Notes from the eighth meeting of the Working Group of the Programme Coordinating Board (PCB) to strengthen the PCB's monitoring and evaluation role on zero tolerance against harassment, including sexual harassment, bullying and abuse of power at UNAIDS

DATE: 28 May 2019

VENUE: Teleconference

OPENING OF THE MEETING AND ADOPTION OF THE AGENDA

1. The Chair opened the meeting with a roll call. Two Working Group members were not present due to World Health Assembly obligations.

2. The Chair presented the proposed meeting agenda. The main purpose was to review the updated UNAIDS Management Action Plan (MAP), which had been circulated a day earlier to Working Group members. Also scheduled for discussion was a draft of the paper the Working Group would present to the June session of the PCB and a draft of the human resources report, which the Director of Human Resources Management at the UNAIDS Secretariat had shared.

MANAGEMENT ACTION PLAN

3. The Senior Adviser, Change Management at UNAIDS, updated the Working Group on the MAP and thanked the group for the helpful recommendation to elaborate a theory of change more clearly in the MAP.

4. He said the most MAP activities have launch milestones for later in 2019 and early 2020. Some of the envisaged steps were sequential and could only be taken once other steps had been completed.

5. Regarding resourcing, the Senior Adviser said an estimated USD 4.1 million was needed through end-2021, equal to about 2% of UNAIDS Secretariat staff costs. About one quarter (i.e. equivalent to 0.5% of total staff costs) of that amount was for investment in staff learning and development. Good practice in the UN system calls for devoting about 2% of staff costs to learning and development; UNAIDS currently spends approximately 0.2% in this area. Investing USD 1 million would therefore increase UNAIDS spending on staff development to about 0.8% of staff costs—still well short of the target but a step in the right direction.

6. He told the meeting that the latest UNAIDS Secretariat Staff Association survey data showed that major priorities for staff were learning and development, and work/life balance. The Staff Association had shared the survey results with senior management.

7. Regarding measuring outcomes and results, the MAP envisaged that the staff association survey would be complemented with a management-led but externally conducted survey. The annual survey would generate data at the office and team level, and be accompanied by tailored coaching and support, as needed, as well as recognition of high-performing teams.

8. The Chair thanked the Special Advisor for the presentation and said it was useful to know where the intended investment puts UNAIDS against the benchmark and good practice. She opened the floor for discussion.

9. A Working Group member commented that the MAP seemed to bring together the various desired elements well, reflecting a balance between prevention and "softer" elements, such as tackling incivility, as well as the "harder edge" on policies and systems. Regarding investigative systems, the member recalled that the Staff Association had indicated there was still a lack of complete confidence in the investigative process. He asked the Secretariat for reactions. The speaker also asked for clarification in the MAP of certain practical matters, such as timelines for the duration of investigations and the standards of proof to be used.

10. There were also questions about the cases currently being investigated by the WHO Internal Oversight Service (IOS), the status of the service-level agreement with IOS, how the MAP would link with the Chief Executives Board for Coordination Task Force on Addressing Sexual Harassment within the Organizations of the United Nations System, and how certain aspects of organizational culture and behaviour, including among senior management, would be addressed.

11. The Chair noted that earlier drafts had mentioned actions regarding an independent investigative mechanism; she asked what the current thinking was. She also asked what actions were planned to communicate clearly with staff how and where they could lodge complaints and seek resource support. Finally, the Chair asked whether the guide for managers on how to prevent and address sexual harassment, which had been prepared at the inter-agency level and approved in May 2018, featured in the current version of the MAP.

12. In reply, the Senior Advisor said that the Secretariat recognizes the scale of effort that is needed to be effective both on prevention and the promotion of an enabling working environment, as well as to improve mechanisms. Plans, hopes and resources must be aligned.

13. He told the meeting that open cases, i.e. cases under investigation by the WHO Internal Oversight Services, had to be completed by IOS before they come back to the UNAIDS Secretariat for further action and that the time required to finish an investigation can vary from case to case. Regarding the service-level agreement with IOS, discussions had been initiated, he said. Further discussion would be needed regarding the staffing and resource implications for IOS. He added that increased complaints at WHO had led to a backlog of IOS cases and the office's staffing level had been discussed at the recent session of WHO's governing bodies.

14. Regarding the harassment policy, UNAIDS had reached out to WHO for an update on the most recent developments regarding the draft, the Senior Adviser said. There had been extensive consultations in the past two years, and the hope was to soon arrive at a final policy that would be aligned with and build upon the CEB model policy.

15. He said there had not been a discussion regarding professionalization the UNAIDS Global Advisory Committee (GAC), which has an important advisory role concerning investigations of harassment. Some administration of justice models are completely professionalized and do not include a role for a disciplinary board or peer-review mechanism to enter into the picture, while others do include such a role. WHO's Global Board of Appeal is an example of a hybrid review body, with an independent, professional Chair, and management-appointed and staff-elected members, who are in fact serving members of staff. There are advantages and disadvantages to each approach. For example, peer-review mechanisms can provide a measure of transparency by enabling elected staff representatives to participate in the process. The matter deserved further discussion, he said.

16. On linking the MAP actions to the CEB and wider UN reform, the Senior Adviser said the immediate aim was to move forward with actions that strengthen UNAIDS Secretariat systems, while advocating for and seeking opportunities to participate in common services in the longer term, which would address similar needs across different entities and also provide economies of scale.

17. He agreed that it was very important to change the culture, and while this necessitates the involvement of all staff, senior management had specific responsibilities, including as role models. He noted that the Acting Executive Director consistently emphasized

the importance of how staff engage with each other, the need to democratize decision-making, and prioritizing collegiality and a spirit of collaboration.

18. Regarding an independent investigative mechanism, the Senior Adviser said it appeared that some practical issues had to be further considered without losing sight of the overall objectives. In the meantime, it was important to ensure that staff are referred to the most appropriate channels for addressing their issues. The aim is to have a process where any entry point would lead to a matter being addressed appropriately, he said, and staff feel that they have access to the information and support they need to navigate the mechanisms. There was strong recognition of the need for constant information and communication with staff.

19. The Director of Human Resources Management at UNAIDS provided some specific suggestions regarding the text of the MAP, including separating one action item of the annex into two items. She suggested that the proposed actions in section 4(2) not be bundled together under a short timeframe, made specific editing suggestions and asked for clarification on section 5(c). She also noted that some of the processes described in the MAP, which involved WHO or the UN system more widely, were beyond UNAIDS' control and would probably move at their own pace. Other members also pointed out specific edits in the MAP draft, and asked questions about elements that could appear to be repetitive as they were pursuing similar objectives.

20. The Chair gave a brief update of progress with some of those wider UN system processes, which were moving ahead. Regarding the standard of proof, she explained that currently the standard of proof that applies to the ILO Administrative Tribunal (ILOAT), and therefore to cases in the UNAIDS Secretariat is "proof beyond a reasonable doubt" (while "clear and convincing proof" is used in the UN Administrative Tribunal, or UNAT, which covers other sections of the UN system). The IEP Report recommended that "the standard of proof is on a balance of probability." The Chair explained that studies comparing outcomes between tribunals using "proof beyond a reasonable doubt" and those using "clear and convincing evidence" have indicated that case outcomes were not affected by the standards of proof used, especially insofar as they apply to cases of sexual harassment.

21. A Working Group member suggested that despite reservations of some PCB members about the Independent Expert Panel's report, the Working Group still had to assess the MAP in relation to those recommendations. He asked what the Working Group intended to do regarding Panel recommendations that were not reflected in the MAP (e.g. the standard of proof) or that emerged from USSA surveys and reports. He noted that the general move towards a different standard of proof was presumably based on research and analysis, which might be a good reason for moving in a similar direction even if the UN investigations indicated it would not change much in terms of outcomes.

22. Members agreed with another suggestion that it would be mistake for the Group not to address the standard of proof issue, even if the eventual decision may be beyond the Group's control. Other members agreed.

23. It was suggested that the Working Group articulate a recommendation regarding the standard of proof as a matter of relevant to all UN agencies. The Working Group could recommend that the current Joint Inspection Unit review of investigations in the United Nations system could undertake the above analysis, the conclusion of which could be used for further decision-making.

24. A Working Group member supported the idea of a recommendation on standard of proof to the Joint Inspection Unit, and also suggested that the Group consider an additional

recommendation on standard of proof specific to the UNAIDS Secretariat. The meeting recognized that UNAIDS cannot move ahead with such changes independently from WHO and possibly even of the wider UN. It was suggested that expert analysis and advice was probably needed on these matters.

25. The Senior Adviser thanked the meeting for the helpful discussion. He said it was UNAIDS' intention for the MAP is to be complementary with and supportive of other processes and resources in the UN system. He offered some specific examples of how this could play out in practice, including with regards to reinforcing staff wellbeing services in the context of the UN System-wide staff mental health strategy.

26. Asked whether it was ready to support the latest version of the MAP draft, the members said they felt they had not yet had enough time to thoroughly review the text. At a glance, it seemed to deal with most of the issues raised in previous meeting, but more time was needed for a complete review.

27. Another Working Group meeting was already planned for May 31 to discuss the Human Resources Update report and could also be used for sharing final reflections on the MAP. It was pointed that the same date was the deadline for submitting the final draft of the MAP so it could be posted publicly on the Internet ahead of the June PCB session. The Director of Governance and Multilateral Affairs, UNAIDS, suggested that any important changes to the MAP could be added in a revised version

28. He said there's not really flexibility possible any more about the Working Group paper deadline. However, if a very important issue were raised there is a possibility of later posting a "revised version", or may be possible to add a comment to the oral statement that would be presented at the PCB session.

29. The Chair summarized the discussion and the meeting agreed to bring any final comments on the MAP to the meeting planned for May 31.

PCB REPORT STRUCTURE AND RELATED ISSUES

30. The Chair asked for questions or comments on the second draft of the Working Group report for the PCB. One comment was that the latest draft was longer and more complex and this may become a drawback. Members offered to provide more precise feedback and suggestions by the following Wednesday.

31. There was a suggestion that sections should be similar in length and that the report could point out more clearly that certain issues were not being addressed at length because they were comprehensively dealt with in the MAP. Members praised several aspects of the report features and some suggested that the tone was "too neutral". The Chair replied that the neutral tone was intentional, in an effort to ensure consensus on the paper among all stakeholders. Nonetheless, the Chair was open to additional recommendations on the text and welcomed specific edits. Members suggested that the report could be more explicit that UNAIDS staff and their wellbeing are a central concern.

32. A member suggested that the report should be as concise as possible and should convey clear guidance and recommendations for the PCB.

33. A member of the Working Group commented that the informal and early resolution of issues of concern, before they spiral out of control and become an issue of misconduct and discipline, is also important. The recommendations of the Working Group should address prevention and not only formally lodged cases and the related investigation

mechanisms. The Chair said she would consult with the Staff Association for advice on some of the recommendations. Ms Holmes volunteered to assist in revising the wording of the text related to the strengthening of the Global Advisory Committee.

HUMAN RESOURCES REPORT FOR PCB

34. The Director of Human Resources Management at UNAIDS added some clarifications about the documents, including the human resources management report she had shared with the Working Group members earlier in the day.

35. The Chair warmly appreciated the clear and comprehensive Human Resources report, particularly its responsiveness to earlier Working Group comments, the inclusion of the list of disciplinary cases and actions being one example.

WRAP-UP

36. The Chair confirmed the next Working Group meeting on May 31 to share final comments on the Human Resources report, the MAP and the Working Group paper drafts.

37. The meeting was closed.

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