

LEGAL POLICY FOR ADDRESSING NON-COMPLIANCE WITH UN STANDARDS OF CONDUCT	
Effective Date	30 July 2018
Review Date	30 July 2022
Approved by	Moez Doraid, Director, Division of Management and Administration
Content Owner/s	Melissa Bullen, Legal

Table of Contents

1	Purpose	1
2	Application	2
3	Definitions	3
4	Roles and Responsibilities	4
5	Policy	6
6	Other Provisions	19
7	Entry into Force and Other Transitional Measures	21
8	Relevant documents	21

1 Purpose

- 1.1 As international civil servants, UN Women staff members are required to adhere to the highest standards of efficiency, competence and integrity.
- 1.2 The present document serves multiple purposes:
 - a) It serves as a reminder to all staff members of their duty to abide by the highest standards of conduct;
 - b) It defines the mechanisms that currently exist within UN Women for reporting allegations of wrongdoing, as well as what constitutes misconduct;
 - c) It sets out the investigative process;
 - d) It explains the procedure following investigation including the disciplinary process.

2 Application

2.1 The present document applies to:

- a) all staff members holding UN Women letters of appointment, including Junior Professional Officers (JPOs), regardless of whether their assignment is with UN Women, or another Agency, Programme or Fund, e.g. United Nations Volunteers Programme (UNV) (the present document applies to UN Women staff members who might be assigned to UNV Bonn, but not to UNV Volunteers) , United Nations Capital Development Fund (UNCDF), United Nations Department of Safety and Security (UNDSS), Joint United Nations Programme on HIV/AIDS (UNAIDS), etc., except in certain circumstances during the period of secondment or an inter-organization exchange governed by the receiving Organization's Rules (see paragraph 7 (a));
- b) staff members of other Organizations on secondment to UN Women (a staff member on secondment to UN Women from another Organization or entity has the same status as that of a UN Women staff member on fixed-term appointment for the duration of the secondment, and the staff member's contractual relationship with the releasing Organization is suspended) or on an inter-organization exchange with UN Women, for actions occurring during their secondment or exchange. In such a case, UN Women shall inform the releasing Organization prior to charging a staff member with misconduct.

2.2 For holders of UN Women letters of appointment who are subject to an inter-organization exchange pursuant to the Inter-Agency Mobility Accord, which governs staff movements as agreed between participating UN Organizations, the Memorandum of Inter-Organization Exchange shall determine the respective prerogatives of the releasing and the receiving Organization with regard to disciplinary action. As a general rule, the respective prerogatives should be defined as follows: the receiving Organization may initiate disciplinary action against the staff member for facts occurring during the exchange. However, when the UN Women staff member is dismissed or separated by the receiving Organization and returns to UN Women, UN Women may decide to initiate disciplinary action if the facts that prompted the dismissal or the separation call into question the standards of conduct expected from UN Women staff members. UN Women may also initiate against the staff member during the inter-organization exchange, if the allegations of wrongdoing relate to actions that occurred prior to the exchange or if allegations of wrongdoing for actions occurring during the exchange are raised after the exchange has ended.

2.3 The present document does not apply to other UN Women personnel, such as:

- a) UN Women staff members on an inter-organization exchange to a UN agency for acts that occurred during their inter-organization exchange to that agency. However, disciplinary action under the present document may be initiated upon their return (pursuant to the Inter-Agency Mobility Accord, when a UN Women staff member is seconded to another Organization, his or her contractual relationship with UN Women is suspended until the expiry of the agreed period of secondment. Therefore, it is for the receiving Organization

- to initiate disciplinary action should a UN Women staff member on secondment be charged with misconduct for facts occurring during the secondment);
- b) individuals who do not have a UN Women letter of appointment;
 - c) persons employed under Special Service Agreements (SSA). Allegations of wrongdoing raised against independent contractors working with UN Women under SSAs, shall be addressed by the concerned office in consultation with the Legal Adviser in accordance with the terms of the SSA contract. UN Women is competent to investigate allegations of wrongdoing against SSA holders;
 - d) persons employed under Service Contracts (SC). Allegations of wrongdoing raised against SC holders working for UN Women shall be addressed by the concerned office in consultation with the Legal Adviser in accordance with the SC and the Service Contract User Guide. UN Women is competent to investigate allegations of wrongdoing against SC holders;
 - e) UNV Volunteers, who are governed by the UNV Conditions of Service. In the case of allegations of wrongdoing raised against a UNV Volunteer, the Director IEAS shall contact UNV Bonn;
 - f) interns.

3 Definitions

“DMA”	is the UN Women Division for Management and Administration.
“Financial Regulations and Rules”	refer to the UN Women Financial Regulations and Rules.
“Head of Office”	is a Division Director at Headquarters, a Regional Director, a Multi-Country or Country Representative, or a Head of Liaison Office.
“HR”	is Human Resources, UN Women.
“IEAS”	is UN Women Independent Evaluation and Audit Services.
“Legal Adviser”	is the Legal Adviser at Headquarters.
“Manager”	is a staff member with a supervisory role.
“OIOS”	is the Office of Internal Oversight Services.
“Staff Regulations and Staff Rules”	the United Nations Staff Regulations and Staff Rules.

4 Roles and Responsibilities

4.1 The Executive Director

4.1.1 In accordance with the delegation of authority from the Secretary-General, the Executive Director has the authority to institute a disciplinary process and to impose disciplinary measures regarding staff holding UN Women letters of appointment.

4.1.2 The Executive Director has retained decisional authority elaborated herein in relation to the placement on administrative leave of staff members at the rank of D-2 and above, as well as for all Heads of Offices.

4.2 The Director, DMA

4.2.1 The Executive Director hereby delegates to the Director, DMA the authority:

- a) To place staff members at the rank of D-1 and below, excluding all the Heads of Office, on administrative leave, and at the end of the initial administrative leave period, whether to extend it;
- b) To charge a staff member with misconduct;
- c) To exonerate a staff member from allegations of wrongdoing;
- d) To apply other means to conclude a case, including settlements, where the interests of the Organization would be served by such action.

4.2.2 In addition, the Director, DMA is responsible for:

- a) Recommending disciplinary measures, or other courses of action as appropriate to the ED;
- b) Overseeing as appropriate the recovery of any financial loss.

4.3 The Director, IEAS

4.3.1 The Director, IEAS is responsible for:

- a) Acting as the focal point with OIOS, including receiving case updates and reports prepared by OIOS, and ensuring that they are distributed and acted upon as appropriate, while ensuring appropriate confidentiality and due process;
- b) Responding to requests for information from OIOS, ensuring that such requests are dealt with in accordance with UN Women's policies and procedures;
- c) Providing updates and reports on investigation activities to OIOS as needed, including liaising with OIOS, as necessary for the report to UN Women's Executive Board on investigation activities;
- d) Providing high-level advice and briefing to the Executive Director on strategic and critical issues related to OIOS investigations, findings and recommendations.

4.4 Heads of Office

4.4.1 The Executive Director shall delegate to Heads of Office the authority to decide in relation to certain staff members at the rank of D-1 and below, excluding all the Heads

of Office, whether to place a staff member on administrative leave with full pay in exceptional cases where the circumstances require immediate action, subject to the subsequent formal authorization of the Director, DMA.

4.5 The Legal Adviser

4.5.1 The Legal Adviser is responsible for:

- a) Reviewing Investigation Reports prepared by OIOS, and requesting clarification from OIOS, or the investigation subject, as appropriate;
- b) Recommending the placement of staff members on administrative leave and any subsequent extension of the administrative leave;
- c) Recommending the initiation of disciplinary proceedings through presenting charges to the investigation subject, or recommending other appropriate resolution to the matters;
- d) Recommending disciplinary action, exoneration from allegations of wrongdoing, or other courses of action as appropriate action or other courses of action as appropriate;
- e) Preparing disciplinary submissions and representing the Administration before the United Nations Dispute Tribunal in cases of appeals by staff members regarding disciplinary measures imposed on them; and supporting the United Nations Office of Legal Affairs in its representation of UN Women before the United Nations Appeals Tribunal in the above-mentioned cases;
- f) Assisting as appropriate in the recovery action of any financial loss.

4.6 The Director, Human Resources

4.6.1 The Director, HR is responsible for:

- a) Providing guidance on addressing work performance related issues revealed by the investigation (see the Results and Competency Assessment (RCA) Guidelines);
- b) Informal resolution of interpersonal conflicts in the workplace, which may include alleged instances of workplace harassment or abuse of authority. HR has a workplace relations Focal Point who may be contacted by staff and managers to obtain support in respect of the informal resolution of such conflicts, which is strongly encouraged;
- c) Recovery action of any financial loss;
- d) Placement of notes to the Official Status File (OSF).

4.7 The Director of the Investigations Division, OIOS

4.7.1 The Director of the Investigations Division, OIOS is responsible for:

- a) Receiving reports of allegations of wrongdoing, including allegations of fraud, workplace harassment, abuse of authority and allegations of sexual exploitation and abuse (staff members are encouraged to refer to the Special Measures for Protection from Sexual Exploitation and Sexual Abuse (ST/SGB/2003/13), for more

information on this subject), as well as managing the UN Women hotline established for such reports;

- b) Deciding, upon receipt and review of the complaint, whether the matter warrants investigation, dismissal/closure, or handling through informal resolution, including referral to HR/DMA;
- c) Conducting investigations into allegations of wrongdoing;
- d) Submitting the Investigation Report to the Director, IEAS and responding to requests for clarification from Director, IEAS;
- e) Carrying out investigations into allegations of retaliation after referral of the complaints by the Director, UN Ethics Office and providing the report to the Director, UN Ethics Office (see the Policy for Protection against Retaliation);
- f) Any other activities as agreed with UN Women.

4.8 Staff members with a supervisory role

4.8.1 Managers, including Heads of Office, in addition to the obligation to adhere to the highest standards of efficiency, competence and integrity, are responsible for:

- a) Reporting allegations of wrongdoing to OIOS as soon as they become aware of such allegations;
- b) Addressing work performance related issues indicated by the circumstances of a case in accordance with the relevant policies and procedures;
- c) As appropriate, issue letters of reprimand, after first obtaining the staff member's comments, or take other non-disciplinary measures;

4.9 Staff members

4.9.1 Staff members, in addition to the obligation to adhere to the highest standards of efficiency, competence and integrity, are responsible for reporting any breach of UN Women's policies and procedures to OIOS or their immediate supervisor, including reports regarding sexual exploitation or sexual abuse, and for cooperating with any investigation pursuant to Staff Regulation 1.2 (r) and Staff Rule 1.2 (c).

5 Policy

5.1 Standards of conduct

5.1.1 Standards of conduct expected from UN Women staff members

- a) Staff members shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity enshrined in the Charter of the United Nations includes all aspects of behaviour of an international civil servant, including such qualities as honesty, truthfulness, impartiality and incorruptibility. Integrity is the most important among the core values of the Organization, together with professionalism and respect for diversity.

- b) Staff members must abide by the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances including the Secretary-General’s Bulletin on “Special Measures for Protection from Sexual Exploitation and Sexual Abuse”, ST/SGB/2003/13 and to observe the standards of conduct expected of an international civil servant (referred to as the ‘ICSC Standards of Conduct’) as adopted by the International Civil Service Commission in 2013. Staff members can also refer to the Secretary-General’s Bulletin on “Status, basic rights and duties of UN Staff Members”, ST/SGB/2016/9. This document contains a commentary by the Secretary-General to assist staff members and management in better understanding the obligations applicable to staff conduct. Staff members are expected to know and respect the obligations stemming from their status, without UN Women being bound to remind them.

5.1.2 Management standards

- a) In addition to complying with the above standards of conduct, managers shall:
- Create and maintain a harmonious working environment, free of intimidation, hostility, offence and of any form of harassment and abuse of authority, and seek the informal resolution of interpersonal conflicts in the workplace, as appropriate, in accordance with the Policy on the Prevention of Workplace Harassment and Abuse of Authority;
 - Communicate the policies protecting the rights of all UN Women personnel, such as the Policy on the Prevention of Workplace Harassment and Abuse of Authority, as well as the present Policy to all staff members, and ensure that staff members are aware of the contents of the Secretary-General’s Bulletin on “Special measures for Protection from Sexual Exploitation and Sexual Abuse”, ST/SGB/2003/13, and know where to turn in case they have concerns or want to make a report;
 - Ensure that managers, themselves, do not engage in any wrongdoing and do not create an intimidating, belittling, harassing work environment and/or demonstrate partiality, unfairness or favouritism;
 - Report allegations of wrongdoing to OIOS as soon as they are aware of such allegations;
 - Ensure that all discussion, communications and actions are handled with extreme sensitivity and utmost confidentiality; and
 - Ensure that no UN Women personnel is retaliated against.

5.1.3 Misconduct

- a) Misconduct is defined in Staff Rule 10.1 as “failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant.” Such

a failure could be deliberate (intentional or wilful act), or result from an extreme or aggravated failure to exercise the standard of care that a reasonable person would have exercised with respect to a reasonably foreseeable risk (gross negligence) or from a complete disregard of a risk which is likely to cause harm (recklessness).

b) Misconduct may include, but is not limited to, the following categories whether wilful, grossly negligent or reckless:

- Acts or omissions in conflict with the general obligations of staff members set forth in Article I of the Staff Regulations, Chapter I of the Staff Rules and other administrative issuances as applicable; failure to comply with the standards of conduct expected from international civil servants;
- Unlawful acts (e.g. theft, fraud, smuggling, possession or sale of illegal substances or objects, etc.) wherever it occurs, and whether or not the staff member was officially on duty at the time;
- Assault, workplace harassment, including sexual harassment, or threats to other staff members or third parties (see the Policy on the Prevention of Workplace Harassment and Abuse of Authority);
- Sexual exploitation and sexual abuse as defined in the Secretary-General's Bulletin "Special measures for Protection from Sexual Exploitation and Sexual Abuse", ST/SGB/2003/13;
- Misrepresentation, forgery, or false certification, including, but not limited to, in connection with any official claim or benefit, the failure to disclose a fact material to that claim or benefit, or engaging in a knowing misrepresentation which has adverse consequences for the Organization;
- Misuse or mishandling of official property, assets, equipment or files, including electronic files or data;
- Action or omission to avoid or deviate from Financial Regulations, Rules and Procedures, including inappropriate use of authorizing, approving, committing or verifying authority;
- Mishandling of contract obligations and relations with third parties leading to loss of property or assets, or generating liabilities for the Organization;
- Failure to disclose an interest or relationship with a third party who might benefit from a decision in which the staff member takes part; favouritism in the award of a contract to a third party;
- Breach of fiduciary obligations vis-à-vis the Organization;
- Misuse of office, abuse of authority; breach of confidentiality; abuse of United Nations privileges and immunities, including misuse of the United Nations Laissez-Passer;

- Exaction or acceptance of funds, services or benefits, from a colleague or a third party in return for a favour or benefit;
 - Failure to disclose promptly the receipt of gifts, remuneration or other benefits received from an external source by the staff member in connection with his or her official duties;
 - Retaliatory action against a complainant or an investigation participant, or other action in violation of the Policy for Protection Against Retaliation;
 - Making false accusations and disseminating false rumours;
 - Direct or indirect use of, or attempt to use, official authority or influence of the staff member's position or office for the purpose of obstructing an individual from reporting allegations of wrongdoing, or cooperating with an audit or an investigation;
 - Abetting, concealing or conspiring in any of the above actions, including any act or omission bringing the Organization into disrepute.
- c) Unsatisfactory work performance, when it does not come to the level of gross negligence or recklessness, does not constitute misconduct and thus does not fall within the scope of the present document. Performance-related issues are to be addressed through the performance management process.

5.1.4 Reporting allegations of wrongdoing

- a) Staff members may report allegations of wrongdoing to OIOS, or to their immediate supervisor or other appropriate supervisor within the operating unit. The staff member's supervisor shall report the matter to OIOS. In the event that a staff member reports wrongdoing to OIOS, he or she may do so anonymously by using the following online form: <http://www.unwomen.org/en/about-us/accountability/investigations>.
- b) In the event that the staff member believes that there is a conflict of interest on the part of the person to whom the allegations of wrongdoing are to be reported, he or she may report the allegations to the next higher level of authority.
- c) In the event that the staff member fears retribution or retaliation after reporting allegations of wrongdoing, or cooperating with an audit or investigation, he or she may report the matter to the Director, UN Ethics Office at the following email address: ethicsoffice@un.org. The Policy for Protection against Retaliation applies in these cases. Other cases of retaliation that do not fall within the mandate of the UN Ethics Office as described in the Policy for Protection against Retaliation, may be reported to OIOS.

5.1.5 Administrative leave

- a) Pursuant to Staff Rule 10.4, a staff member may be placed on administrative leave at any time from the moment allegations of wrongdoing are reported or detected, pending or during an investigation and until the completion of the disciplinary

process. Staff members at the D2 level and above, and Heads of Office may be placed on leave by the Executive Director, and staff members at the D1 level and below may be placed on leave by the Director, DMA.

- b) As a general principle, administrative leave with full pay (ALWFP) may be contemplated in cases where at least one of the following conditions is met:
- The staff member is unable to continue performing his or her functions effectively, in view of the ongoing investigation or proceedings, and the nature of his or her functions;
 - Continued service by the staff member would create a risk that he or she may destroy, conceal or otherwise tamper with potential evidence, or interfere in any way with the investigation or disciplinary process, including retaliation against individuals protected under the Policy for Protection against Retaliation;
 - The conduct in question and/or the continued presence of the staff member on UN premises poses or may pose a security or financial risk to the Organization and/or its personnel, including the staff member concerned, or otherwise prejudice the Organization's interests or reputation;
 - The staff member's continued presence at the office could negatively impact the preservation of a harmonious work environment;
 - There is a risk of a repetition or continuation of the alleged misconduct.
- c) Administrative leave shall be with full pay except (i) in cases in which there is probable cause that the staff member has engaged in sexual exploitation and sexual abuse, or (ii) when the Executive Director decides that exceptional circumstances exist which warrant the placement of the staff member on administrative leave with partial pay or without pay.
- d) Requests for placement of a staff member on administrative leave at the investigation stage should be addressed to the Legal Adviser. On the basis of the evidence presented, the Legal Adviser may recommend to the Executive Director or the Director, DMA, as applicable, that an individual be placed on administrative leave. UN Women Heads of Office in Headquarters and other locations, **do not have the authority to place staff members on administrative leave, except as set out in paragraph 5.1.5.e below.**
- e) Exceptionally, if the Head of Office considers that the circumstances require immediate action, he or she may decide to place a staff member at the rank of D-1 and below, excluding all the Heads of Office, on ALWFP; he or she cannot place a staff member on administrative leave without pay. In such a case, he or she must, **within 24 hours** of his or her decision to place the staff member on ALWFP, inform the Director, DMA of his or her decision, and, **within 48 hours**, provide all the relevant evidence documenting why he or she deemed that placement on ALWFP was urgently required and could not wait for the formal authorization of

administrative leave to be granted. After review of the case, the Director, DMA shall determine whether administrative leave is justified:

- If the administrative leave is warranted, the decision to place the staff member on administrative leave signed by the Director, DMA shall supersede the staff member's initial placement on ALWFP by the Head of Office;
 - If the administrative leave is not warranted, the Director, DMA shall revoke the decision to place the staff member on ALWFP.
- f) The UN Women Head of Office shall be held accountable if he or she improperly places a staff member on administrative leave, or does not report his or her action in this respect within the prescribed timeframe.
- g) When a staff member is placed on administrative leave, the staff member shall:
- Be notified in writing of the reason(s) for being placed on administrative leave, of its probable duration and of its conditions;
 - Immediately surrender his or her grounds pass and/or United Nations Laissez-Passer; and
 - Immediately surrender any UN Women property or assets he or she may have, when requested.
- h) Placement of a staff member on administrative leave shall not exceed three months at a time. Subject to the justification provided by the Legal Adviser to support an extension of the administrative leave, the Executive Director or the Director, DMA (where applicable) may extend the administrative leave for a further defined period not exceeding three months. There is no limit to the cumulative time a staff member may be on administrative leave, but the Executive Director or the Director, DMA (where applicable) shall try to limit the time on administrative leave as much as possible and to this extent, alternatives to administrative leave such as a change in functions, reporting, training or a detail assignment, may be decided. The Executive Director or the Director, DMA (where applicable) may consult with the Director of HR, and/or Legal Adviser on the application of such measures.
- i) A staff member placed on administrative leave shall not ordinarily be allowed to enter the Organization's office premises without first obtaining written permission from the UN Women Head of Office. Such entry shall be under escort and in connection with the staff member's defence of the case or other valid reason justifying such entrance. Normally, the staff member placed on administrative leave shall not be precluded from remaining at, or returning to, the duty station. Special consideration should be made for staff residing in the Organization's compound. Should the staff member placed on administrative leave request or, under exceptional circumstances, be requested to leave the duty station, he or she shall provide contact details so that he or she may be contacted during the

investigation. The staff member placed on administrative leave has a duty to remain available for the investigation.

- j) The staff member placed on administrative leave may make a request to the Director, DMA to be granted access to files, provided that he or she justifies that they are relevant to his or her case and provided that access will not be disruptive to UN Women operations or access otherwise needs to be restricted (such as where the staff member requests information that is confidential or privileged). The Director, DMA will decide in each case whether the staff member placed on administrative leave will or will not be given access to e-mail.

5.2 Investigation

5.2.1 Investigative process

- a) Once OIOS has received allegations of misconduct, it retains the prerogative to determine whether circumstances warrant an investigation and the appropriate investigative process to be followed. The rights and responsibilities of the investigation subjects, participants and investigators as well as the different phases of the investigation are set out in the OIOS Investigations Manual and related guidance materials.
- b) Pursuant to Staff Regulation 1.2 (r) and Staff Rule 1.2 (c), or in accordance with the relevant contractual provisions, investigation subjects and participants must cooperate fully and in good faith with a duly authorized investigation.
- c) The decision to conduct an investigation is not an accusation. The outcome of the investigation may or may not support a conclusion that misconduct was committed and, if so, by whom. The outcome of the investigation shall be documented in a document prepared by OIOS, recording either (i) that the case has been closed as the allegations were not substantiated, or (ii) in an investigation report together with any supporting documentation where the allegations are substantiated (the Investigation Report). This document shall be provided to the Director, IEAS who will then distribute and act upon as it is appropriate.

5.2.2 Separation including resignation while under investigation

- a) If the investigation subject resigns or otherwise separates prior to the completion by OIOS of a report, such a report may be finalised at OIOS's discretion notwithstanding the investigation subject's resignation or separation:
 - Should the investigation report be finalised, the Director, HR shall place a letter in the former staff member's official status file indicating whether, if he or she had remained employed: (1) a recommendation would have been made for charges of misconduct to be initiated against him or her, or (2) whether or not he or she would have been cleared of the allegations of misconduct, or (3) whether the matter would have

been dealt with from a work performance standpoint, and if so how (e.g. via a letter of reprimand). The letter shall also indicate whether the former staff member resigned while under investigation, or whether his or her contract expired while under investigation. The former staff member shall be invited to comment on the letter, and the letter and his or her comments will be placed in his or her official status file.

- Should the report not be finalised, the Director, HR shall place a letter in the former staff member's official status file, indicating that he or she: (1) resigned or, (2) his or her contract expired while under investigation. The former staff member shall be invited to comment on the letter, and the letter and his or her comments will be placed in his or her official status file.
 - If the investigation subject transfers, or otherwise separates and accepts a position at the UN Secretariat or and Agency, Fund or Programme of the UN prior to the completion of the report, the Director, OIOS may decide to transfer the matter to that UN entity.
- b) In the case of an investigation into allegations of retaliation in accordance with the Policy for Protection against Retaliation, OIOS shall forward the report to the Director, UN Ethics Office.

5.3 Procedures following investigation

5.3.1 Clearance from the allegations of wrongdoing:

- a) If the Legal Adviser considers that the allegations are not substantiated or the facts do not warrant disciplinary action, he or she shall recommend to the Director, DMA:
- That the staff member be notified in writing that they have been cleared of the allegations of wrongdoing, and that the matter be closed; OIOS and the relevant Head of Office or the Executive Director of the Organization to which the staff member is assigned, shall be informed of such notification;
 - If the staff member was placed on administrative leave, that the administrative leave be discontinued and that the staff member be authorized to resume his or her duties; and
 - That documents related to the investigation be expunged from the staff member's official status file, except those referred to in section 5.3.1.b.
 - The staff member shall be notified in writing as soon as feasible of the decision of the Director, DMA concerning his or her exoneration.
- b) Work performance related issues:
- While the Legal Adviser may recommend that the investigation subject be cleared of the allegations of wrongdoing, he or she may determine

that the conduct depicted in the Investigation Report and the circumstances of the case have shown unsatisfactory performance and/or poor judgement not amounting to misconduct on the part of the staff member. In such a case, the Legal Adviser may recommend to the Director, DMA to decide that:

- a) An oral reprimand or letter of reprimand be issued by the Director, DMA or the relevant Head of Office or other responsible officer; and/or
- b) The Investigation Report (or extracts thereof) be included in the annual performance management document of the staff member; and/or
- c) An appropriate training course be undertaken by the staff member.

5.3.2 Charges of misconduct: Procedure following receipt of the Investigation Report

- a) If the Legal Adviser considers that the facts indicate that misconduct occurred, he or she shall recommend to the Director, DMA to formally charge the staff member with misconduct.
- b) The charge letter initiates the disciplinary proceedings. In that letter (which shall attach the Investigation Report), the staff member is notified in writing of the formal charges (which at his or her request may be translated into the working language of his or her duty station) and be given a specified period of time (normally at least ten (10) working days) to answer the charges and produce countervailing evidence, if any. The staff member shall also be notified of his or her right to counsel to assist in his or her defence, and be informed as to how to obtain the assistance of the Office of Staff Legal Assistance. The investigation subject may present a request to the Director, DMA that he or she be granted access to files, provided that he or she justifies that they are relevant to his or her response.
- c) A copy of the charge letter signed by the Director, DMA may be given for information to the Head of Office, or the Executive Director of the Organization to which the staff member is assigned.
- d) The Legal Adviser may, on an exceptional basis, grant an extension to the staff member to respond to the charges of misconduct. Any request by the staff member should be accompanied by specific reasons for such an extension.

5.3.3 Disciplinary Sanction: Procedures following the investigation subject's response to charges of misconduct

- a) Upon receipt of the investigation subject's comments to the charges, the Legal Adviser shall consider whether the investigation subject's conduct constitutes misconduct within the meaning of Staff Rule 10.1, or whether the investigation

subject has given a satisfactory account of his or her behavior and should be exonerated from the charges of misconduct. In the latter case, the Legal Adviser may also consider whether the circumstances indicate the need to address the conduct of the investigation subject as a performance issue. On the advice of the Legal Adviser, should the Director, DMA consider that the investigation subject's conduct constitutes misconduct, he or she shall make a recommendation to the Executive Director as to the appropriate measure or measures, taking into account, *inter alia*, relevant case law and precedents.

- b) The Executive Director shall notify the investigation subject of the decision to impose a disciplinary sanction in writing. The Head of Office, or the Executive Director of the Organization to which the investigation subject is assigned, will also be informed of such notification. A copy of the decision will be placed on the investigation subject's official status file.
- c) Where on the advice of the Legal Adviser, the Director, DMA considers that the investigation subject has given a satisfactory account of his or her behaviour and the investigation subject's conduct does not rise to the level of misconduct, the Director, DMA makes a recommendation to this effect to the Executive Director who has authority to decide on the exoneration of a subject of allegations of misconduct. The Executive Director shall notify the investigation subject in writing of the exoneration. The relevant Head of Office, or the Executive Director of the Organization to which the investigation subject is assigned, will also be informed of such a decision.

5.3.4 Separation including by resignation, before and during the disciplinary process

- a) If the investigation subject resigns or otherwise separates from service after the issuance of an investigation report but prior to the initiation of disciplinary proceedings through the issuance of a charge letter, upon review of the report and the comments of the investigation subject thereon, the Director, HR may decide to place a letter in the former staff member's official status file indicating whether, if he or she had remained employed: (1) a recommendation would have been made for charges of misconduct to be initiated against him or her, or (2) whether or not he or she would have been cleared of the allegations of misconduct, or (3) whether the matter would have been dealt with from a work performance standpoint, and if so how (e.g. via a letter of reprimand). The letter will also indicate whether the former staff member resigned or otherwise separated following an investigation. The former staff member will be invited to comment on the letter, and the letter and his or her comments will be placed in his or her official status file. If the investigation subject transfers, or otherwise separates and accepts a position at the UN Secretariat or an Agency, Fund or Programme of the UN, the Director, HR may decide to transfer the matter to that UN entity.

- b) If the investigation subject resigns or otherwise separates from service after the initiation of disciplinary proceedings but prior to the completion of the case and imposition of a disciplinary sanction, the Legal Adviser may nevertheless decide to proceed, and seek to obtain the comments of the investigation subject. Upon receipt of the comments of the investigation subject or an indication that the investigation subject does not wish to provide comments the Legal Adviser may conclude the matter as follows:
- Upon review of the comments from the investigation subject in accordance with the present Legal Policy, the Legal Adviser may determine that, if the investigation subject had remained a staff member, a recommendation would have been made to impose disciplinary sanctions on the investigation subject. The Legal Adviser may request the Director of HR to place a letter to this effect on the investigation subject's official status file. The letter will also indicate that the investigation subject resigned or otherwise separated from service following the issuance of a charge letter. The investigation subject will be invited to comment on the letter, and his or her comments will be attached to the letter from the Legal Adviser to be placed in his or her official status file; or
 - The Legal Adviser may determine that, had the investigation subject remained a staff member, a recommendation would have been made to exonerate the investigation subject without further consequences, or to exonerate the investigation subject and treat the matter as a performance issue. In such a case, such a recommendation will be made to the Director, DMA who may formally and fully exonerate the investigation subject or exonerate the investigation subject and issue a reprimand. Should the Legal Adviser determine that the investigation subject should not be exonerated, the matter shall proceed as in the previous paragraph; or
 - If the investigation subject transfers, or otherwise separates and accepts a position at the UN Secretariat or an Agency, Fund or Programme of the UN, the Legal Adviser may decide to transfer the matter to that UN entity; or
 - Otherwise close the matter without further action.

5.3.5 Disciplinary measures

- a) In accordance with Staff Rule 10.2 (a), the disciplinary measure or measures which the Executive Director may impose on a staff member, depending on the nature and gravity of the misconduct in which the staff member has engaged, are the following:
- Written censure;

- Loss of one or more steps in grade;
 - Deferment, for a specified period, of eligibility for salary increment;
 - Suspension without pay for a specified period;
 - Fine;
 - Deferment, for a specified period, of eligibility for consideration for promotion;
 - Demotion with deferment, for a specified period, of eligibility for consideration for promotion;
 - Separation from service, with notice or compensation in lieu of notice, notwithstanding Staff Rule 9.7, and with or without termination indemnity pursuant to Annex III (c) to the Staff Regulations;
 - Dismissal.
- b) Section 6.1 of the present document specifies the effects of each of the above-mentioned measures.

5.3.6 Non-disciplinary measures

- a) The conduct of the investigation subject may require other administrative action and/or measures. These do not constitute disciplinary sanctions. Under Staff Rule 10.2 (b), the following measures are not considered to be disciplinary measures:
- Written or oral reprimand;
 - Recovery of monies owed to the Organization;
 - Administrative leave with or without pay pursuant to Staff Rule 10.4.
- b) Other measures may be taken such as recovery of monies from the investigation subject as a result of a failure to comply with his or her private legal obligations in accordance with the findings of a competent court, specific training to improve or further develop certain skills or the temporary reassignment to different, but equivalent-level, functions. Such measures do not constitute a disciplinary measure.
- c) The recovery for any financial loss attributable to the staff member's misconduct, including gross negligence or recklessness pursuant to Staff Rule 10.1 (b) may be pursued in addition to the imposition of disciplinary measures.

5.3.7 Future Employment

- a) Staff members who have been separated from service on grounds of misconduct, whether with notice or compensation in lieu thereof, or dismissed, may not be appointed as staff members at a later time or contracted on any non-staff contract or agreement (such as, on an SSA or SC). This also applies to persons who on grounds of misconduct were separated or dismissed by another organization, agency or subsidiary organ using the United Nations common system or salaries and allowances.

- b) Staff members who have resigned during an investigation and/or disciplinary process shall be ineligible for re-employment following his or her separation from service, unless the former staff member agrees to cooperate with an ongoing investigation and/or disciplinary process until its conclusion.

5.3.8 **Appeal against a disciplinary measure to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal**

- a) Within ninety (90) calendar days of being informed of the decision taken in his or her case, a staff member against whom a disciplinary or non-disciplinary measure has been imposed following the completion of the disciplinary proceedings, may submit an application to the United Nations Dispute Tribunal, in accordance with Chapter XI of the Staff Rules.
- b) A staff member or the Organization may appeal against a decision or judgement of the United Nations Dispute Tribunal to the United Nations Appeals Tribunal within sixty (60) calendar days from the issuance of the judgement, on grounds set out in Staff Rule 11.5.

5.3.9 **Counsel to staff member**

- a) Representation by counsel is permitted when the staff member is charged with misconduct and during disciplinary proceedings.
- b) Office of Staff Legal Assistance, United Nations
 - A staff member, who wishes to obtain the assistance of the Office of Staff Legal Assistance, may contact this Office at e-mail: osla@un.org, or telephone number: (1) 212-963-3957.
- c) External counsel
 - Alternatively, if a staff member chooses to secure counsel from outside the Office of Staff Legal Assistance, it shall be at his or her own expense (see Staff Rule 10.3 (a)).

5.3.10 **Publication of Disciplinary Decisions**

- a) In the interests of transparency, the Executive Director shall inform the UN Women Executive Board of disciplinary decisions taken in the course of the preceding year, and publish an annual report of cases of misconduct (without the individuals' names) that have resulted in the imposition of disciplinary measures. Such report shall be circulated to all UN Women personnel.

5.3.11 **Local Authorities**

- a) The Legal Adviser shall consider, in consultation with the UN Office of Legal Affairs, whether a referral to criminal authorities is appropriate, including whether a referral is required in accordance with UN General Assembly Resolution 62/63. Any such referral will be made in accordance with established mechanisms and procedures for such referrals.

- b) Staff members shall not report any possible misconduct or wrongdoing by UN Women staff members to local authorities except in the case of compelling emergency or an imminent threat or danger, after which the matter shall be immediately reported to the Chief of Security and the Legal Adviser at HQ.

6 Other Provisions

6.1 Effects of implementation of disciplinary measures

6.1.1 Written censure

- A written censure is a letter indicating that the staff member has committed wrongdoing. The written censure is placed in the staff member's official status file and becomes part of his or her permanent record (a written censure is distinguished from a letter of reprimand, which is issued by either a staff member's supervisor, Director, DMA or the Executive Director. A letter of reprimand is not a disciplinary measure and may contain a specified period of time, after which it will no longer be considered part of the staff member's record).

6.1.2 Loss of one or more steps-in-grade

- Loss of steps-in-grade means that the staff member's level within grade is reduced by the number of steps specified in the decision. As a result, the staff member loses any accrued period of service within the year the decision is implemented. He or she shall be eligible for subsequent in-grade increments on the anniversary date of the implementation of the disciplinary decision.
- In the event that the number of steps to be lost is greater than the staff member's current step, he or she is placed at the lowest step on the salary scale for his or her grade, and remains at that step for the number of years by which the decision exceeds the number of steps available before receiving the next increment on the scale.

6.1.3 Deferment, for a specified period, of eligibility for salary increment

- Deferment of eligibility for salary increment means that for the stated time period of the deferment, the staff member's step is frozen, and, for that period, he or she does not accrue any time to be credited towards eligibility for the next salary increment. In this instance, the anniversary date upon which the staff member would be eligible for the next salary increment is postponed for a period of time corresponding to the length of the deferment, and all future anniversary dates upon which the staff member becomes eligible for salary increments will change accordingly. Any period of service occurring between the date of the staff member's last salary increment and the implementation date of the deferment measure will be credited towards the staff member's next salary increment.

6.1.4 **Suspension without pay for a specified period**

- Suspension without pay means that the staff member is not permitted to serve for a specified period of time, which normally does not exceed six months, during which his or her salary and allowances are withheld and any contribution which UN Women is paying in respect of medical insurance and pension is discontinued.

6.1.5 **Fine**

- The staff member is assessed a monetary penalty, the amount of which is determined in proportion to his or her annual remuneration. The fine is either paid directly by the staff member or deducted from his or her emoluments in a lump-sum or schedule of payments.
- A fine shall be taken into account when assessing whether a staff member's performance has been satisfactory during the period in question.

6.1.6 **Deferment, for a specified period, of eligibility for consideration for promotion**

- Deferment of eligibility for consideration for promotion means that for the stated time period of the deferment, the staff member cannot be considered for promotion to any posts.

6.1.7 **Demotion with deferment, for a specified period, of eligibility for consideration for promotion**

- Demotion means a reduction in grade, normally the staff member's immediate grade below, unless the decision provides for a demotion by more than one grade. Demotion is implemented like a reverse promotion. As a result, the staff member is placed at the closest step in the grade below his or her present grade, which provides a decrease in net base salary to at least the amount that would have resulted from the granting of two steps at the higher grade. If the demotion is effective in the month in which an increment at the higher step is due, such increment is implemented, and the above subtraction is effected on the basis of the new step.
- The demotion decision shall specify the period of time during which the staff member shall not be eligible and considered for promotion.
- The date of the next salary increment at the lower level becomes the anniversary date of the demotion.

6.1.8 **Separation from service, with notice or compensation in lieu of notice, notwithstanding Staff Rule 9.7, and with or without termination indemnity pursuant to Annex III (c) to the Staff Regulations**

- The decision shall specify whether the separation from service is:
 - a) with notice or compensation in lieu thereof, and

b) with or without termination indemnity.

- The termination notice or compensation in lieu thereof, shall not be less than three months for permanent appointments and continuing appointments, not less than thirty (30) days for fixed-term appointments, and not less than fifteen (15) days for temporary appointments, or such period as may be stipulated in the letter of appointment.
- In lieu of the serving of the notice period, the UN Women Executive Director may authorize payment of compensation on the basis of the salary and allowances which would have been payable if the date of termination had been at the end of the notice period. In such a case, all salaries, allowances and other benefits which the staff member would have received had he or she served the period of notice, are taken into account, including post adjustment, dependency allowances, special post allowances, education grant, etc. The period is counted in the calculation of terminal payments, but annual leave does not continue to accrue. The salary paid in lieu of notice is not pensionable and the period is not counted as contributory service. Unless the staff member requests that it be excluded, any contribution which UN Women is paying in respect of medical insurance is continued during the period of notice.
- If the staff member is granted termination indemnity, this indemnity does not exceed half of the amount calculated pursuant to Annex III to the Staff Regulations.
- Subject to the conditions of eligibility, a staff member separated from service is entitled to repatriation grant.

6.1.9 Dismissal

- Dismissal means immediate separation from service.
- A staff member who is dismissed is neither entitled to termination notice or compensation in lieu thereof, nor to any termination indemnity pursuant to Annex III to the Staff Regulations, nor to repatriation grant pursuant to Staff Rule 3.18.

7 Entry into Force and Other Transitional Measures

7.1 The present Policy enters into force on 30 July 2018.

7.2 This Policy supercedes the UN Women Legal Framework for Addressing Non-Compliance with UN Standards of Conduct dated 1 January 2018.

8 Relevant documents

8.1 The relevant documents cited in the Legal Policy for Addressing Non-compliance with UN Standards of Conduct are as follows:

- Staff Regulations and Rules of the United Nations
- Standards of Conduct for the International Civil Service

- Secretary-General's Bulletin on Status, basic rights and duties of UN Staff Members, ST/SGB/2016/9
- Secretary-General's Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse (ST/SGB/2003/13)
- Policy on the Prevention of Workplace Harassment and Abuse of Authority
- Policy for Protection against Retaliation
- Results and Competency Assessment (RCA) Guidelines
- OIOS Investigation Guidelines

A handwritten signature in blue ink, appearing to be "J. M.", written over a horizontal line.

Signed by

Director of the Division of Management and Administration