, the complainant and the Coordinator of the Grievance Panel shall at the same time receive a copy of the report.

24. Upon review of the report, Personnel* shall, in accordance with paragraphs 4 and 5, or 12 and 13, as appropriate, of circular UNDP/ADM/93/13, proceed as follows:

- a. if the facts established by the initial investigation do not indicate that misconduct has occurred, decide that the case should be closed;
- b. if the facts appear to indicate that misconduct has occurred, refer the matter to the UNDP/UNFPA Disciplinary Committee for review and recommendation to the Administrator;
- c. if the facts clearly indicate that misconduct has occurred and that the seriousness of the misconduct warrants immediate separation from service, recommend to the Administrator, UNDP, or the Executive Director, UNFPA, that the alleged offender be summarily dismissed.

25. In the event that the facts established by the initial investigation appear to indicate that the complainant has intentionally made false statements in connection with the lodging of a formal complaint of sexual harassment, Personnel* shall refer the matter to the UNDP/UNFPA Joint Disciplinary Committee for review and recommendation to the Administrator, as provided in circular UNDP/ADM/93/13.

26. The complainant and the alleged offender shall be informed promptly by Personnel* in writing of the course of action taken.

27. In the event that a matter is referred to the UNDP/UNFPA Disciplinary Committee under paragraph 25(b), Personnel* will follow the procedures set forth in circular UNDP/ADM/93/13. 5. In the event a staff member is summarily dismissed under paragraph 25(c), the staff member will be informed of the right to have the decision reviewed by the UNDP/UNFPA Disciplinary Committee within two months from the date of receipt of the written notification of separation.

* or the Office of the Administrator, UNDP, or the Office of the Executive Director, UNFPA, respectively, as appropriate.