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SERPA SOARES, UNATIONS, NEW YORK
STEINER, UNDP, NEW YORK
ZERIHOON, UNATIONS, NEW YORK

FROM: KHARE, UNATIONS, NEW YORK

Demara

DATE: APR 27 2018

NUMBER: 0742

SUBJECT: United Nations Protocol on allegations of sexual exploitation and abuse involving implementing partners

1. Please find attached the United Nations Protocol on Allegations of Sexual Exploitation and Abuse involving Implementing Partners, prepared through collaborative efforts across the United Nations System. The Protocol, which was endorsed at the meeting of the High-Level Steering Group on Sexual Exploitation and Abuse held on 26 February 2018, outlines the requirements which United Nations entities need to fulfil in order to ensure that there are adequate safeguards in place and that appropriate action is taken in relation to protection from sexual exploitation and abuse when working with implementing partners.

2. I kindly encourage you to ensure that your Mission has the relevant safeguards in place and request that you circulate the Protocol widely to partners and to other relevant stakeholders.

3. Should you require further information, you may contact b Ms. Lynne Goldberg (e-mail: goldbergl@un.org, telephone: +1 212 963 1373), from the Office of the Special Coordinator on Improving United Nations Response to Sexual Exploitation and Abuse.

Many thanks and best regards

[Drafted by Goldberg, OSC, in coordination with DFS/OASG]

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UNITED NATIONS PROTOCOL ON ALLEGATIONS OF SEXUAL EXPLOITATION AND ABUSE INVOLVING IMPLEMENTING PARTNERS

RATIONALE

1. This protocol outlines requirements of the United Nations, including its funds and programmes (collectively, the "UN"), when working with implementing partners, to ensure adequate safeguards and appropriate action related to sexual exploitation and abuse (SEA).
2. This protocol is aligned with the Secretary General's Bulletin, 9 October 2003 on "Special measures for protection from sexual exploitation and sexual abuse" (ST/SGB/2003/13).

GUIDING PRINCIPLES

3. The UN does not partner with entities that fail to address sexual exploitation and abuse through appropriate preventive measures, investigation and corrective action.¹ Such failures shall constitute grounds for the termination of any cooperative arrangement with the UN.²
4. The UN shall place the human rights, interests and needs of all victims at the center of our efforts, and adhere to the principles of 'do no harm,' confidentiality, safety and non-discrimination when responding to allegations of sexual exploitation and abuse.
5. A victim-centered approach guides UN SEA prevention and response whereby the victim is informed, participates in the decision-making process and provides consent on the possible use and disclosure of their information.
6. In cases involving children, all decisions made regarding the prevention and response to SEA allegations involving implementing partners of the UN are guided by the best interests of the child and the right of the child to participate and to be heard.

APPLICABILITY / SCOPE

7. This protocol applies to all offices of the UN when working with implementing partners (as defined below) in all programme contexts.
8. This protocol addresses matters relating to possible and actual sexual exploitation and abuse perpetrated by personnel of implementing partners of the UN.

DEFINITIONS

For purposes of this protocol, the following definitions apply:

9. The UN defines sexual exploitation and abuse as follows:³

¹ See Sections 6.1 and 6.2 of Secretary-General's Bulletin on "Special measures for protection from sexual exploitation and sexual abuse" (ST/SGB/2003/13), 9 October 2003.

² Ibid

³ Secretary-General's Bulletin on Special measures for protection from sexual exploitation and sexual abuse, ST/SGB/2003/13, 9 October 2003.

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- a. *Sexual exploitation* is any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.
 - b. *Sexual abuse* means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.
10. **Victim:** A person who is, or has been, sexually exploited or abused. For the purposes of this protocol, a victim is a person who is, or has been, sexually exploited or abused by employees or other related personnel of an implementing partner of the United Nations, including employees or related personnel of an implementing partner's subcontractor(s).
 11. **Implementing partner:** an entity to which a UN office or entity has entrusted the implementation of a programme and/or project specified in a signed document, along with the assumption of responsibility and accountability for the effective use of resources and the delivery of outputs. Implementing partners may include – but are not limited to - government institutions, inter-governmental organizations, and civil society organizations, including NGOs. Implementing partners' subcontractors are subsumed within this definition.
 12. **UN partner entity:** the particular UN entity that has signed the agreement with the implementing partner in connection with a particular programme or project.
 13. **Higher-risk programme activities** involve at least one of the following:
 - a. Take place in high-risk environments such as camps and shelters;
 - b. Involve the implementing partner having direct contact with children;
 - c. Take place in environments where SEA has occurred in the past and/or where sexual and gender-based violence is prevalent.

PROTOCOL STATEMENTS

Screening implementing partners

14. The UN must carry out an appropriate screening process before entering into cooperative arrangements with implementing partners. When assessing a potential implementing partner as part of a screening process, the relevant UN partner entity shall assess the capacity of the potential implementing partner to prevent or to mitigate risks of SEA (see Annex A). If a UN partner entity selects an implementing partner that is assessed as having weak capacity to prevent or to mitigate risks of SEA, that UN partner entity is required to:
 - a. Justify the selection of that implementing partner notwithstanding its assessed weak capacity to prevent or to mitigate risks of SEA; and
 - b. Implement appropriate risk mitigation measures, including capacity building and monitoring. (See Annex A)

UN offices or entities will provide requested results of any screening of partners with other UN offices or entities.

Entering into cooperative arrangements with implementing partners

15. When entering into cooperative arrangements with implementing partners, officials from the relevant UN partner entity shall inform those implementing partners of the standards of conduct listed in section 3 of ST/SGB/2003/13, and shall receive a written undertaking from them, in accordance with section 6.1 of ST/SGB/2003/13. A copy of any SEA policy documents issued by the relevant UN partner entity must also be provided.

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16. UN partner entities shall take into consideration the capacity of implementing partners to prevent and respond to sexual exploitation and abuse when designing the programme document/work plans for programme activities and managing associated risks, including:
 - a. Partner capacity building activities such as: face-to-face SEA training for all partner personnel; dissemination of awareness raising tools; support for establishing policy and implementation of reporting procedures, policy guidance, etc.
 - b. Planned field monitoring visits for higher-risk programme activities, and further adjusted for partners with low capacity as identified as part of selection.
17. Prior to entering into or reviewing a partnership agreement, the UN partner entity should request documentation of regular training offered by the implementing partners to their employees and associated personnel on prevention and response to SEA⁴. The training must include information on the UN's definition and prohibition of SEA, the requirements for prompt reporting of SEA allegations to the UN partner entity and referral of victims to immediate assistance. Training options include the UN SEA online training that is available for all implementing partners at: <https://agora.unicef.org/course/info.php?id=7380>.

Monitoring of implementing partners and termination of arrangements

18. As part of any partnership review processes, each UN partner entity shall review any changes in the implementing partner's capacity to manage SEA risks and whether consequent adjustments should be made to capacity building and monitoring activities. In addition, implementing partners operating in higher-risk environments should be reviewed regularly for compliance with SEA prevention and response requirements.
19. The UN is required to report allegations of SEA to the Secretary-General. It is the responsibility of implementing partners to promptly report allegations of SEA to the UN partner entity, as part of this reporting obligation. It is the shared responsibility of both the UN partner entity, and the respective implementing partner, to communicate the UN mandatory reporting of SEA allegations to all related personnel, and to ensure the establishment of reporting mechanisms at field level.⁵
20. The UN entity shall have the right to investigate SEA allegations involving implementing partners and its associated personnel, notwithstanding related investigations undertaken by the implementing partner or national authorities. Where the investigation is not conducted by a UN entity directly, the UN partner entity will seek all relevant information to determine whether the implementing partner has taken appropriate investigative and corrective action.
21. The UN partner entity's receipt and handling of SEA allegations involving implementing partners will be guided, as appropriate, by the *Uniform policy on balancing the disclosure of information to national authorities with principles of confidentiality when receiving and handling allegations of SEA by persons acting under a UN mandate*,⁶ and other relevant administrative issuances.

⁴ The terms "associated" or "related" personnel of implementing partners include, for example, sub-contractors, consultants, interns or volunteers associated with or working on behalf of the implementing partner.

⁵ Acts of SEA that are forms of sexual violence, as defined by international law, amount to violations of human rights and, where applicable, violations of international humanitarian law, when committed by implementing partners who are State actors. Such acts must be reported to OHCHR and appropriate human rights mechanisms. In addition, if the implementing partner concerned is a member of the national armed forces, the national police or another security actors attributable to the host government, an act of sexual abuse, when it is directly or indirectly linked to a conflict, might also constitute conflict-related sexual violence or a grave violation against children. Such conflict-related incidents of sexual abuse must also be reported through the respective Monitoring Analysis and Reporting Arrangements (MARA) on Sexual Violence in Conflict or the Monitoring and Reporting Mechanisms (MRM) on Children and Armed Conflict, where operational, via the SRSG on Sexual Violence in Conflict or the SRSG on Children and Armed Conflict to the UN Security Council, in line with Security Council resolutions 1882 (2009) and 1960 (2010).

⁶ This policy covers, inter alia, the UN's reception and referral of allegations of SEA to UN entity leads on investigations depending on the nature and actor involved in the allegation, and the disclosure of information about the allegations to national authorities in a manner that is in conformity with the principle of confidentiality and informed consent.

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22. Steps to be taken by the UN partner entity in the event of a credible SEA allegation made against an employee or employees of a partner or associated personnel that is implementing UN-supported programmes, include:
- a. Ensure that appropriate actions are taken regarding staff of implementing partner involved in perpetrating SEA, including termination of the staff contract and/or referral for criminal accountability, if appropriate;
 - b. Withhold further cash and/or supply transfers to the implementing partner, if appropriate;
 - c. Share information on the allegation with relevant authorities as appropriate, upon a protection risk assessment and in line with informed consent.
 - d. Immediate referral of the victim to safe and confidential victim assistance, including legal assistance, where available, based on their needs and consent.
23. If credible SEA allegations are made, the implementing partner's risk assessment for the relevant agreement or programme is immediately increased to 'high risk' (with a respective increase in programme monitoring). A number of corrective measures need to be taken by the UN partner entity, in consultation with its legal advisors and headquarters, before the 'high risk' assessment is reduced. Corrective actions will be identified by the UN entity, together with the implementing partner, and may include increased monitoring of programme activities on site and additional capacity development for the implementing partner.
24. Failure of the implementing partner to comply with the above-stated corrective actions can result in a termination of the agreement before the end of the agreement period.⁷ The cooperative arrangement with the implementing partner shall expressly provide for this contingency.

Annex A. Specific areas/steps of risk assessment and appropriate mitigation measures for UN implementing partners

Assessment criteria	UN action
✓ If the partner plans to sub-contract activities to another entity, the partner has the necessary reporting and monitoring mechanisms in place to prevent and respond to allegations and incidents of SEA.	✓ Request the partner to describe reporting and monitoring mechanisms in place.
✓ The partner has properly screened staff for involvement or alleged involvement in SEA or violations of human rights.	✓ Confirm that reference and background checks for partner personnel have been completed.
✓ The partner has reporting procedures in place for SEA allegations for employees, contractors/sub-implementing partners and beneficiaries.	✓ Request and review partner's reporting procedure.
✓ The partner is informed of the UN zero tolerance policy on SEA, and related UN agency, funds and programmes policies on SEA.	✓ Confirm in writing that the partner is informed of the UN zero tolerance policy on SEA, and related UN agency, funds and programmes policies on SEA.
✓ The partner's staff who are working on UN matters have completed UN SEA training, or equivalent.	✓ Confirm that the partner has completed the UN SEA training, or equivalent.
✓ The partner has dealt appropriately with any past SEA allegations.	✓ Request the partner to disclose any past allegations and outcomes.

⁷ See para. 6.2 of ST/SGB/2003/13, which states that the "failure of those entities or individuals to take preventive measures against sexual exploitation and abuse, to investigate allegations thereof, or to take corrective action when sexual exploitation and abuse has occurred, shall constitute grounds for termination of any cooperative arrangement with the United Nations."