

# Q&A to accompany the 2019 Standard Administrative Arrangement for UNSDG pass-through arrangement, updated with SEA & SH (final version of 4 December 2019)

## Background: Rational, guiding principles, scope and approach

- **Why has a separate section on SEA and SH been included in the SAA?**
  - *The inclusion of this separate section is in response to a request of a number of key donors to UN Pooled Funds, who in Q4 of 2018 brought up the need for having text on Sexual Exploitation, Sexual Abuse and Sexual Harassment (SEA and SH) included in the SAA.*
  - *This new section builds on the existing SAA text of 2015, which already recognizes the importance of (among others)*
    - *appropriate programmatic safeguard measures in Pooled Funds (Section III),*
    - *sharing information on significant circumstances and major risks, which interfere or threaten to interfere with the successful achievement of the outcomes of the Pooled Fund (section VI),*
    - *taking necessary precautions to avoid and address unethical practices (Section VIII)*
    - *consulting around release of information regarded as sensitive (IX).*
  - *Initially the SEA and SH text was proposed to be included as an update to Section VIII: Fraud, Corruption and Unethical Practices. It was later on decided – in response to donor suggestions – to prepare a separate section.*
  
- **What are the key UN system-wide guidance documents that have informed this text?**
  - *A number of UN inter-agency policy and guidance documents related to SEA and SH have informed the text. These are notably:*
    - a) *SEA: Secretary-General’s bulletin on “Special Measures for protection from sexual exploitation and sexual abuse” (ST/SGB/2003/13);*
    - b) *SEA: United Nations Protocol on allegations of sexual exploitation and abuse involving implementing partners;*
    - c) *SEA: Reporting mechanism on SEA through the Office of the Special Coordinator;*
    - d) *SH: 2018 UN System Model Policy on Sexual Harassment, including the CEB approved definition of sexual harassment;*
    - e) *General Assembly resolutions on the Criminal Accountability of United Nations Officials and Experts on mission (e.g., resolution 62/63, and most recently resolution 73/196).*
  
- **What are the key responsibilities of PUNOs in relation to prevention, training and victim support?**
  - i. *Prevention: Effectively prevent its employees, agents or any other persons engaged to perform any services, from engaging in SH or SEA; offer employees and associated personnel training on prevention and response to SH and SEA;*
  - ii. *Response: Take all the necessary actions following a report of possible misconduct, from receiving a complaint to ensuring that appropriate disciplinary action is taken against perpetrator;*
  - iii. *Victim Assistance: Refer victims/survivors of SH and SEA to safe and confidential victim assistance;*

- **What is the scope of the current exercise of updating the UNSDG legal templates for UN Pooled Funds?**
  - *The current update of the UNSDG legal templates for UN inter-agency pooled funds, which date from 2015, is limited to including language that relates to SEA and SH*
  - *In the Memorandum of Understanding (MOU), this is done through the inclusion of a new text Section VIII: Sexual Exploitation and/or Sexual Abuse and/or Sexual Harassment*
  - *In the Standard Administrative Arrangement (SAA) this is done through the inclusion of a new Section IX: Sexual Exploitation and/or Sexual Abuse and/or Sexual Harassment, and an update in Section XIII: Notices.*
  - *The MOU, which is attachment to the SAA, and the SAA are mirror documents, with the MOU being signed before the SAA is signed. Hence, the text agreed upon for the separate section on SEA and SH in the SAA is the same text that will be included in the MOU.*
  
- **How will this new text be applicable to existing SAAs or to new SAAs for existing UN Pooled Funds?**
  - *The UNSDG approved SEA and SH text is in principle applicable to all UN inter-agency pooled funds that use legal templates based on the UNSDG standard legal agreements for the pass-through arrangement.*
  - *For existing funds, the MOUs and SAAs can be updated to reflect the SEAH text; once the updated MOU is signed, the updated SAA with the separate section IX on SEAH will be available for donors to sign. For existing UN pooled funds, for which the MOU does not yet include the SEAH text, the full text of the new section IX of the SAA can be included in the payment schedule of SAAs from the day that the SEAH text is approved by the UNSDG for use.*
  - *MOUs and SAAs for new UN pooled funds established after the SEAH text is approved by the UNSDG will all include the new section IX.*

## **Definitions:**

- **What do the following terms mean:**
  - *An allegation is a report containing Information pointing to the possible occurrence of misconduct*
  - *An allegation credible enough to warrant an investigation is where the available Information has been assessed as sufficient to warrant an investigation.*
  - *A credible allegation is an allegation substantiated by evidence following an administrative investigation*
  
- **Where do the above definitions come from?**
  - *The definitions included in the Q&A were prepared by the current chair of UN Representatives of Investigation Services (UNRIS) and have been accepted by the UN organisations for use in this context.*
  - *The definition of ‘credible allegation’ is based on the terminology adopted by the General Assembly in its resolution 62/63 on the “Criminal accountability of United Nations officials and experts on mission”, as well as in its subsequent resolutions on the same topic.*

## **Reporting to donors**

- **How can UN Pooled Fund contributors obtain information related to allegations of sexual exploitation and abuse?**

- For the vast majority of UN entities participating in UN pooled funds, information on ongoing allegations of sexual exploitation and abuse can be found at <https://www.un.org/preventing-sexual-exploitation-and-abuse/content/data-allegations-un-system-wide>. This website is periodically updated by the Secretariat after receiving updates from agencies, funds and programmes and after verification of information, in order to ensure compliance with all confidentiality requirements. The Reporting Standards and frequency of reporting are outlined on the website, with ongoing efforts to increase the frequency of reporting. In the SAA this reporting mechanism is referred to as 'The Report'.
  - A few UN organisations are currently not using 'The Report' as a reporting mechanism for SEA, but rather their own UN entity specific SEA reporting mechanism. This is notably the case for some UN organisations whose status is different to that of the UN secretariat entities, funds and programmes. Details on the reporting mechanism of these organisations is / will be included in the Annex to the extent that they are recipients of UN Pooled Funding. In 2018, UN organisations that as of now have not signed up to using the Report together received less than 1 % of the transfers out of UN Pooled Funds.
- **How will reporting on SH be handled?**
    - See SAA text (section 3 c – iv)
  - **What is the role of the Steering Committee Chair in reporting on cases that fall under section IX?**
    - See SAA text. The Steering Committee has no active role in reporting, apart from in those cases where the respective Participating UN Organization determined that a case of SEA would have significant impact on a Participating UN Organisation's partnership with the Fund and/or with the Donor(s). In those cases, the Participating UN Organisation will inform the Administrative Agent and the UN chair of the Steering Committee that a specific case, reported within the framework of 'the Report', has been substantiated and relates to a Pooled Fund. It is the responsibility of the Administrative Agent to communicate promptly with the relevant integrity / investigation offices (or equivalent) of the Donor.
    - This ensures that the Steering Committee chair is aware of an issue that may have a significant impact on the Fund and may interfere with the successful achievement of its outcomes. This is aligned with the role assigned to the Steering Committee Chair in the 2019 UNSDG Management and Accountability Framework chapter on UN inter-agency Pooled Funding.

## **Communication and transparency**

- **What are the expectations on the communication around release of information regarded as sensitive?**
  - The information being shared on SEA reflects the standards of reporting of the Secretary-General's reporting mechanism on Sexual Exploitation and Sexual Abuse (the Report) and contains the same level of detail as found in the Report.
  - Donor, the Administrative Agent and the Participating UN Organizations are committed to principles of transparency with regard to the implementation of the Programme, consistent with their respective regulations, rules, policies and procedures. The Donor, the Administrative Agent, Participating UN Organizations and the Host Government, if applicable, will endeavor to consult prior to publication or release of any information regarded as sensitive. See 2015 SAA, section IX (2019 SAA, section X).

*Annex 1: Outline of current reporting mechanism on SEA of UN entities not using the SG's reporting mechanism*

**PAHO:** PAHO has several reporting mechanisms for SEA which are publicly available on [PAHO's website](#).

- One of PAHO's mechanisms is through our Investigations Office, an independent entity which reports directly to PAHO Member States through the Organization's Governing Bodies. The "Annual Report of the Investigations Office" is publicly available and includes:
  - Reports of alleged wrongdoing received, by type;
  - Investigation reports issued to PAHO, by type;
  - Results of Investigation reports including details as to the location of the alleged wrongdoing, the nature of each allegation, and the investigative findings and action taken by PAHO.
- The Ethics Office, another independent entity which reports directly to the Governing Bodies of PAHO, also prepares publicly available annual reports encompassing all ethics-related issues within the Organization. As independent entities, the Investigations and Ethics Offices can meet with Member States at any time.
- The PAHO Department of Human Resources Management has submitted publicly available reports on SEA to Governing Bodies, which included disciplinary measures and decisions taken by the Organization in cases of misconduct.
- In addition, PAHO's Audit Committee considers and holds in camera/private meetings at least twice a year with PAHO entities, including on any matter related to SEA that may arise. PAHO's Audit Committee reports annually to Governing Bodies and all its reports are also publicly available.

While PAHO appreciates the donors' efforts to address the important topic of SEA, PAHO, as an independent specialized agency, is not in a position to accept the donors' request of having "all participating organizations, including specialized agencies, report via the Report on credible allegations related to activities under the SAA".

PAHO's constitutional and legal status is different from that of the organs and programmes of the UN. PAHO is the specialized health agency of the Inter-American System, established under the Charter of the Organization of American States (OAS) with more than 115 years of experience dedicated to improving the health and living conditions of the peoples of the Americas. In 1949, PAHO agreed to take on the additional role of serving as the Regional Office for the Americas of WHO. In so doing, PAHO retains a legal personality that is separate from WHO with its own governance; a quota system based on the OAS legal structure; its own budget, planning and accountability system; and its own reporting and statutory framework. Accordingly, the Secretary-General's reporting mechanism on SEA cannot be applied to PAHO, an independent specialized agency. Additionally, such a requirement would have the unintended effect of undermining or weakening PAHO's own internal policies, procedures, rules and regulations on reporting of SEA, which are fully transparent as demonstrated by our reporting mechanisms on SEA/SH.