Operational Instruction Ref. OI.IAIG.2025.01

Investigations and Measures Relating to Misconduct Allegations Against UNOPS Personnel

Authority:

This Operational Instruction (OI) is promulgated by the Director, Internal Audit and Investigations Group (IAIG), on the basis of a delegation of authority from the Executive Director under OD.ED.2022.01 – Internal Audit and Investigations Charter.

Purpose:

The purpose of this OI is to provide instructions regarding investigations into allegations of misconduct against UNOPS personnel, that is, all individuals who have contracts with UNOPS, including but not limited to staff members, individual contractors, interns and volunteers, and related measures.

Effective Date:

This OI shall become effective **immediately**.

Promulgation Date:

26 Feb 2025

[signature redacted]

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Director Internal Audit and Investigations Group

1. Introduction

1.1 As stated in OD.PCG.2017.01, all of UNOPS personnel shall uphold the highest standards of efficiency, competence, and integrity, and shall be held accountable for their acts and omissions while serving with the Organisation.

1.2 Under OD.ED.2022.01 – Internal Audit and Investigations Charter, IAIG shall conduct investigations into reports of misconduct, such as mismanagement, fraud, corruption, retaliation on whistle-blowers, abuse of authority, sexual harassment, workplace harassment, violation or wilful disregard of UNOPS regulations, rules and other administrative instructions (including the Standard of Conduct for the International Civil Service), that involve UNOPS personnel.

1.3 The purpose of this OI is to provide instructions regarding investigations and disciplinary measures relating to allegations of misconduct against UNOPS personnel, as defined in OD.PCG.2017.01 – Human Resources, Ethics and Culture. It does not apply to institutional vendors and/or suppliers doing business with UNOPS, nor their personnel.

2. Reporting suspected misconduct

2.1 Under OD.PCG.2017.01 – Human Resources, Ethics and Culture, all UNOPS personnel have a duty to report suspected misconduct, as defined and according to the procedures set out in OI.PCG.2023.01 – Personnel Management Framework.

2.2 Note that reporting a matter to the attention of local authorities requires the concurrence of the UN Office of Legal Affairs (UN/OLA) since it, inter alia, involves issues of United Nations privileges and immunities. The General Counsel shall determine whether a matter is to be referred to UN/OLA for reporting to local authorities. Consequently, UNOPS personnel shall not report any matter to local authorities except in the case of compelling emergency/danger (and in such cases, personnel shall immediately inform the General Counsel that they have reported a matter to local authorities).

3. Reviewing allegations of suspected misconduct

3.1. Each allegation will be reviewed and:

3.1.1. If the allegation, if assumed to be entirely true, does not constitute misconduct, the matter shall be closed.

3.1.2. If the Ethics Officer determines that an allegation that is within the UNOPS policy on 3 “Protection against Retaliation” can be addressed without an investigation, the Ethics Officer may proceed without an investigation.

3.1.3. If the PCG Director determines that an allegation of discrimination, harassment or abuse of authority can be addressed without an investigation, the PCG Director may proceed without an investigation.

3.1.4. If there is already sufficient evidence to charge the subject of the allegation with misconduct, the allegation and evidence may be referred immediately to the HR Legal Officer for possible action. Such referral shall be deemed to be an investigation report.

3.1.5. If the review concludes that it is unlikely that an investigation will result in sufficient evidence to support a finding of misconduct (for example, if the complainant is not prepared to be a witness in any disciplinary/administrative proceedings, and there was no other witness to the alleged incident), the case may be closed.

3.1.6. If the IAIG Director determines that the resources required to adequately investigate the allegation are unreasonable in light of the nature of the allegation, the case may be closed.

3.1.7. In all other cases, the allegation shall be investigated by IAIG or such other person designated by the IAIG Director.

3.2. The review of an allegation may include requesting the person reporting the allegation or any other person for additional information or evidence.

3.3. The closing of a case does not preclude non-disciplinary measures from being taken. Moreover, a closed case may be re-opened if there is additional information.

4. Administrative leave following allegation of misconduct

4.1. Pursuant to Staff Rule 10.4, a staff member may be placed on administrative leave by the General Counsel at any time from the moment suspected misconduct is reported or detected, pending or during an investigation and until the completion of the disciplinary/administrative process. Personnel other than staff member may also be placed on administrative leave by the General Counsel at any time from the moment suspected misconduct is reported or detected, pending or during an investigation and until the completion of the administrative process.

4.2. As a general principle, administrative leave may be contemplated in cases where:

4.2.1. The conduct in question and/or the continued presence of the personnel on UN premises poses or may pose a security risk, or a threat to other UN personnel or to the Organization's best interest;

4.2.2. The personnel 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;

4.2.3. The allegation, if true, would mean that the subject of the allegation used his/her UNOPS position to commit misconduct; and/or

4.2.4. There is a risk of evidence being tampered with or concealed, or of interference with the proceedings.

4.3. Requests for placement of personnel on administrative leave shall be addressed to the General Counsel with copy to the HRLO. No other person has been delegated this authority.

4.4. Exceptionally, if a manager considers that the circumstances require immediate action, he or she may decide to place the personnel on special leave with full pay (SLWFP); he or she cannot place the personnel on special leave without pay (SLWOP). In such a case, he or she shall, within 48 hours if possible of his or her decision to place the personnel on SLWFP, inform the General Counsel of his or her decision, and provide all the relevant evidence documenting why he or she deemed that placement

on SLWFP was urgently required and could not wait for the authorization of administrative leave to be granted. After review of the case, the General Counsel shall determine whether administrative leave is justified:

4.4.1. If administrative leave is warranted, the decision to place the personnel on administrative leave signed by the General Counsel shall supersede the personnel's placement on SLWFP;

4.4.2. If administrative leave is not warranted, the General Counsel shall revoke the decision to place the personnel on SLWFP.

4.5. A manager shall be held accountable if he or she improperly places a member of personnel on purported administrative leave or SLWFP or SLWOP, or does not report his or her action in this respect within the prescribed timeframe.

4.6. If the General Counsel authorizes the placement of a member of personnel on administrative leave, the individual shall:

4.6.1. Be notified in writing of the reason(s) for being placed on administrative leave, of its probable duration and of its conditions;

4.6.2. Immediately surrender his or her grounds pass and/or United Nations Laissez-Passer (if applicable); and

4.6.3. Immediately surrender any UN property or assets he or she may have, when requested.

4.7. Placement of personnel on administrative leave is normally with pay, unless exceptional circumstances warrant administrative leave without pay. In either case, the administrative leave shall be without prejudice to the personnel's rights, shall not constitute a disciplinary or administrative measure and shall not, so far as practicable, exceed three months. The General Counsel may, after consulting the HRLO, extend the administrative leave for a further defined period.

4.8. Personnel placed on administrative leave shall not ordinarily be allowed to enter the Organization's office premises without first obtaining written permission from the manager. Permission may be granted in connection with the personnel's defence of the case or other valid reason. Such entry shall be under escort. Normally, the personnel placed on administrative leave shall not be precluded from remaining at, or returning to, the duty station. Special consideration shall be made for personnel residing in the Organization's compound. Should the personnel 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 personnel placed on administrative leave have a duty to remain available for the investigation.

4.9. The personnel placed on administrative leave may request the General Counsel to be granted access to files, provided that he or she justifies that they are relevant to his or her case. The General Counsel will decide in each case whether the personnel placed on administrative leave will or will not be given access to UNOPS e-mail.

4.10. The General Counsel may authorise the manager of a person that is on administrative leave to access that person's UNOPS e-mail account, if such access is required to prevent disruption to UNOPS operations (e.g. if the person, and no one else, was managing a procurement action at the time he/she was put on administrative leave).

5. Investigations procedures

5.1. No investigation may be conducted, except under the authority of the IAIG Director.

The subject of the investigation - rights, responsibilities and obligations

5.2. The identity of the subject of the investigation (i.e., the person alleged to have engaged in misconduct) should remain confidential to the extent possible within the legitimate needs of the investigation.

5.3. The subject of the investigation must fully cooperate with an investigation, answer any question and comply with requests for information. This includes arranging for non-UNOPS property to be made available to UNOPS investigators for examination. A lack of cooperation and/or undue interference with the investigation may constitute misconduct and may result in disciplinary/administrative measure(s), even if it is later concluded that the allegation being investigated is not substantiated. Without limiting the generality of the foregoing: if the subject of an investigation provides information, and documentary or video or other evidence shows that he/she must have known that the information was false, disciplinary/administrative measure(s) will be imposed.

5.4. Unless the case is closed for insufficient evidence, the subject of the investigation shall be interviewed.

5.4.1. The investigators may electronically record the interview(s).

5.4.2. The subject of the investigation shall be advised of the allegation against him or her at the start of the interview, if not before.

5.4.3. The subject of the investigation may request to be accompanied to his/her interview by an observer who is either a member of UNOPS personnel or an immediate family member, provided that the observer is readily available and not involved in the investigation, as determined by IAIG. The observer must agree to respect the confidentiality of the investigation and sign a confidentiality agreement. The observer may not interrupt, prevent or delay the interview, and may not speak during the interview. If the investigator considers the presence of the observer disruptive, the observer may be asked to leave and the interview will proceed without the observer. Considering the cultural context, gender, and other elements of the case, the investigator may also have an observer (e.g. field security officer, etc.) attend the interview. The subject of an investigation has no right to the presence of counsel or any other person during the interview.

5.5. If, in the course of the investigation, other instance(s) of suspected misconduct by the subject of the investigation are found, the investigators will inform the subject of these new instances.

5.6. The subject of the investigation shall not interfere with the investigation and shall abstain from withholding, destroying or tampering with evidence, and from influencing, coaching or intimidating the complainant and/or witnesses. The subject of the investigation must not discuss or disclose the investigation or their testimony to anyone except the investigators and other duly authorized persons. In no case shall the subject of the investigation discuss with the investigation participant(s) and/or complainant(s) and/or witness(es) the nature of the evidence requested or provided, or testimony given to the investigators.

Investigation participants - rights, responsibilities and obligations

5.7. An *investigation participan*t is a person who is not the subject of the investigation but who has been asked to cooperate with an investigation, for instance by being interviewed or by providing information.

5.8. Investigation participants must fully cooperate with an investigation, answer questions and comply with requests for information. This includes arranging for non-UNOPS property to be made available to UNOPS investigators for examination. A lack of cooperation may constitute misconduct and may result in disciplinary administrative measure(s). Without limiting the generality of the foregoing: if an investigation participant provides information, and documentary or video or other evidence shows that he/she must have known that the information was false, disciplinary/administrative measure(s) will be imposed[1].

5.9. Investigation participants must not discuss or disclose the investigation or their testimony to anyone except the investigators and other duly authorized persons. In no case shall an investigation participant discuss with the subject of the investigation and/or complainant and/or witness the nature of the evidence requested or provided, or testimony given to the investigators.

5.10. In certain cases (e.g., workplace discrimination, harassment and abuse of authority), the identity of the complainant and/or other investigation participants may need to be shared with the subject of the investigation for purposes of due process.

5.11. If, during the course of the investigation, IAIG discovers new evidence giving rise to the possibility of suspected misconduct on the part of an investigation participant, IAIG will notify the investigation participant, as soon as practicable, that he or she has become a subject of an investigation.

5.12. Any individual who cooperates in good faith with an investigation is entitled to protection from retaliation in accordance with the UNOPS policy for "Protection against Retaliation". However, cooperation with the investigation does not excuse the individual's own possible culpability in the underlying matter. Notwithstanding his or her cooperation, a member of UNOPS personnel may face disciplinary/administrative proceedings for his or her part in the matter about which he or she is cooperating with the investigators, and such proceedings may result in the imposition of disciplinary/administrative measures. Neither such investigation, institution of disciplinary/administrative proceedings, nor such bona fide imposition of disciplinary/administrative measures for his or her complicity in the underlying matter about which the member of personnel is cooperating, constitute retaliatory action.

6. Procedures following investigation, including disciplinary/administrative proceedings

6.1. Unless the case is closed, an investigation report shall be prepared and sent to the HR Legal Officer, together with the evidence obtained during the investigation.

Where disciplinary/administrative action not warranted

6.2. If the HRLO considers that the allegation is not substantiated or the evidence does not warrant disciplinary/administrative action, he or she shall recommend to the General Counsel:

6.2.1. That the personnel be notified in writing that the matter/case is closed;

6.2.2. If the personnel was placed on administrative leave: that the administrative leave be discontinued and that the personnel be authorized to resume his or her duties; and

6.2.3. That documents related to the investigation be expunged from the personnel's file, except those referred to below.

6.3. The personnel shall be notified in writing as soon as practical of the decision of the General Counsel concerning his or her case.

Work performance-related issues not amounting to misconduct

6.4. If the HRLO recommends that the case be closed, he or she may nonetheless be of the view that the conduct described in the investigation report and the circumstances of the case constitute unsatisfactory performance and/or poor judgement not amounting to misconduct on the part of the member of personnel. In such a case, the HRLO may recommend to the General Counsel that:

6.4.1. A letter of reprimand be issued by a manager or other responsible officer concerned, including PCG (note that pursuant to Staff Rule 10.2 (b), a reprimand does not constitute a disciplinary measure); and/or

6.4.2. The investigation report (or extracts thereof) with the personnel's comments thereon, be included in the annual Performance and Results Assessment (PRA), the Performance Evaluation Report or other evaluations reports for the relevant period; and/or

6.4.3. An appropriate training course be undertaken by the personnel.

Where disciplinary/administrative action warranted – institution of disciplinary/administrative proceedings

6.5. If the HRLO considers that the evidence indicates that misconduct occurred, he or she shall charge the personnel with misconduct.

6.6. The charge letter initiates the disciplinary/administrative proceedings. In that letter, the personnel 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 ten (10) working days) to answer the charges and produce countervailing evidence, if any. The personnel shall also be notified of his or her right to counsel to assist in his or her defence at his or her expense. The individual may present a request to the HRLO that he or she be granted access to files, provided that he or she justifies that they are relevant to his or her response.

6.7. A copy of the charge letter signed by the HRLO may be given for information to the managers to which the personnel is assigned and such other persons as the HRLO considers appropriate.

6.8. The HRLO may, on an exceptional basis, grant an extension to the personnel to respond to the charges of misconduct. Any request by the personnel shall be accompanied by specific reasons for such an extension.

Right to legal counsel

6.9. UNOPS personnel who are charged with misconduct may be represented by legal counsel.

6.10. Staff members may obtain the assistance of the UN Office of Staff Legal Assistance (OSLA) by contacting OSLA at e-mail: osla@un.org[1], or telephone number: (1) 212- 963-3957. Other UNOPS personnel may also contact OSLA, but should understand that it is up to OSLA to decide whether to provide any assistance.

6.11. Alternatively, personnel charged with misconduct may engage other legal counsel. Such legal counsel shall be at his or her own expense

1. mailto:osla@un.org

7. Disciplinary and other measures at the end of disciplinary proceedings for staff members

7.1. If following a staff member's response to the charge letter, the General Counsel, after consulting the PCG Director and the HRLO, considers that the staff member's conduct constitutes misconduct within the meaning of Staff Rule 10.1, he/she shall make a recommendation to the Executive Director as to the appropriate disciplinary or non-disciplinary measure(s) to be imposed on the staff member, taking into account, inter alia, relevant case law and precedents.

7.2. The Executive Director may decide to impose non-disciplinary measures and/or disciplinary measures. The Executive Director may, subject to the UN Staff Regulations and Rules, also direct that other actions be taken.

Disciplinary measures

7.3. In accordance with Staff Rule 10.2 (a), the disciplinary measure(s) 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, include one or more of the following:

7.3.1. Written censure;

7.3.2. Loss of one or more steps in grade;

7.3.3. Deferment, for a specified period, of eligibility for salary increment;

7.3.4. Suspension without pay for a specified period;

7.3.5. Fine;

7.3.6. Deferment, for a specified period, of eligibility for consideration for promotion;

7.3.7. Demotion with deferment, for a specified period, of eligibility for consideration for promotion;

7.3.8. 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;

7.3.9. Dismissal.

7.4. The Executive Director's decision to impose disciplinary measure(s) shall be notified in writing to the staff member, his/her managers, and IAIG. The disciplinary measure will be recorded in the staff member's records. The HRLO may inform any other person as he/she may consider appropriate.

7.5. The annual Performance and Results Assessment (PRA) or other evaluations reports for the relevant period may be amended to reflect the foregoing.

Recovery for loss of property or assets

7.6. Under Staff Rule 10.1 (b), "Where the Secretary-General determines that a staff member's conduct constituted misconduct, and that the staff member's conduct was wilful, reckless or grossly negligent, the staff member may be required to reimburse the United Nations either partially or in full for any financial loss suffered by the United Nations as a result of the staff member's conduct."

7.7. Pursuant to that Rule, UNOPS will pursue recovery for any financial loss attributable to the staff member's misconduct (e.g. fraud, theft), or gross negligence, or recklessness, in the management of funds.

7.8. Such recovery action does not constitute a disciplinary measure (see Staff Rule 10.2 (b)) and is distinct from any disciplinary action being considered or undertaken.

Non-disciplinary measures

7.9. In accordance with Staff Rule 10.2 (b), the non-disciplinary measure or measures which the Executive Director may impose on a staff member, depending on the nature and circumstances of the case, include one or more of the following:

7.9.1. Written or oral reprimand;

7.9.2. Recovery of monies owed to the Organization;

7.9.3. Administrative leave with full or partial pay or without pay pursuant to Staff Rule 10.4.

7.10. In addition, a staff member may be requested to undertake a specific training to improve or further develop certain skills. This does not constitute a disciplinary measure.

7.11. 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.

8. Measures at the end of administrative proceedings for personnel other than staff members

8.1. If following the personnel other than staff's response to the charge letter, the General Counsel, after consulting the Director PCG and the HRLO, determines that the personnel other than staff's conduct constitutes misconduct within the meaning of this OI and/or a breach of his/her contractual agreement with UNOPS, he/she shall make a recommendation to the Executive Director as to the appropriate administrative measure(s) to be imposed on the personnel other than staff, taking into account, inter alia, relevant case law and precedents.

8.2. Administrative measures which the Executive Director may impose on personnel other than staff member, depending on the nature and gravity of the misconduct and/or breach of his/her contractual agreement with UNOPS, in which the personnel other than staff member has engaged, include one or more of the following:

8.2.1. Recovery of monies owed to the Organization;

8.2.2. Recovery for any financial loss attributable to the personnel other than staff's misconduct (fraud, theft), or gross negligence, or recklessness, in the management of funds;

8.2.3. Written censure;

8.2.4. Suspension without pay for a specified period; 13

8.2.5. Reduction in level and/or sub-level;

8.2.6. Termination of contract.

8.3. Failure to comply with any administrative measure imposed by the Executive Director will result in the termination of contract.

8.4. The Executive Director's decision to impose an administrative measure or measures shall be notified in writing to the personnel other than staff, his/her managers, and IAIG. The administrative measure will be recorded in the personnel's records. The HRLO may inform any other person as he/she may consider appropriate.

9. Reporting to National Authorities and the Executive Board by UNOPS

9.1. Any decision taken under the present document is without prejudice to the Organization's right to refer matters to local authorities for legal recourse in accordance with applicable national law.

9.2. In the interests of transparency, the Executive Director may inform the Executive Board of disciplinary/administrative 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/administrative measures. The Executive Director may choose to not disclose a case at his or her discretion. Any such report shall be made available to all personnel.

10. OI to apply notwithstanding separation from UNOPS service

10.1. This Operational Instruction shall apply[2] notwithstanding the separation from service of a subject of investigation at any time,[3] subject to the following provisions:

10.1.1 If the Executive Director determines that the personnel's misconduct warrants a measure such as separation from service, but that personnel no longer has a UNOPS contract, the Executive Director may impose such a measure, in which case the personnel's date of separation shall not be changed but the reason for separation will be changed to reflect the Executive Director's determination.

10.1.2 The Executive Director, the General Counsel, IAIG or the HRLO may at any time suspend any investigation or proceedings, and resume them when the former personnel rejoins UNOPS or at any other time.

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[1] The severity of the measure will depend in part on the impact that the statement would, if true, have had. For example, if a person states that he/she was with X and X did not assault Y (i.e. the allegation against X is baseless), but a video recording shows that X assaulted Y right in front of that person, then the measure imposed on that person for knowingly making a false statement will be equivalent to that for assault.

[2] This is consistent with the UN Appeals Tribunal judgment in Hamdan v Commissioner-General of UNRWA 2018-UNAT-839.

[3] Including (for the avoidance of doubt) before, during or after an investigation, as well as during the disciplinary process. This Operational Instruction shall also apply to cases where a person separates from UNOPS, and then rejoins UNOPS under a different contractual modality.