

Directive on Sexual Harassment in United Nations Peacekeeping and Other Field Missions

For Military Members of National Contingents, Military Observers and Civilian Police Officers



I. PURPOSE

1. The purpose of this directive is to inform military members of national contingents, military observers and civilian police officers of the United Nations policy and procedures on sexual harassment. Field mission personnel are strongly advised to familiarize themselves with this directive and to abide by it. This directive provides illustrations of what constitutes sexual harassment; explains the different avenues for resolution of differences/grievances; outlines the steps necessary to lodge a complaint and the organizational process to address a grievance of sexual harassment.

II. SCOPE OF APPLICATION

2. This directive shall apply to military members of national contingents, military observers and civilian police officers.

3. This directive shall not supersede any national guidance or procedures that may exist on dealing with sexual harassment.

III. STANDARD OF CONDUCT

4. The Charter of the United Nations sets high standards for the Organization and requires the observance of those standards. Article 8 of the Charter, which is aimed at preventing any form of discrimination within the Organization, states: *“The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.”* Sexual harassment creates intimidating, hostile and offensive work environments in which women and men are prevented from equal participation and full involvement in United Nations activities.¹ The United Nations is, therefore, committed to fostering a workplace free of harassment and intimidation, where all field mission personnel can work together with openness, trust and respect for differences.

5. Mission personnel shall conduct themselves in accordance with the highest standards of honesty and integrity. They shall treat each other, at all times, with courtesy and respect, without discrimination or prejudice. Field mission personnel shall always avoid any behaviour in the workplace that may create an atmosphere of hostility or intimidation. This applies to all interactions, whether with supervisors, peers or subordinates; and in all work situations, including mission travel. This policy shall be applicable not only to the work place but also to any other situation of work or work-related activities or functions, irrespective of the time and place of such activity or function.

6. Further, field mission personnel shall maintain the highest standards of personal conduct, whether or not their activities are connected to official business. This principle is firmly enshrined in the *Ten Rules: Code of Personal*

¹ In addition to the Charter, various international declarations, conventions and resolutions reiterate this principle of equal participation. Security Council resolution 1325 (2000) stresses the importance of women’s equal participation and full involvement in all efforts to maintain peace and security, and in peace-building.

Conduct for Blue Helmets and other relevant mission issuances. Behaviour that is incompatible with these standards shall be subject to appropriate action, including disciplinary proceedings. Hence, field mission personnel must take due care not to create, in private or in public, situations that discredit the Organization or offend the community in which they live or work.

7. Field mission personnel shall demonstrate and cultivate an international outlook that is respectful of all people with their different points of view, different lifestyles and different customs. Field mission personnel shall have a particular responsibility to understand and respect the culture and customs of the country in which they serve and be careful to avoid any behaviour that could constitute or be construed as harassment.

IV. DEFINITION AND EXAMPLES OF SEXUAL HARASSMENT

8. Sexual harassment is any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature, when:

- It interferes with work;
- It is made a condition of employment; or
- It 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 or promotion) of the recipient of such attentions.

9. Behaviour that constitutes sexual harassment includes, but is not limited to, the following:

- Demands (direct or implicit requests) for sexual favours in exchange for favourable treatment or continued employment;
- The repetition of suggestive comments or innuendoes;
- The exhibition of materials of a sexually-oriented nature;
- The use of crude or obscene language or gestures, or the telling of risqué or obscene jokes;
- Repeated and/or exaggerated unwelcome compliments about a colleague's personal appearance;
- Invitation to social activities if they persist after the recipient has made clear that they are not welcome;
- Deliberate and unsolicited physical contact, including fondling or groping, or unwelcome close physical proximity; and
- Comments (verbal or written), gestures, or physical actions that are perceived as demeaning, belittling, or causing personal humiliation or embarrassment.

10. Sexually harassing conduct in the workplace constitutes behaviour that:

- Is unsolicited, unwanted and unreciprocated by the recipient;
- Could be a single incident or a repeated, continuous pattern of behaviour;
- Could be directed at a particular person or a number of people;

- Could occur at work or during social or other functions related to the job;
- Could be linked to bias when a group of people is singled out for negative attention.

11. However, there is a wide range of ambiguous behaviour that might offend some people, but not others. Situations can be perceived as sexually harassing because of differences in power, culture and gender. Given the multicultural environment of field missions, personnel must be sensitive to the fact that behaviour that might be regarded as acceptable in one culture, may give offence in another. The standard of determination of harassment is not the intent of alleged harasser, but the effect of the behaviour on the victim.

V. PREVENTION

12. Field mission personnel are encouraged to ensure that they have a good understanding of the issues surrounding sexual harassment, particularly in recognizing behaviour, both of others and themselves, which could constitute sexual harassment.

13. Managers and supervisors are responsible for maintaining a harmonious, hostility-free work environment and shall take prompt action to deal with any incidents of unacceptable behaviour, including sexual harassment. In this respect, the mission shall take preventive steps to reduce the potential for cases of sexual harassment, such as:

- Ensuring that field mission personnel are well-informed, through induction programmes, briefings, information circulars and/or training programmes, of the definition of sexual harassment, the United Nations position that sexual harassment will not be tolerated, as well as the policy and procedures on dealing with allegations of sexual harassment; and
- Ensuring that senior officers lead by example and take prompt action to deal with any potential situations that may lead to sexual harassment.

VI. NOTIFICATION

14. Field mission personnel are encouraged to come forward in good faith to expose acts of sexual harassment. Senior managers have an obligation to report any incidents or behaviour that may constitute sexual harassment that they may be aware of or that have been brought to their attention.

15. Any mission member who feels that (s)he is being subjected to sexual harassment should first, where possible, make her or his disapproval clearly known to the individual(s) concerned and ask that the behaviour stop. If the circumstances make approaching the individual(s) too threatening, or if direct communication is either ineffective or impossible, these guidelines provide an informal and formal approach to resolving the situation.

VII. DOCUMENTATION

16. The aggrieved individual(s) should keep a written record of each incident, preferably immediately after it occurs, making a note of the date and time, the

place it occurred, a short description of what happened, and names of any witnesses to the incident or other persons to whom the incident might have been mentioned. This documentation can be vital if the complaint becomes a formal one.

VIII. AVENUES OF ASSISTANCE

17. The **informal approach** allows for the resolution of the situation through informal means: counselling or mediation. The informal approach provides a non-adversarial forum to resolve a situation of sexual harassment, while simultaneously preserving the privacy of the parties. The purpose is not to judge or punish and typically ends when the complainant is satisfied with the outcome. Hence, in the informal approach, control over the outcome usually rests with the complainant.

18. The informal approach is characterized by the following elements:

- Non-compulsory nature;
- Privacy;
- Absence of a formal investigation;
- Absence of a focus on culpability;
- Absence of sanctions.

19. Resort to the informal approach is not compulsory. The particular circumstances of some cases may be such that the complainant may decide to forego the informal approach altogether and resort directly to formal procedures.

20. The **formal approach** calls for a formal complaint and is governed by the specific procedure for handling cases of serious misconduct². It begins with the lodging of a written complaint, and requires an investigation. The alleged perpetrator has a right to be made aware of the accusation and given a chance to respond. The formal process ends after appropriate action is taken by the Head of Mission, which could include disciplinary action and sanctions, including judicial sanctions.

21. In essence, the formal approach is characterized by the following elements:

- Filing of a written complaint;
- Subject shall be made aware of the complaint and given a chance to respond;
- Prompt and speedy investigation;
- Confidentiality of case and records on a need-to-know basis;
- Resolution through appropriate action based on a decision by the Head of Mission;
- Possibility of sanctions.

² See *Directives for Disciplinary Matters Involving Military Members of National Contingents and Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers*.

IX. INFORMAL APPROACH

22. To pursue the informal approach, the following persons can be contacted:
Appropriate military and civilian police contact person;
Mission staff counsellors;
Mission focal points for women;
Personnel Conduct Officer;
Trained mediators;
Chief Military Personnel Officer/Chief Civilian Personnel Officer;
Any individual, acceptable to both parties, willing to intervene.

Counselling

23. Counselling is systematic guidance offered by trained counsellors (e.g. Staff Counsellors, professional counsellors, clinical psychologists), with the aim to discuss the situation and to provide appropriate advice. Counselling is a supportive measure available to both victims and alleged perpetrators.

24. Individual(s) can seek counselling from a mission staff counsellor, or any other trained professional. The details of the counselling shall remain private.

Mediation

25. Mediation is a process by which two parties come together to resolve the situation through the facilitation of a third party. Mediation empowers mission personnel not only to resolve their own problems, but also enables them to choose a process and person with whom they feel comfortable. The parties shall select mutually acceptable mediator(s), who shall be perceived by both parties to be neutral and preferably shall be trained in mediation of sexual harassment.

26. If the informal approach does not lead to a resolution within an acceptable timeframe (10 to 30 days), the complainant may pursue the formal approach. The informal approach will also be considered to be at an end if one of the parties involved objects to its continuation.

X. FORMAL APPROACH

27. To pursue a formal complaint, the aggrieved individual(s) shall ideally make a written complaint. Alternatively, a verbal complaint can be lodged, which shall be translated into a written complaint by a relevant authority, such as designated authorities in the military/police component, the Personnel Conduct Officer, the mission Focal Points for Women, a Personnel Officer, a Security Officer, among others. The complaint shall be sufficiently detailed to facilitate an investigation.

28. The Head of Mission has a responsibility to maintain a harassment- and hostility-free work environment. The presence of a real or perceived sexual harassment situation generates stress in individuals and work environments that is not conducive to productivity and congeniality in the work place. Hence, serious consideration shall be given to the option of reassigning one of the two parties involved in the situation until formal resolution of the complaint. In

reassigning one of the two parties, care shall be taken not to take any action that would appear to prejudice the complaint or to be disadvantageous to either party.

29. Upon receipt of a formal complaint of sexual harassment, the Head of Mission shall immediately call for an investigation. The purpose of the investigation is to establish the facts of the case. The investigation team shall consist of two members, a man and a woman. The Head of Mission may request that the investigators be external to the mission.

30. The alleged harasser shall be advised of the complaint against him/her, and given a copy of any relevant written complaint/report. The alleged harasser will be given the opportunity to respond in writing to the allegations.

31. The investigation shall be conducted preferably by investigators trained in the investigation of sexual harassment complaints. The investigation will be conducted in accordance with the *Guidelines for Investigating Sexual Harassment Complaints* provided in Annex A. Preferably, such investigations shall be conducted by investigators with the relevant expertise in investigating sexual harassment complaints.

32. The investigation shall be confidential and shall be concluded in a reasonable timeframe (10-30 days) within receipt of the formal complaint.

33. The investigation will not preclude any interim measures that the designated disciplinary supervisor may wish to take with regard to the military or police personnel involved or for the conduct of a national investigation, in accordance with national rules and procedures.

34. The findings of the investigation shall be communicated to the Head of Mission, who will determine the appropriate action to be taken.

35. The Head of Mission will review the final report of the investigation, in consultation with the appropriate personnel on his staff (e.g. Legal Officer, Staff Counsellor, Medical Adviser), before determining the action to be taken. The final report of the investigation will be transmitted to United Nations Headquarters in New York, along with the decision of the Head of Mission and what measures have been taken to implement it.

36. In the case of military members of national contingents, the report of the investigation along with the Head of Mission's decision will be communicated to the national contingent commander concerned. In the case of military observers and civilian police officers, the report will be communicated to the designated disciplinary supervisor.

37. The file on the complaint and all relevant documentation will be retained in the mission archives until the closure of the mission and thereafter transferred to United Nations Headquarters in New York.

38. Investigation reports are confidential, internal documents of the United Nations and, as a rule, not made available to outside entities. Approval for a report to be released to, *inter alia*, a Member State should be approved by United Nations Headquarters in New York.

XI. REPATRIATION

39. In the case of military members of national contingents, military observers and civilian police, the decision to repatriate, in all cases, will be made by United Nations Headquarters in New York, based on the recommendation of the Head of Mission. Once decided, repatriation is to be immediate and the national authorities concerned are to be contacted at once through the Permanent Mission concerned in New York. The expenses connected with the repatriation and replacement action will be borne by the Member State involved.

40. If the continued presence in the mission area of individual(s) to be repatriated on disciplinary grounds is detrimental to the morale of the staff, the image of the mission or has other negative effects, the objective of the Organization is to repatriate as soon as appropriate.

XII. PROTECTION AGAINST RETALIATION

41. A person who, in good faith, brings a complaint of harassment should not be subjected to retaliation. Retaliation is any unwelcome attempt to discriminate against a member of the field mission or detrimentally affect the terms and conditions of their employment or work environment which is motivated by his or her having made a complaint of sexual harassment

42. Retaliation is a serious violation of this sexual harassment policy and should be reported immediately. Any person found to have retaliated against another individual for reporting sexual harassment would be subject to the same disciplinary action provided for sexual harassment offenders.

XIII. PROTECTION AGAINST FALSE ALLEGATIONS

43. Making a false allegation of sexual harassment in bad faith, wilfully and knowingly, is also a serious violation of this policy and shall be considered misconduct requiring appropriate action, including disciplinary action.

XIV. ASSISTANCE TO VICTIMS

44. Once the final report of the investigation along with the comments and/or decision of the Head of Mission have been reviewed by United Nations Headquarters in New York, the final decision, action or guidance should be conveyed immediately back to the Head of Mission. This information may be used by the Head of Mission to appropriately inform the victims/individuals concerned of the action taken.

45. The Head of Mission should consider appropriate measures to assist victims of acts of sexual harassment, including directing them to relevant organizations/support groups that could provide assistance.

XV. FOLLOW-UP

46. The United Nations shall request information from Member States regarding national disciplinary or criminal action taken with regard to personnel repatriated on disciplinary grounds. If no response is received, periodic reminders will be sent to the concerned Permanent Mission from the Department of Peacekeeping Operations. If still no response is forthcoming, appropriate steps shall be taken to bring the matter to the attention of the Government concerned at the highest possible levels, to underscore the seriousness of the matter and to pursue it with a view to seeing that appropriate disciplinary steps are taken.

ANNEX A

GUIDELINES FOR INVESTIGATING SEXUAL HARASSMENT COMPLAINTS

I. Introduction

1. These guidelines are intended to serve as a guide for the conduct of investigations into allegations of sexual harassment. Given the sensitive nature of such investigations, to the extent possible, such investigations shall be conducted only by investigators with the relevant expertise in investigating sexual harassment complaints.³

2. A sexual harassment investigation shall be conducted when either party does not desire informal resolution of the situation and a formal, either written or verbal, complaint of sexual harassment is made. The purpose of the investigation shall be to establish the facts of the case.

II. Investigation Team

3. The investigation team shall consist of two members, a man and a woman. The Head of Mission may request that the investigators be external to the mission.⁴

III. Timeframe

4. The investigation shall be concluded in a reasonable timeframe (10-30 days) within receipt of the formal complaint. Delays have several negative effects, including affecting the credibility of the process and the reliability of witnesses.

IV. Confidentiality

5. Although the complainant cannot be promised absolute confidentiality, the investigators shall make every effort to limit the number of persons who have access to the information, communicating strictly on a “need to know” basis. They shall emphasize to those involved that their discussions are not to be shared with others and provide a warning, if necessary, of possible disciplinary action, if confidentiality is breached. Investigators must sign an understanding of their obligation to protect the confidentiality of the complaint and the investigation.

6. The alleged harasser shall be advised of the complaint against him/her, and given a copy of any relevant written complaint/report. The alleged harasser shall be given the opportunity to respond in writing to the allegations.⁵

³ A roster of sexual harassment investigators shall be maintained by the Department of Peacekeeping Operations to complement the investigative capacity of field missions.

⁴ See para 29 of *Directive on Sexual Harassment in UN Peacekeeping and Other Field Missions*

⁵ See para 30 of *Directive on Sexual Harassment in UN Peacekeeping and Other Field Missions*

V. Planning the Investigation

7. In preparing for the investigation, the investigators shall thoroughly review the existing policies of the Organization on the issue as well as all relevant mission policies, directives, procedures and other instructions.
8. A confidential file shall be created for the investigation, which shall include a record of the complaint, copies of all relevant policies and procedures, documentation relating to the complaint, a detailed record of the conduct of the investigation, the understanding of confidentiality signed by the investigators and any other relevant information.
9. The investigators shall define a work plan for the investigation, including a witness list; a documents or other evidence list; the possible locations that would need to be visited; travel arrangements that may need to be made; the time it would take to conduct the investigation; cost of the investigation; etc. The investigators shall agree on the methodology for the investigation and how to proceed.
10. All claims shall be treated seriously—even those that seem frivolous—until there is reason to do otherwise.
11. If there is more than one allegation, each shall be treated separately.

VI. Interviewing

12. The sequence of interviews shall be at the discretion of the investigators. Normally, the sequence is as follows:
 - (i) Complainant(s);
 - (ii) Subject (the accused);
 - (iii) Witnesses;
 - (iv) Follow-up interviews with complainant and subject, if necessary.
13. Sometimes it may be appropriate to interview some or all of the witnesses before interviewing the subject (and reviewing other evidence, such as documentary or physical evidence) in order to give him/her an effective opportunity to respond to all the allegations.
14. The investigators shall conduct as many interviews or make as many contacts with witnesses and/or subject(s) in order to support a rational finding of facts.
15. It is preferable to conduct interviews in a place where other employees will not be able to see who is being interviewed and how long the interview takes. This may require that the interview be conducted away from the job site, such as at a hotel conference room, or perhaps at the home of the interviewee.

VII. Interviewing the Complainant

16. These are tips for investigators interviewing complainant(s):

- Arrange to interview the complainant in a private place.
- Introduce yourself and thank the person for coming.
- Review relevant UN policy with him/her.
- Explain the process of investigation in a supportive manner. Seek the person's cooperation.
- Acknowledge that bringing a harassment complaint is a difficult thing to do and reiterate that each complaint is taken seriously and investigated.
- Reassure the complainant that all information will be kept confidential to the extent possible and that no retaliation will be permitted.
- Listen to the charge. Do not make comments like, "You're overreacting." Instead, be sympathetic in a neutral manner. For example, "I know this is difficult for you."
- Do not be afraid to be silent after you have asked a question or if the person is upset.
- Maintain a professional attitude. Do not ask questions about prior or current sexual conduct or activities of the complainant.
- Do not make any statements about the alleged perpetrator's character, job performance, or family life.
- Gather the facts; don't be judgemental.
- Get specific details. Ask who (including participants and/or witnesses), what, when (including specific dates and times), where, why, and how (including how it happened and how the complainant reacted).
- Ask if the complainant spoke to anyone at the time of the event.
- Ask if the conduct was similar to any conduct mutually engaged in previously.
- Ask if the person can provide copies of any documents (journals, calendar entries, e-mails, etc) or names of persons that have information pertaining to the complaint.
- Find out if the complainant is aware of a pattern of previous episodes or similar behaviour towards others.
- Determine the effect of the conduct on the complainant. Was it economic, non-economic and/or psychological? Has it affected his/her work? If so, how?
- Ask how the complainant would like to have the matter resolved and what action he/she wants the UN to take, but do not promise specific results.
- Provide an opportunity for the complainant to make additional comments and/or ask questions. You could take a break before concluding.
- Provide complainant with an approximate timetable for the investigation and inform the person that he/she will be notified of the decision.

VIII. Interviewing the Subject

17. The subject of an investigation should be advised about the matter under investigation and any specific allegation made against him/her.

18. The subject shall be given the opportunity to speak and to provide information in his/her own words without unnecessary interruptions by the investigator(s). The subject may offer such information, documents or other materials as (s)he wishes to assist in the inquiry. The subject may name witnesses on his/her behalf and in favour of his/her contentions.

19. These are tips for interviewing the subject:

- Arrange to interview the subject in a private place.
- Introduce yourself and thank the person for coming.
- Review relevant UN policy with him/her and explain the process of investigation in a supportive manner. Seek the person's cooperation.
- Reassure the subject that all information will be kept confidential to the extent possible.
- Inform the subject of the complaint and provide him/her an opportunity to comment and explain his/her side of the situation. If possible, obtain a written statement either before or at the interview.
- You can expect the subject to deny the charges. Observe his/her reaction. Describe the details of the allegation and note the areas of disagreement between the testimonies of both parties. If the subject denies the allegations, probe further to determine why (s)he thinks that such a complaint could have been made.
- Ask exactly what the subject did, not what (s)he intended to do or what (s)he meant.
- Ask if the person can provide copies of any documents (include memos, letters, notes, calendars, e-mails, computer files, voice mails, tape recordings, diary notes, etc.) or names of persons that have information pertaining to the complaint or corroborating the subject's version of events.
- Identify the relationship of the subject to the complainant.
- Was there any prior consensual relationship between the parties? How long have they known each other? Is there a history of group or individual socializing?
- If the subject is a supervisor, indicate the individual's job title and obtain a copy of the individual's job description, and determine the individual's specific duties at the time of the alleged harassment.
- Determine whether the subject directed or had responsibility for the work of other employees or the complainant, had authority to recommend employment decisions affecting others or was responsible for the maintenance or administration of the records of others.
- Provide an opportunity for the subject to make additional comments and/or ask questions. You may want to take a break before concluding.
- Reiterate to the subject that the UN does not permit retaliation against those who complain. Retaliation is itself grounds for disciplinary action.
- Give an approximate timetable for when the investigation will be completed and inform the person that he/she will be notified of the decision.

IX. Interviewing Witnesses

20. To the extent possible and necessary, questions should be uniform for all witnesses.

21. These are tips for interviewing witnesses:

- Arrange to interview each witness individually in a private place.
- Introduce yourself and thank the person for coming.
- Tell the person, in a neutral manner, that there is reason to believe that he/she may have information that would be helpful to an investigation. Review UN policy with him/her and explain the process of investigation in a supportive manner.
- Assure all witnesses that their cooperation is important, that their testimony is confidential and that they will not be retaliated against for testifying.
- Begin by asking generally about incidents of harassment (s)he has observed and their general understanding of what constitutes sexual harassment.
- If no information about the claim being investigated is forthcoming, ask specifically about the behaviour of both the complainant and the subject, without disclosing the details of the complaint.
- Ask each witness if he/she is aware of any prior and/or personal relationship between the complainant and the subject.
- Try and determine what the witness has actually seen, heard or knows. It is not sufficient information, for example, if the witness says, "I think Pat was upset." Ask why does the witness think so, or how did Pat behave that raised concern.
- Distinguish between information the witness furnishes based on rumour and information gained through first-hand observation or knowledge.
- Ask if the witness has or knows of any documents (memos, letters, notes, calendars, e-mails, computer files, voice mails, tape recordings, diary notes, etc.) or persons that have information pertaining to the matter.
- Stress the confidentiality of the investigation. Ask witnesses not to discuss the interview or investigation with anyone, not even the subject or complainant.

22. Investigators should not be afraid to ask the tough questions. If the interviewee is not cooperating fully, investigators should politely but persistently seek an answer to their questions.

23. Use the "Funnel Method" for questioning:

- First ask broad, open-ended questions designed to elicit an expansive, narrative response. Who? What? Where? When? Why? How? Describe. Explain. Tell me.
- Seldom interrupt a witness. As they talk, investigator(s) should take notes on areas that they may want to explore in further detail later. If they learn of a new topic, they should make a note of it and come back to it later.

- Once the interviewee has answered the open-ended question, follow-up by asking about each incident/conversation/issue separately. Ask for details.
- Follow-up on non-responsive answers.
- Ask if there is anything else that might be relevant to the matter? (Interviewee should be able to contact the investigators later if they think of or have additional information or documents related to the matter.)

24. Investigators should avoid aggressive, leading questions especially at the beginning of the interview. For example, a friendly, conversational approach works better than an aggressive, cross-examination. The aim is to get the interviewee to talk as much as possible in order to obtain as much information as possible, look for inconsistencies in the interviewees' stories and make credibility determinations.

25. Avoid compound questions that would allow the interviewee to truthfully answer only part of the question. For example, "Was he drunk when you saw him at the Post Office?" Answer: "I did not see him at the Post Office."

26. Avoid questions that allow the interviewee to define a term in his or her own way, e.g. "Was he just having a good time?"

27. Investigators should ask questions so that information is not unnecessarily disclosed. For example, instead of asking, "Did you see Paul touch Joan?" ask "Have you seen anyone touch Joan at work in a way that made her uncomfortable?" The purpose of the investigation is to gather facts, not disseminate allegations.

X. Review of Facts

28. Prepare a detailed chronology of the complaint and the investigative interviews.

29. It may be necessary to visit the scene of the incident to confirm specific details mentioned in interviewee statements.

30. Determine the time relationship between the occurrence of the conduct, its effect on the complainant, and the time when the complainant made the report.

31. Review all the information obtained during the investigation. All evidence should be weighed, including statements, medical or other expert opinions, circumstantial evidence that has a bearing on the complaint. Evidence presented by a person of authority such as a supervisor should be given no more credibility than evidence from a lower-level employee.

32. Assess credibility, motive and bias. Analyse whether there might have been certain events or circumstances that triggered the complaint. Determine whether there were any possible motives on the part of the complainant or witnesses.

33. Consider the existence or lack of corroborating evidence, as well as any other indicators that may be persuasive to you in determining the facts, including established past conduct.
34. When an allegation of improper behaviour in personal interactions is made, it is common that there may be no disinterested witnesses. In such a case, consider whether the complainant told anyone else of the harassment and/or whether anyone observed a change in behaviour of either or both of the parties. Assessing the credibility of the parties and witnesses calls for observing attitudes and behaviour. A person's emotional state can be telling. The reports of other persons in the work unit about the complainant's and the alleged harasser's behaviour may also be informative.
35. Evaluate the alleged conduct from the standpoint of "a reasonable woman" and "a reasonable man". In determining whether sexual harassment occurred, the criterion is not "beyond a reasonable doubt", rather "the preponderance of evidence". Given the preponderance of evidence, a reasonable person would conclude that this occurred (or did not occur).
36. In assessing credibility changes in the complainant's behaviour as a result of harassment would add credibility; changes in the alleged harasser's behaviour as harassment continued or when complainant indicated the behaviour was not welcome would add credibility. Major inconsistencies in testimony would detract from credibility.
37. The timing of the complaint in relation to the occurrence of the behaviour may allow for an inference about truthfulness. If there were a delay in reporting the harassment, an explanation would not detract from credibility (Note: A delay in and of itself would not detract from credibility since many people delay reporting because of a fear of retaliation, not knowing or trusting the policy, fear of being blamed for causing the harassment, not understanding it was harassment, etc.)
38. Documents such as calendar entries, journals, notes, letters would add to credibility. Other complaints against the subject would add to credibility.
39. The fact that a relationship was at one time consensual does not detract from credibility nor is it a defence against a charge of sexual harassment. Consensual relationships can be followed by sexual harassment when one person tries to end the relationship and the other person uses his or her power to intimidate the former lover into staying in the relationship.
40. The fact that the alleged harasser did not intend to harass the complainant is not a defence of a charge of sexual harassment. The standard of determination of harassment is not the intent of the alleged harasser, but the effect of the behaviour on the victim.
41. Not knowing that the behaviour was offensive and unwelcome is not a

defence of a complaint of sexual harassment. The fact that the complainant did not tell the alleged harasser that his/her behaviour was offensive does not affect credibility. There is no obligation for the complainant to inform the alleged harasser that his behaviour is offensive.

42. Motivation to lie, exaggerate or distort information should be assessed when there are differences in what was reported or questions about credibility arise.

XI. Format and Content of Investigation Report

43. The report of the investigation generally shall contain the following major sections:

- (a) Title Page
- (b) Executive Summary
- (c) Methodology
- (d) Background Information
- (e) Investigative Details
- (f) Issues
- (g) Conclusions
- (h) Annexes

(a) Title Page

44. The title page contains the official title of the case. It shall contain a warning that the report is the property of the United Nations field mission and is not to be reproduced or disclosed to unauthorized persons. The details of the reporting investigator(s) (name, rank and title), the date and the distribution shall be shown on the title page.

(b) Executive Summary

45. The Executive Summary shall specify the nature of the allegation(s); the methodology used for the investigation; the violation (if any) of mission regulations, rules, orders or instructions, as well as any applicable laws; and the results of the fact-finding.

46. The Executive Summary should also include the date, time, place and other specifics of the incident(s), including who committed what, when and where. The Executive Summary is intended to give the reader a quick overview of the case from its inception to the writing of the report. Every statement in the summary must be fully substantiated in the body of the report. It must not include any opinions or conclusions of the investigator(s); only facts or statements substantiated in the body of the report will be presented in the Executive Summary.

(c) Methodology

47. This section shall contain a brief description of the methodology used to conduct the investigation, including locations that were investigated; witnesses interviewed; local authorities that were consulted; technical expertise/opinion sought; documents analysed; etc.

(d) Background Information

48. This shall provide details of the allegation(s) and who made them; a narrative of the context in which the incident(s) occurred, without mentioning evidence at this stage; and any other necessary background information.

(e) Investigative Details

49. This section shall provide a detailed account of the conduct of the investigation and the evidence collected. This should be presented in a logical form, with supporting information provided in annexes to the report. A chronology of the investigation should be part of this section.

(f) Issues

50. This section shall contain any discussion or elaboration of any particular issue that arose during the investigation.

(g) Conclusions

51. This section shall provide an analysis of the facts as established by the corroborating evidence obtained in the course of the investigation. This section must contain the supporting rationale for the findings of the investigators. If the evidence is ambiguous, the investigator(s) should explain what criteria were used to weigh the evidence and why a specific conclusion was drawn.

52. The conclusions should also state if there was insufficient evidence to make a determination of whether or not harassment had occurred. This is not the same as saying the harassment did not occur.

(g) Annexes

53. The report can contain as many annexes as necessary. Normally these would contain interview lists; statements of the subject and the witnesses; list of evidence; etc.

XII. Submission of Report

54. The report of the preliminary investigation shall be submitted to the Head of Mission as soon as it has been completed. The distribution of the report, as indicated on the Title Page, will also be done concurrently. Normally, the report will be submitted only to the Head of Mission or his/her designee.