

UNAIDS PCB Bureau

MEETING SUMMARY

Date: Wednesday 18 April 2018

PARTICIPANTS

Mr Daniel Graymore, Ms Fiona Lawless, Mr David Afful and Mr Nicolas Alexander (United Kingdom: representing the Chair); Mr Yang Xiaochen (China: representing the Vice-Chair), Mr Samir Rahem (Algeria: representing the Rapporteur), Ms Alessandra Nilo and Ms Sonal Mehta (representing the PCB NGO Delegation); Ms Ann Burton and Mr David Sunderland (UNHCR: representing UNAIDS Cosponsors).

UNAIDS Secretariat: Ms Gunilla Carlsson, Deputy Executive Director, Mr Morten Ussing Director, Governance and Multilateral Division, Ms Samia Lounnas, Senior Governance Advisor.

MEETING AGENDA

- Consideration of the draft terms of reference and timeline of the Independent Expert Panel on preventing and addressing harassment at UNAIDS.

SUMMARY

Chairing the meeting of the PCB Bureau, Mr Daniel Graymore welcomed the Bureau members to an extraordinary meeting to consider the draft terms of reference and timeline of the Independent Panel on preventing and addressing harassment at UNAIDS.

Mr Graymore recalled the Bureau members that at the Missions' Briefing held on 28 February 2018, UNAIDS Executive Director called for the creation of the Independent Expert Panel in addition to UNAIDS' Five-Point Plan launched in February 2018 to prevent and address harassment, including sexual harassment, and unethical behaviour within UNAIDS. The Five-Point plan will ensure that inappropriate behaviour and abuse of authority is identified early on, that measures taken are properly documented and that action to be taken follows due process and is swift and effective. It will be led by Gunilla Carlsson, Deputy Executive Director at UNAIDS.

The PCB Bureau Chair introduced the proposed terms of reference of the Independent Expert Panel on preventing and addressing harassment at UNAIDS and the Bureau agreed the following changes in the draft (see annex):

Overall

- The independent nature of the Panel is fundamental.
- The UNAIDS PCB Bureau will lead and provide the oversight on the work of the Panel.
- A UN definition of harassment (see footnote): It was agreed that the definition used in the training modules of the UN on preventing harassment including sexual harassment and abuse of authority will be used.
- The title of the panel: *Independent Expert Panel (Panel) on the on prevention of harassment¹, including sexual harassment; sexual exploitation and abuse; bullying and abuse of power at UNAIDS Secretariat.*

Objectives

- The Independent Panel will overall be forward looking. It will also review the current situation in the UNAIDS Secretariat, including **by looking back over the last 7 years**, so as to assess the organisational culture of the UNAIDS Secretariat with particular reference to harassment, including sexual harassment; sexual exploitation and abuse; bullying and abuse of power; and to understand why there are high reported levels of harassment on the one hand, but very few formal complaints.
- The panel will recommend a comprehensive set of prioritised measures relating to organisational culture, policies and procedures which will enable the UNAIDS Secretariat – and, as appropriate, the wider UN family – to effectively **prevent, manage and respond** to harassment, including sexual harassment; sexual exploitation and abuse; and bullying and abuse of power in the workplace;

Scope

- The panel will review, evaluate and make recommendations. Some of these issues addressed will be firmly within the control of UNAIDS, whilst others will rely on external systems. The panel will look at all relevant areas, will be **informed by existing UN policies and processes** and ensure recommendations are directed according to leadership and responsibility.
- The Panel will make recommendations to ensure UNAIDS has sufficiently strong internal system systems to identify unacceptable behaviour and take swift remediate action. Drawing from best practice, it will also provide recommendations on **ensuring partners receiving support from UNAIDS have adequate safeguards** on harassment, including sexual harassment; sexual exploitation and abuse; and bullying and abuse of power.
- The difference between sexual exploitation and abuse (SEA) and sexual harassment was raised during the meeting. The Bureau discussed as to what extent to the Panel would address the SEA given that this relates to beneficiary populations. It was agreed that the Panel would provide recommendations on how to prevent and respond to SEA at UNAIDS Secretariat (including country offices) but would not be specifically looking to what extent this was occurring (which was felt to require a different methodology and a large sample of stakeholders in particular CSOs).

¹ Harassment is any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person. Harassment may take the form of words, gestures or actions which tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another or which create an intimidating, hostile or offensive work environment." <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N08/238/36/PDF/N0823836.pdf?OpenElement>

Issues outside the scope of the work of the Panel

- Whilst the Panel will **have access to confidential information and will be able to assess past investigations, it will not formally review past investigation or investigate specific cases.** Any confidential information the panel has access to will **be treated in confidence** with appropriate controls.

Composition and Membership

The panel will be composed of approximately 3 - 5 independent experts in the following fields:

- Human rights, **ethics** and gender equality.
- Organizational culture, leadership and performance.
- Human resource expertise, including workplace discrimination and sexual harassment.
- Violence against women and girls, including sexual exploitation and abuse, **victims advocacy.**
- International Organisations and **multi-cultural environments.**

As far as possible the panel will have balanced gender and regional representation. Panel members will be required to submit a declaration of interest (DOI) and sign a confidentiality undertaking.

Resources available to the Panel

- The Panel will have a budget to commission specific pieces of work as needed to inform its analysis and recommendations.
- One staff member of UNAIDS Secretariat will act as a focal person to provide the relevant information, as required, by the Panel and the PCB Bureau. The PCB Bureau will have the right to choose an appropriate candidate(s) for this role.

Governance

- The Bureau will consult with member states, NGOs and Cosponsors to finalise the approach and throughout the process. **The PCB Bureau will act as the oversight structure for the Panel.**

Professional services firm

- **The PCB Bureau will contract, through UNAIDS, a professional services firm to provide a list of suitable candidates for the Panel. The firm will also develop a draft conceptual framework based on the Panel's terms of reference.**
- **The conceptual framework would include a budget and define additional resources required, for example the provision of secretariat services and support functions to collect information and provide a detailed analysis and diagnosis on the issues within the scope of these terms of reference. This team would be a primary resource for the Panel, would have the same resources at their disposal and is expected to be required for short, intense periods.**

Selection

- The **professional services firm will propose a panel and chair** for approval by the PCB Bureau, ensuring the Panel meets agreed role profiles, expertise and experience.

Reporting

- The **final Panel report will be released to the UNAIDS PCB through the PCB Bureau.**

Modalities of work and commitment expected

- Subject to business needs, the Panel will participate in meetings every 6 weeks. The members of the Panel are expected to participate in approximately 5 meetings; and to review, comment and **approve the preparatory and final report of the Panel.** With due consideration to expediency, timing and resources, it is recommended that most of these meetings be face to face.
- **The final report of the panel will be signed off by panel members and made available to the PCB.**

Guiding principles of the work of the panel. No changes.

The PCB Bureau agreed to finalise the changes in the draft terms of reference which would be the basis of the consultation process with the three PCB constituencies (Member States, NGOs and Cosponsors).

The PCB Bureau agreed on the following timeline for the work of the Panel and to reconvening on Monday 30 April to finalise the terms of reference of the Panel.

Proposed timeline for the work of the Panel

13 April – Draft Terms of Reference sent to PCB Bureau for comments
18 April – Bureau meeting to finalise remaining issues on the 1st draft
19 April – Terms of Reference finalised and send out to PCB Members (giving them until Friday 27 April (1 week) for comments)
24 April – Missions briefing (PCB Member States)/consultation
26 April – PCB NGO Delegation briefing/consultation
26 April - UNAIDS Cosponsors briefing/consultation
30 April – Bureau meeting to incorporate views following consultations with the UNAIDS PCB constituencies

NB: Also to be included in this timeline, following consultation and discussion at the Bureau, is the timeline for the appointment of the Panel Chair and experts.; dates for further consultations; dates for interim reports.

[Annex follows]

Annex

High Level Expert Panel on the prevention and response to harassment, including sexual harassment, at UNAIDS and beyond

Draft Terms of Reference (13 April 2018)

1. Background and context

About UNAIDS

Established by an ECOSOC Resolution of the United Nations General Assembly (UNGA), the Joint United Nations Programme on HIV/AIDS (UNAIDS) supports and coordinates the efforts of eleven cosponsoring UN organizations (ILO, UNICEF, UNDP, UNFPA, UNESCO, WHO, World Bank, UNHCR, UNODC WFP and UN Women), and works with a wide range of other private and public partners in the global response to AIDS.

UNAIDS is governed by a Programme Coordinating Board (PCB) with representatives of 22 governments from all geographical regions, five representatives of nongovernmental organizations including people living with HIV, and the eleven Cosponsors. The Cosponsors also meet as a Committee of Cosponsoring Organizations (CCO) – a standing committee of the PCB. UNAIDS Secretariat has presence in some 80 countries as well as 6 regional offices (East and Southern Africa, Middle East and North Africa, West and Central Africa, Latin America and the Caribbean, Eastern Europe and Central Asia, and Asia Pacific).

The programme of work of the PCB is coordinated by the PCB Bureau. The Bureau is intended to maximize the effectiveness and efficiency of the PCB. Specifically, the responsibilities of the Bureau include:

- Facilitating the smooth and efficient functioning of the PCB sessions;
- Facilitating transparent decision-making at the PCB;
- Preparing the agenda, and recommending the allocation of time to, and the order of discussion items;
- Providing guidance on PCB documentation, as needed; and
- Carrying out additional functions as directed by the PCB.

Context for the High Level Expert Panel

There is currently a much-needed spotlight on the issue of harassment, particularly sexual harassment across multiple sectors, including the private sector, governments, international organizations and civil society. Harassment, including sexual harassment, is prevalent across various settings and has been, to a great extent, underreported. The United Nations (UN) - including UNAIDS - is not immune to this, and must also take stock of what has worked and what has not worked to prevent and address harassment, including sexual harassment at the workplace,

while identifying best practices and concrete steps to better respond to harassment moving forward.

At UNAIDS, the UNAIDS Secretariat Staff Association (USSA) has tracked staff perceptions on harassment and ill-treatment since 2011 through its annual anonymous staff survey. In the 2017 staff survey, 5.4% (23 people) of the 427 respondents reported that they had experienced sexual harassment in the workplace. Staff also reported experiencing ill-treatment², discrimination³ and abuse of authority⁴.

Concerned by this data, recognizing that sexual harassment, exploitation and abuse is often a form of gender-based violence rooted in wider gender inequality, and in line with its commitment to uphold and promote human rights, gender equality and diversity, UNAIDS has taken various measures to prevent and address harassment at the workplace. In addition to a policy framework with rules and regulations, as well as procedures to report harassment should it occur, the actions have included several all-staff communications from the Executive Director, stating that there is a zero tolerance policy with regard to harassment in UNAIDS; mandatory e-learning course on preventing and addressing harassment; wellness visits and capacity building of field offices and departments to address managerial or operational concerns; and dedicated sessions between managers and staff on the issues of sexual harassment and ethical behaviour.

Staff have been made aware of the informal and formal mechanisms available to report a complaint and have been reminded of the policy and procedures on Whistleblowing and Protection Against Retaliation. The organization also makes assistance and support available to staff from the Human Resources Management, the Senior Ethics Officer, Staff Health and Wellbeing Services and the Office of the Ombudsman.

However, despite these measures, and although some progress has been made in some regions in addressing the issues, there has been little change over the years in the numbers of staff reporting harassment, ill-treatment and abuse of authority in the USSA survey.

In addition, UNAIDS recently had a formal complaint concerning sexual harassment which has attracted media attention. This led to more people speaking out about their experiences. A number of member states have been clear that tackling

² Receiving criticism of private life (17%); being ridiculed in front of others (24%); feeling diminished by tasks given (43%); being talked badly about (42%); being called obscene or other degrading names (14%); being shouted at (32%)

³ Based on gender (8%); disability (4%); sexual orientation or gender identity (5%); political or religious views (7%); origins or nationality (10%)

⁴ Receiving threats related to continuation of job (15%); Repeatedly being asked to stay in the office after regular hours (36%); Work being appraised incorrectly or in a hurtful manner (25%)

harassment – drawing on the stubborn figures from the staff survey, the public case and the subsequent concerns expressed by others – must be a priority for UNAIDS and for the wider UN family.

In February 2018, the Executive Director of UNAIDS, Michel Sidibé, announced a five-point plan to prevent and address harassment, including sexual harassment, and unethical behaviour within UNAIDS. The plan aims to ensure that inappropriate behaviour and abuse of authority is identified early on, that measures taken are properly documented and that action to be taken follows due process and is swift and effective. The five-point plan will be led by the newly appointed UNAIDS Deputy Executive Director, Management and Governance, Gunilla Carlsson.

The Executive Director also called for an establishment of an independent expert panel to provide recommendations to UNAIDS on what needed to be done to prevent and address harassment at the workplace.

At the meeting of the PCB Bureau on 28 February 2018, the Chair stressed the importance of this issue and the bureau agreed that this should be a priority for UNAIDS and that it would be appropriate for the PCB to have a dedicated debate on this topic.

It has been agreed that the independent expert panel should be convened by and report to the PCB through the bureau.

2. Objectives

The panel will:

- i) Review** the current situation in UNAIDS Secretariat, including by looking back over the last 5 – 7 years, including so as to assess the organisational culture of the UNAIDS Secretariat with particular reference to harassment, including sexual harassment; sexual exploitation and abuse; bullying and abuse of power; and to understand why there are high reported levels of harassment on the one hand, but very few formal complaints.
- ii) Evaluate** the effectiveness of existing policies and procedures to prevent and address harassment, including sexual harassment; sexual exploitation and abuse; bullying and abuse of power in the UNAIDS Secretariat workplace;
- iii) Recommend** a comprehensive set of prioritised measures relating to organisational culture, policies and procedures which will enable the UNAIDS Secretariat – and, as appropriate, the wider UN family – to effectively prevent and address harassment, including sexual harassment; sexual exploitation and abuse; bullying and abuse of power in the workplace;

3. Scope – issues to be addressed

The panel will review, evaluate and make recommendations on the following issues. Some of these issues will be firmly within the control of UNAIDS, whilst others will rely on external systems. The panel will look at all relevant areas, and ensure recommendations are directed according to leadership and responsibility.

- **Leadership and culture** – what is not working now, and how can UNAIDS create a safe and empowering organisational culture where harassment, including sexual harassment; sexual exploitation and abuse; bullying and abuse of power are unacceptable and people feel safe to challenge unacceptable behaviour.
- **Policies and strategies to prevent harassment, including sexual harassment; sexual exploitation and abuse; bullying and abuse of power** – in what ways are current policies, systems and mechanisms not working, how these are implemented in practice and what would best practice look like, for example, in relation to formal policies and strategies, training and capacity building, internal communications, and peer support networks or other safe spaces for people to talk and raise issues before they escalate.
- **Formal reporting** – a key question for the panel will be why, despite fairly static reported cases of sexual harassment, very few formal complaints are brought. Is enough being done to protect those who raise complaints? What can be done to give those experiencing harassment, including sexual harassment; sexual exploitation and abuse; bullying and abuse of power confidence to bring formal complaints where appropriate?
- **Investigation processes - access to justice:** The panel will review investigation processes applied by UNAIDS, including supporting processes in Finance and HR, and will make recommendations on how to ensure these are fit for purpose, reflecting best practice, including in relation to evidence standards, confidentiality, capacity, timeliness, and responsiveness.
- **Controls and assurance:** The panel will make recommendations to ensure UNAIDS has sufficiently strong internal system systems to identify unacceptable behaviour and take swift remediative action. Drawing from best practice, it will also provide recommendations on ensuring partners receiving funding from UNAIDS have adequate safeguards on harassment, including sexual harassment; sexual exploitation and abuse; bullying and abuse of power.
- **Accountability:** the panel will make recommendations to ensure accountability is visible and ensured at all levels of the organization (senior management; anyone with supervisory responsibilities; each staff member). Issues to consider here could include performance and management review systems; making consequences for inappropriate and unethical behaviour known to staff; etc.

4. Issues outside the scope of the work of the panel

- The panel will not investigate specific cases in order to protect confidentiality and privacy of individuals concerned and to respect due process.

5. Composition and Membership

The panel will be composed of approximately 5 independent experts in the following fields:

- Human rights and gender equality
- Organizational culture, leadership and performance
- Workplace discrimination and sexual harassment
- Violence against women and girls, including sexual exploitation and abuse
- UN internal justice system
- Victims advocacy

As far as possible the panel will have balanced gender and regional representation.

At its first meeting the Panel will elect, by quorum, co- chairs to facilitate discussions and report to the PCB.

Panel members will be required to submit a declaration of interest (DOI) and sign a confidentiality undertaking.

6. Resources available to the panel

The Secretariat will provide the panel with full access to information as requested, including on:

- Relevant WHO and UNAIDS Policies, including policies of harassment, diversity and inclusion, on the protection of whistle-blowers, etc.
- UNAIDS Gender Action Plan
- WHO Staff Rules and Regulations
- Results of the USSA survey from 2011 to 2018, as provided by the USSA
- Progress reports on the UNAIDS “5-point+ plan”
- Information on how harassment complaints have been handled through informal and formal means
- Interviews with staff (category and criteria to be defined).

In the event of a disagreement between the Secretariat and the panel as to whether or not information should be shared with the panel, the PCB Bureau will adjudicate, drawing on legal advice as needed.

The panel will have a budget of \$X to commission specific pieces of work as needed to inform its analysis and recommendations.

One staff member of UNAIDS will be seconded to the panel to act as their secretariat. The panel will have the right to choose an appropriate candidate(s) for this role.

The panel will also contract an independent consultant/team to, on behalf of the panel, collect information and provide a detailed analysis and diagnosis on the issues within the scope this TOR. This team would be a primary resource for the panel, would have the same resources at their disposition and is expected to be required for short, intense periods of review.

7. Expected outputs

- Preparatory report to the 42nd meeting of the PCB
- One interim report after the preparatory report and before the final report.
- Final report to the 43rd meeting of the PCB with recommendations

8. Governance

TORs, governance, timelines and reporting will be agreed by the PCB, through the PCB Bureau, currently composed of the PCB Chair (United Kingdom), the PCB Vice-chair (China), the Rapporteur (Algeria), the NGO Delegate from Latin America Caribbean and UNHCR, as the Chair of the Committee of Cosponsoring Organizations. As set out in the Modus Operandi of the PCB, the three Officers of the PCB Bureau have been elected by the PCB taking into account a fair geographical distribution. The Bureau will consult with member states, NGOs and co-sponsors to finalise the approach and throughout the process.

Selection

Panel members will be selected by the PCB Bureau following consultations, ensuring gender and regional representation as much as possible. At its first meeting the Panel will elect, by quorum, co-chair to facilitate discussions and report to the PCB.

Reporting

The Panel will report to the UNAIDS PCB, chaired by the United Kingdom.

Reporting will be facilitated by the PCB Bureau.

The Chair of the panel will update the PCB Bureau at regular intervals. Importantly, these progress reports will also be used to inform and hone the ongoing implementation of UNAIDS' "5-point+ plan".

The panel will present a preparatory report at the 42nd meeting of the PCB on 27 June. This report will present initial observations and showcase best practice in addressing harassment in international organisations.

A final set of recommendations will be presented to the 43rd meeting of PCB. As per all PCB reports, the final recommendations will therefore need to be finalised 6

weeks ahead of the meeting (on 1 November). The 43rd PCB will also be an opportunity for the UNAIDS Secretariat to present its Management Response.

Consultations

The panel will ensure wide consultation with key stakeholders, including but not limited to UNAIDS staff, the UNAIDS Staff Association (USSA), legal, women's rights and gender equality advocates, civil society advocates, in a structured way. Members of the PCB, including civil society, will be able to share resources and their experiences of best practice through the Panel's secretariat.

9. Modalities of work and commitment expected

Subject to business needs, the panel will participate in meetings every 6 weeks. The members of the panel are expected to participate in approximately 5 meetings; and to review and comment on the interim and final report of the panel. With due consideration to expediency, timing and resources, it is recommended that most of these meetings be face to face.

The panel will work on consensus basis and the final report must be endorsed by all panel members. Should consensus be impossible, dissenting panel members may note their concerns in an annex to the final report.

The co-chairs will additionally prepare the panel's report and present the findings to the PCB and UNAIDS leadership.

10. Guiding principles of the work of the panel

All aspects of UNAIDS work are directed by the following guiding principles:

- aligned to national stakeholders' priorities;
- based on the meaningful and measurable involvement of civil society, especially people living with HIV and populations most at risk of HIV infection;
- based on human rights and gender equality;
- based on the best available scientific evidence and technical knowledge;
- promoting comprehensive responses to AIDS that integrate prevention, treatment, care and support.

Moreover, the members of the panel are expected to:

- Demonstrate a commitment to human rights, gender equality, respect for diversity, inclusion, transparency and accountability;
- Consider diverse perspectives, including cultural diversity, sexual and gender diversity, etc.;

- Seek the inputs and engagement of UN member states, civil society, UNAIDS Cosponsors as well as UNAIDS Secretariat staff;
- Be forward looking and focus on possible future strategies based on the experience of the past, lessons learnt and international best practices;
- Work collaboratively with other members of the panel and with those assisting the work of the panel.