



Notes from the seventh 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: 25 April 2019

VENUE: Kofi Annan Room, UNAIDS, Geneva

OPENING OF THE MEETING AND ADOPTION OF THE AGENDA

1. The Chair opened the meeting by thanking committee members for their continued commitment to the Working Group. She briefly reviewed the outcome of the fourth virtual meeting of the Group with the legal counsel. Members noted the importance of continued collaboration with legal counsel.
2. The Chair presented the proposed meeting agenda.

UNAIDS SECRETARIAT STAFF ASSOCIATION VIEWS

3. The Chair of the UNAIDS Secretariat Staff Association (USSA), briefed the meeting on staff perspectives on the Management Action Plan (MAP) and on staff experiences with the complaints investigation mechanisms.
4. She thanked the Working Group for engaging with the USSA and noted that staff had been keen to be involved in the development of the MAP and were supportive of it. She reiterated that staff were committed to UNAIDS and wanted to create an environment that allowed them to perform at their best.
5. The USSA Chair stated that the investigation process was generally perceived not to be working ideally towards just and timely resolutions. In order to reduce perceptions of impunity, the USSA believed that all allegations of misconduct should be formally investigated and should not be handled through alternative channels.
6. The USSA, through its surveys and consultations with staff, had identified key issues with the investigation process. Notably, the staff survey showed a disparity between the numbers of staff who had experienced harassment or bullying and the numbers who actually reported the incidents through formal mechanisms.
7. Such low level of reporting was attributed to staff doubts about corrective action, fear of retaliation and concerns about confidentiality. In addition, the duration of investigations was a major issue. The USSA Chair told the meeting that there were examples of cases lasting longer than the targeted nine-month period. Without closure, it was difficult for staff to move forward, she said.
8. The USSA Chair raised concerns about the lack of investigative expertise with respect to harassment, particularly sexual harassment. The current harassment policy also did not specify support for people involved in complaint procedures. She requested clear guidance for investigators working on sexual harassment cases to help alleviate such issues and urged that staff be consulted in the development of investigation policies. The policies should include clarification of procedures regarding allegations against the Executive Director, guidance to investigators on best practices, and the establishment of time targets and other performance quality indicators.
9. Further collaboration between UN investigation units to share best practice and expertise should be encouraged, she said, and support should be made available to the individuals involved during investigation processes.
10. The USSA Chair also raised concerns that the standard of proof ("beyond a reasonable doubt ") used by the Internal Oversight Services (IOS) of the World Health Organization to decide cases was too high and did not reflect what other United Nations (UN) organizations were using in their investigative procedures. The USSA suggested that the standard of proof be aligned with the severity of the allegation.

11. The USSA Chair told the Working Group that the current adjudication process of harassment complaints involved a multistep process in which the IOS investigates the complaint before its report is sent to the peer review panel, which then examines the report and makes recommendations to the Executive Director about next steps. She noted that members of the peer review panel are selected but do not receive training, legal advice or secretarial support. The USSA suggested that the body should have access to outside legal counsel or perhaps should evolve into a semi-professional body, while maintaining the staff review panel.
12. Members of the Working Group expressed their thanks for the USSA's presentations to the 43rd meeting of the PCB and to the Working Group. They asked an update on attitudes among staff following the 43rd PCB meeting.
13. The USSA Chair replied that staff were still anxious, but that there was a generally positive feeling about the direction the organization was taking. She noted the importance of rebuilding trust and reiterated that consistency, transparency and changes in the internal justice system would be vital.
14. The meeting noted ongoing deliberations at interagency level in the UN System to address sexual harassment. Some members encouraged the Working Group to take those efforts into consideration before acting. Others urged that the group should balance the need for immediate practical action while maintaining alignment with UN system-wide practices. UNAIDS had an opportunity to act as a system-wide leader on these issues, they said.
15. The USSA Chair told the meeting that no policy currently existed for allegations of interagency harassment. She expressed a hope that UN-wide reforms would take that issue into consideration.
16. Members reiterated the importance of bringing attention to the duration, guidelines and quality standards of investigations. They requested additional information about the hybrid panel proposal, the requested mechanisms of support for those undergoing these investigations and the low levels of reporting.
17. The USSA Chair suggested that the UN system-wide policy, which had been developed in 2018 to guide psychosocial support for people who had experienced sexual harassment, should include access to counselling. Additional measures could include incorporating a third-party observer in the investigation interviews and making legal advice available for people going through the process.

MANAGEMENT ACTION PLAN

18. The Senior Adviser for Change Management at UNAIDS, updated the Working Group on the Management Action Plan (MAP). He briefly described the goals of the Management Action Plan. Having recently reviewed wider UN policies, he said he hoped the Management Action Plan would serve as a model for the UN system at large.
19. The UNAIDS Senior Adviser outlined actions taken following the March 2019 Special Session of the PCB:
 - Sessions were hosted on the Action Plan and Dignity-At-Work agenda at regional management meetings in eastern and southern Africa and in the Middle East and North Africa. Similar sessions would be hosted in Asia and the Pacific in the following week;

- Positions were advertised to strengthen human resources management policy and legal capacity. A description of the Staff Welfare Officer position was being finalized (with support from the USSA);
 - Internal justice summary reports were launched and shared with all staff (outlining disciplinary measures and administrative review mechanisms);
 - An assessment centre pilot exercise for UNAIDS Country Director positions was concluded and lessons were being collated;
 - UN Common Services were being used for classification reviews and reference checking; and
 - A short-term developmental assignments policy was being launched.
20. He also provided a detailed update on each section of the MAP. Key measures outlining the desired outcomes following implementation of the Action Plan were discussed.
21. Members felt there was a need to identify and elaborate key priorities, given the expansive nature of the Plan. The onus for implementing the required changes should be on management, not staff, they said. Members also discussed the importance of messaging and of engaging field staff during implementation of the Plan.
22. The meeting requested an additional review of the MAP once it included target indicators and had been fully costed.

EVALUATION

23. The Chair briefly reviewed the development of the evaluation policy paper and recalled the Working Group's scope of work with regard to the revised policy that would be presented to the 44rd meeting of the PCB for approval.
24. The Director of Evaluation at the UNAIDS Secretariat, outlined the budgetary proposal for the Evaluation Department. The recommended allocation was 1% of annual expenditures, roughly USD\$ 2 million. The budget would cover 3-4 staff members, as well as the cost of conducting evaluations. He noted the lack of historical trend data, because this was a new function, and suggested that revisions to the budget may be needed.
25. In discussion, clarity was sought on the estimation of the budget. he noted the importance of capturing non-core funds and activities in the calculation and said he would work to clarify this in the eventual policy. The meeting supported the budgetary proposal by consensus.
26. UNAIDS' Director of Evaluation also briefed the meeting on how various entities would interact around the evaluation of the Joint Programme. The proposed architecture called for an independent evaluation department which would report directly to the Programme Coordinating Board. This core evaluation function would be complemented by other structures: an expert advisory committee (for additional oversight and guidance on behalf of the Board) and a Cosponsor evaluation group (bringing together the Evaluation Heads at Cosponsors).
27. Members of the Working Group asked for clarification of the PCB's role within the proposed architecture. The Director of Evaluation said the Cosponsor Evaluation Group would serve strictly as an advisory body. The Expert Advisory Committee would act in a more supervisory role for the evaluation office. The PCB would act as arbiter in the case of a significant difference of opinion.

28. The Working Group requested greater clarity on the advisory role of the committee and the PCB within the policy. The Working Group supported the proposed architecture by consensus.
29. UNAIDS' Director of Evaluation said the proposed Expert Advisory Committee would have 5 members: 3 Member State representatives, 1 civil society representative, and 1 Cosponsor Evaluation Group member. Those members should have evaluation expertise and should be able to provide substantive input and technical advice. For example, members could be nominated by a relevant constituency, without being existing appointees to the PCB.
30. Members suggested that the PCB's role in selecting committee members be clarified further and the proposed rotating membership. Further discussion on the final number of Member State representatives would be needed outside of this meeting.

REPORT STRUCTURE AND RELATED ISSUES

31. The Working Group discussed the general structure for its report to the 44th PCB. The Chair proposed structuring the report around the five areas of work, as defined in the Terms of Reference of the Working Group. Each section would include actions taken, discussion and recommendations to the PCB.
32. Members supported the proposed structure and offered their assistance in the drafting of the report. They briefly discussed other deliverables for the 44th session of the PCB.
33. The Chair noted that the final paper had to be submitted by the end of May. In order to meet this deadline, the Chair would provide a first draft to the Working Group by 10 May. Members would then have a week for review. The report would integrate additional conversations following the deadlines.
34. The Working Group discussed the need for additional virtual meetings to follow up on the final products of the Management Action Plan and Evaluation Policy paper.

INVESTIGATIONS—INTERAGENCY PERSPECTIVE

35. The Director of the Investigations Division (OIOS) at the UN Secretariat and Chair of the Interagency Working Group on Strengthening Investigations, briefed the meeting on the work of the subgroup and the Investigations Division.
36. The subgroup comprised investigators and lawyers from the UN system, he said. Their deliverables would be released over the next few months. Expected outputs included the development of criteria for qualification to investigate sexual harassment, a manual for investigators of such cases, training seminars and a mechanism for assessing various tribunal decisions.
37. The Director of the Investigations Division acknowledged the difficulties faced by organizations in guaranteeing the independence of investigative services. However, he also noted serious challenges in pursuing an independent investigative body as proposed in the Independent Expert Panel report. He said the organization had experienced significant issues with consultants who lacked familiarity with UN policies, for example.
38. He stated that investment in the organization's investigative function, through appropriate resourcing and professionalization of the unit, was crucial. He noted significant under-resourcing in investigation bodies throughout the UN, with variation in

staffing levels between organizations. In IOS, each investigator was assigned up to five investigations. Other investigative bodies within the UN had ratios of up to 21:1, i.e. twenty-one cases per investigator annually. Under-resourcing could affect the duration and quality of investigations.

39. The Director of the Investigations Division also encouraged developing investigators who work on sexual harassment cases full-time to ensure consistently high-quality investigations, since sexual harassment cases require specific approaches. He noted that preliminary investigations of sexual harassment cases should be brief and that upgraded training could facilitate various improvements.
40. A member requested information regarding rape investigations. The Director of the Investigations Division said his organization's practice was to also encourage the victim to report the case to local law enforcement structures. The Chair also noted that organizations which find rape allegations to be credible should report them to local authorities. The Director said it was standard practice to waive privileges and immunities in such cases in order to facilitate prosecution in a national legal system.
41. Concerns were raised about the standards of proof used in investigations. The Director told the meeting that a study of tribunal cases across the ILO Administrative Tribunal and the UN Administrative Tribunal, which use different standards of proof, had determined that the outcomes of settled cases were not affected by the differing standards of proof used, including in relation to sexual harassment cases.
42. The meeting discussed the process for handling malicious allegations.
43. Members of the committee also requested information on the possibility of shortening the proposed durations for investigations. The Director of the Investigations Division cited his own experience in sharply reducing the timelines of investigations and emphasized the importance of targets. He noted that OIOS had a five-month target for sexual harassment investigations this year and hoped to reduce that to three months within the next year.

WRAP-UP

44. The Chair reviewed the agreed-upon timeline to submit the draft of the PCB paper and summarized the next steps.
45. Members reiterated the importance of developing standards and time targets for investigations.
46. The Chair closed the meeting.

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