

Investigation Process and Report Preparation

Adapted to fit ABAAD's structure from the "Operational Guidelines on Conducting Investigations and Preparing Investigation Report" by UNHCR 2016

Introduction

The Core Humanitarian Standards (CHS) Alliance puts a high priority on the protection of affected populations from sexual exploitation and abuse, fraud and corruption by aid workers in humanitarian context. CHS Alliance, as part of its global efforts, works towards making humanitarian action more accountable to people affected by crisis. In addition, complaints present significant opportunities to improve services and strengthen relationships with stakeholders, as well as to test assumptions about community needs. Good complaints handling systems also allows beneficiaries to enforce agencies' claims about quality and accountability. On the other hand, mishandled complaints can undermine community confidence in agencies and even compromise security¹.

The investigation process provides an overview of the key steps and issues organisations should consider when responding to serious complaints including fraud, corruption and sexual exploitation and abuse. The principles of these guidelines can be equally used and adapted for handling all kinds of complaints received. They summarise the **'who, what, when, why, where and how'** of establishing effective complaints mechanisms, managing and investigating complaints and reporting on findings. The protocol should identify potential difficulties and offer practical responses and solutions. Nonetheless, before planning and conducting investigations, agencies need to have a safe, confidential and effective complaints handling mechanism in place. These guidelines provide key minimum steps organisations should consider when setting up complaints handling mechanisms and responding to serious and sensitive complaints. In general, such guidelines/protocols are contextualised according to organisational policies and national jurisdiction¹.

Purpose

The purpose of the Investigation Guidelines is to examine and determine the veracity of allegations of corrupt or fraudulent practices as defined by each institution including with respect to, but not limited to, projects financed by the organization, and allegations of misconduct on the part of the organization's staff members.

1. Inform investigation participants, the subject(s) of an investigation and other stakeholders about the investigative process, and

¹ CHS Alliance. (2015, November). GUIDELINES FOR INVESTIGATIONS: A guide for humanitarian organisations on receiving and investigating allegations of abuse, exploitation, fraud or corruption by their own staff. Retrieved from https://www.chsalliance.org/files/files/Investigation-Guidelines-2015_English.pdf

2. Guide the investigative process to ensure that investigation activities are conducted thoroughly, objectively and effectively, in accordance with professional standards and best international practice.

What is misconduct?

Misconduct is any illegal or morally wrong behavior that comprises non-adherent acts to ABAAD's code of conduct and failure to observe the organization's rules and standards. It may take, but not be limited to, any type of the following:

- Sexual harassment
- Work place harassment and abuse of authority
- Theft
- Assault or threats
- Non-compliance with local laws that are compatible with international norms and standards
- Breach of confidentiality
- Sexual exploitation and abuse
- Fraud
- Corruption
- Gross negligence
- Discrimination
- Conflict of interest
- Misuse of assets
- Risk of life to staff or others

Fundamental Standards for investigation

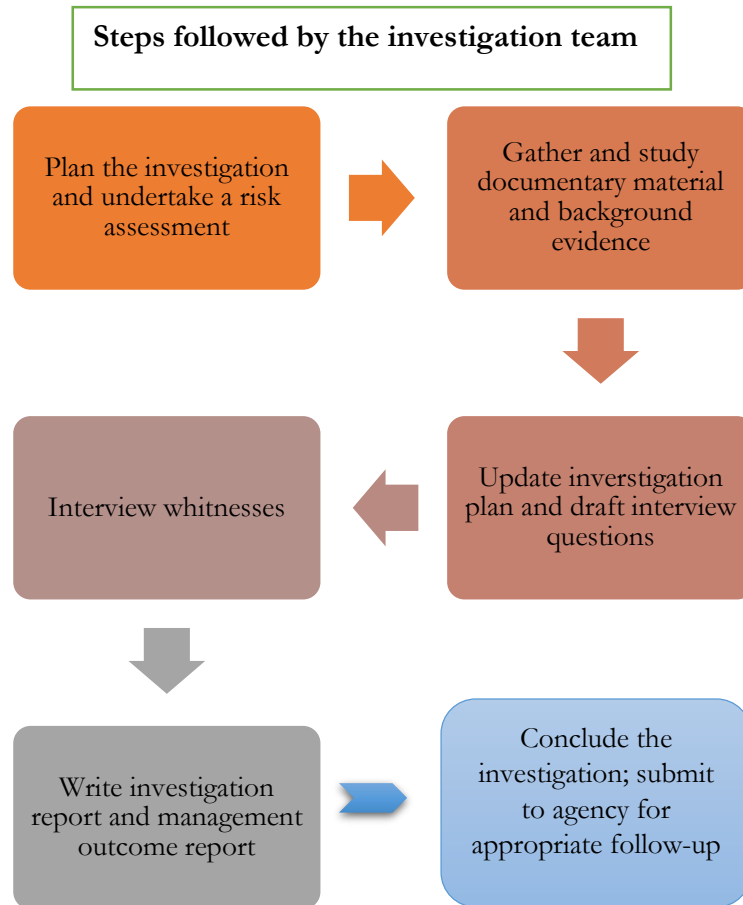
- Examine and determine the accuracy of allegations of misconduct practices
- Maintain objectivity, impartiality, integrity and fairness throughout the investigative process
- Disclose any actual or potential conflicts of interest the investigator might have
- Take reasonable measures to protect the confidentiality of any non-public information associated with the investigation
- Base the findings of the investigation on facts and related analysis

Standard of proof used in disciplinary proceedings

- Where there is reason to believe that an ABAAD staff member (or individual with a contractual link to ABAAD) has engaged in unsatisfactory conduct for which a disciplinary measure may be imposed, the investigation team has the authority to undertake an administrative fact-finding investigation.
- The standard of proof of evidence required to institute disciplinary proceedings is normally on the balance of probabilities; the findings are based on the more convincing evidence and its probable truth or accuracy. This is known as the “preponderance of the evidence”. However, in cases where termination is a possible outcome, a higher “clear and convincing” standard should be established. Clear and convincing proof requires more than a preponderance of the evidence but less than proof beyond reasonable doubt – it means that the truth of the facts asserted is highly probable.

Steps after receiving the allegation





1. Reporting possible misconduct

- Staff members have an existing duty to report any possible misconduct. We can receive reports at any time: 24 hours a day, seven days a week. The report should be made in good faith and without malicious intent. There should be a reasonable belief that misconduct has occurred.
- Reports can be received at any of the following contacts:
 1. **Email:** Accountability@abaadmena.org
 2. **Mobile phone/WhatsApp:** +961 81 696 575
 3. **In person:** either with the social/case worker present at all ABAAD centers, or by taking an appointment by calling/messaging the above mobile number
- When reporting possible misconduct, individuals should provide as much information as possible, including any type of evidence already available or known to them.
- Information received from anonymous sources will be assessed by the investigation team and may lead to an investigation. However, it is important that anonymous reports

include sufficient detail to allow for independent corroboration of the information reported. If it is not possible to independently corroborate the information provided by the anonymous source, the complaint will not be investigated.

2. Receipt and assessment of reports of possible misconduct

- All reports of possible misconduct will be logged in a confidential register and assigned an identification number.
- The Head of the Investigation team has the authority to determine whether the opening of an investigation is necessary. Subject to the approval of the Investigation Team Leader, the investigation team may request others outside their team to assist with the initial assessment of a complaint or report of possible misconduct.
- Not every complaint or report of possible misconduct requires investigation. Some complaints may be resolved through informal dispute settlement mechanisms. In particular, complaints involving communication problems or misunderstandings that can be resolved by discussion between the parties or with a supervisor or mediator would not normally warrant an investigation.
- The initial assessment is to determine whether an investigation is necessary. This preliminary process is not an investigation and should not normally involve any investigative steps. In assessing the report of possible misconduct, relevant factors to take into account include:
 - How the allegation(s) was reported;
 - Who reported the allegation(s);
 - When the report was made (date and time);
 - The nature of the allegation(s) (e.g. date, location and description of events);
 - The identity and status of the person(s) implicated or others in the report;
 - Whether any other evidence came with the report (e.g. emails or photos);
 - If any issues require urgent attention;
 - Whether the complaint is trivial, frivolous or upsetting; and
 - The time between the allegation and the date of reporting it.
- If the complaint received does not fall within ABAAD's mandate or does not constitute misconduct (e.g. contractual disputes, performance issues), the focal point will not pursue the matter, but may advise an alternative course of action without revealing the source.

3. Registering an investigation

- The investigation team retains discretionary authority to decide or decline to pursue an investigation of alleged misconduct. If the investigation focal point determines that an investigation is necessary, the case will be formally opened and an investigation case number assigned, and an investigation team assembled if needed. The investigation team will normally inform the source of its decision to open an investigation.

- The investigation team has limited resources and may prioritise specific investigations to ensure that the most serious allegations, which are most likely to adversely impact ABAAD's operations, are investigated promptly. The investigation team's decision will take into account the interests of the Organization, due process for all personnel, the interests of justice as well as the requirements of the system of accountability. The complexity of the matter under investigation and the priority of the case will be determining factors in the conduct and conclusion of an investigation.

4. Due process rights

- The right to a fair notice:** notice is given to individuals to ensure that they are sufficiently aware of the subject matter and of the process, so that they can decide if the matter affects them and, if it does, that they can prepare and fully present their version of the events
- The right to know the nature of allegations:** the subject should normally be informed during the interview about the alleged facts and be given an opportunity to respond to them. The investigator should disclose this information at the beginning of the interview with the subject and not withhold this information until the end of the interview.
- The right to provide own account of the events:** the subject must be afforded an opportunity to respond to each and every allegation that is levied against the subject. The subject has the right to provide exonerating or exculpatory evidence.
- The right to provide evidence:** the subject has the right to provide exonerating or exculpatory evidence. When the subject identifies relevant witnesses who could corroborate the subject's story or provide helpful information, due process requires the investigator to make reasonable efforts to interview such witnesses. If, however, a witness proposed by the subject is permanently unavailable, cannot be found or does not want to be interviewed, the investigator should not draw any conclusion, whether adverse or favourable, to the subject's credibility as regards the proposed witness.
- The right to respond to evidence:** if the investigator intends to rely on documentary, testimonial or other type of evidence that the subject is unaware of, the investigator has a duty to disclose the nature of that evidence and provide the subject an opportunity to respond to it.
- The right to review the written record of interview:** the subject of an investigation has the right to see the written record of any interview of the subject and to make corrections. This process is not an opportunity for the subject to improve or change the answers given at the interview; it is an opportunity to rectify the transcript in case it contains inaccuracies or incomplete information based on what was actually said during the interview.
- In addition to other rights that may arise in a specific context**

5. Obligations of staff members

- ABAAD's staff members are required to adhere to the highest standards of efficiency, competence and integrity.

- Investigation subjects and other actors shall not interfere with the investigation and shall abstain from withholding, destroying or tampering with evidence, and from influencing, coaching or intimidating anyone associated with the investigation. They shall respect the confidential nature of the investigation and the proceedings by exercising utmost discretion. They shall refrain from discussing or disclosing the investigation or their testimony to anyone except the investigation team.
- A lack of cooperation (including breach of confidentiality) or undue interference with the investigation may constitute misconduct, which may result in disciplinary or other appropriate action.

6. Use of outside expertise and assistance

- Investigations are conducted by the assigned investigation team. If the internal expertise were not enough, then considering outside expertise such UN expertise as may be appropriate and feasible.
- A report of possible misconduct may be referred to an external consultant. All investigations thus referred will be conducted under the guidance of the Head of the investigation team. Once the investigative steps have been taken, the findings will be communicated to the Investigation Team Leader for approval.
- Similarly, the investigation team may delegate investigative tasks to individuals outside the team who are suitably skilled or positioned to assist the investigation and perform the task (e.g. case workers or field workers). Any investigative tasks thus delegated will be considered to be conducted by persons authorized by the investigation team and under the guidance and monitoring of the Head of the investigation team.
- Persons who are authorized by the investigation team to assist with an investigation are required to sign an oath of confidentiality.

7. Investigation plan

- Once the investigation focal point decides to conduct an investigation, the investigator assigned to the case will normally prepare an investigation plan. This plan will help ensure a systematic fact finding process which results in an effective investigation.
- The investigation plan consists of a detailed outline of tasks and timelines for the investigation and includes the following elements:
 - Allegation
 - Implicated personnel
 - Applicable legal norms
 - Work plan and timelines
 - Investigative actions
 - Evidence and records preservation and collection
 - Travel and mission plan
 - Resources

— Risk assessment

8. Notification of subject(s)

- The subject of an investigation will normally be notified verbally and in writing by the Head of the investigation team that a report or allegation implicating the subject in possible misconduct is being investigated. This notification will take place at the earliest possible time.
- The investigation team will normally provide the subject with formal notification together with an indication of the nature of the allegations. More detailed information concerning the allegations together with evidence will be presented at the time of interview.
- In specific cases the investigation team may only notify the subject immediately prior to the interview. Such situations include, but are not limited to, where there is a credible risk that:
 - Evidence could be tampered with, witnesses could be influenced, and/or the integrity of the investigation could be otherwise compromised; and □ individuals connected to the alleged events or the investigation could face retaliation, safety or security problems.
- In certain situations, for example, when it has been clearly established that the allegations are unfounded prior to the subject being notified, the investigation team may decide to close the case without notifying the subject.
- If, in the course of the investigation, the investigation team finds evidence of other possible misconduct on the part of the subject, the investigation team will inform the subject of these allegations in accordance with these Guidelines. Decisions such as whether to open a separate investigation or to include the evidence within the existing investigation should be considered. In the case of the latter, this cannot be considered a violation of due process provided the subject has had a fair opportunity to respond to the evidence.

9. Administrative leave

- The Investigation Team Leader may inform the Director of ABAAD, whether, in the context of an investigation's finding, there is reason to believe that the continued presence of a staff member in the office might pose a danger to self, other staff members, or ABAAD, or if there is a risk that the staff member could destroy, conceal or otherwise tamper with evidence, or interfere with the investigation.
- A staff member may be placed on administrative leave, subject to conditions specified by the Director, at any time pending an investigation until the completion of the disciplinary process. Administrative leave should normally be with full pay and not exceed a three month period. In exceptional circumstances, a staff member may be placed on administrative leave with partial pay or without pay.

10. Evidence

Relevance of evidence

- Evidence should be relevant to the investigation. The evidence should make the existence of any fact of consequence to a matter under investigation more probable or less probable than it would be without the evidence. The investigator should establish what evidence is likely to be relevant.

Securing evidence

- Securing evidence is an essential part of an investigation and affects the timing of notification to a subject and witness. An important consideration during an investigation is when and how to secure evidence. The investigator should try to find a balance between the requirements of discretion and confidentiality and the investigator's duty to secure the necessary evidence before potential alteration, concealment, damage or destruction. For example, consideration should be given to the following:
 - Who has access (including through other people) to key documents, records or other evidence?
 - Are the documents, records or other evidence at risk of being altered, concealed, damaged or destroyed?
 - Are the same documents, records or other evidence available at another location that is not accessible to the persons involved in the investigation?
- If the investigator has decided that the evidence may be at risk, consideration must be given to the best way to secure the evidence, either by physically moving the evidence to a secure environment, or limiting access to or control over the evidence.
- Investigators are authorised to have full and complete access to all general files (whether physical or electronic), confidential office files and personnel records located in any ABAAD office or unit, either in hard copy or in electronic form.
- Where practical, once evidence is located, a record should be made that includes the date, time and the physical location of the evidence. A photograph should be taken of the evidence in its physical location and a description of the evidence and its location should be recorded. If the investigator seizes the evidence, a chain of custody record should be prepared. If any material evidence must be returned to the subject or witness, the investigator shall take a photograph of it prior to returning it. All such photographs should be dated and accompanied by a note to file.
- The investigation team has the authority to gather evidence from public sources (e.g. court decisions, property titles) and websites in the public domain (e.g. information that is available to the public on personal Blogs, Facebook, Twitter, Instagram etc.) or other sources without the consent of the concerned individual.
- If the evidence sought is not in the custody of ABAAD and not in the public domain or accessible from other sources (e.g. private bank statements, insurance claims and telephone records), the investigator may seek consent from the concerned individual or the consent of other legitimate authority in order to access the evidence. This may include a request that the

concerned individual obtain the evidence and provide it to the investigation team. Refusal or non-cooperation to provide such evidence to the team and any explanation given will normally be reflected in the investigation findings. Where possible, the investigator will first explore ways to obtain the evidence by other legitimate means.

Preventing access to the evidence

- Preventing the subject from having access to or control over the evidence will not necessarily result in ABAAD placing the subject on administrative leave. Based on the facts presented, the investigation team may inform the relevant authority (e.g. Director) of the potential risk of the subject having access to or control over certain potential evidence and request that steps be taken to mitigate this risk. The team will provide sufficient information in order for the relevant authority to make an informed decision. The relevant authority should take the appropriate steps in order to protect the integrity of the investigation.

Handling documentary and physical evidence and chain of custody records

- Documentary and physical evidence and chain of custody records will be managed appropriately.

Receipt of evidence

When evidence (e.g. original document / file), which is normally used or held by an individual, is seized by the investigation team, the concerned individual will be provided with acknowledgement or a receipt listing the evidence that has been seized, when appropriate.

Seizing information and communication technology (ICT) resources

- The investigation team has the authority to access all ICT resources and data of ABAAD's personnel. This does not include personal ICT items belonging to the staff member, unless those items are used for official purposes, in which case the team has legitimate grounds to access the ICT resource provided the rights of the individual are respected. ICT data collected during an investigation shall be kept confidential and disclosed only to persons who are authorised to access the data, within the legitimate needs of the investigation.
- The investigator can seize the ICT resource if there is reason to believe that evidence may be stored on the device, or that there is a compelling need to safeguard the data. After seizing the ICT resource, the investigator can search the electronic device through physical or electronic means, including but not limited to data analysis and forensic software, without the authorized user being present. The integrity of the original ICT resource will be maintained and will not be subject to any data manipulation; where possible, an image of the original data source can be used for data manipulation. The

- investigation team may engage an outside expert to ensure data retrieval and analysis is performed professionally.
- Individual witnesses or subjects in an investigation may provide the investigation team with access to personal ICT resources and data on a voluntary basis; for example, a staff member may voluntarily give the investigation team access to their private computer or mobile phone as evidence in an investigation; the person should be made aware that information contained in the device may be used as evidence. While consent will normally be provided in writing, it may be provided by email and/or verbally during the interview in specific circumstances.
 - Physical search and seizure of ICT resources and data (including remotely) shall be in accordance with the guidelines. From the moment the investigator seizes an ICT resource, such as a laptop computer, hard drive or mobile telephone, a record of custody and subsequent handling will be kept. The investigator should record the following information to maintain the proper chain of custody:
 - Name of the individual assigned to the electronic device;
 - The source or physical location from which the electronic device was seized;
 - Date and time of the seizure;
 - Type, identifying number, and brief description of the electronic device;
 - Overall condition of the electronic device and peripheral parts;
 - When feasible, pictures of the device in its original setting; and
 - List of each component of the device, such as hard drive, monitor, mouse, removable media, external electronic storage, etc.;
 - Indicate whether the computer or other ICT resource is on/off at the time of seizure;
 - If the computer is on, document the files that are open and the procedures for saving them; and
 - Document the shutdown procedures or any special procedures executed to prevent loss of data during the shutdown process.
 - The seized ICT resource should be moved to a secure environment where access is restricted to the investigative team.

11. Investigation interviews

Interviews are aimed at obtaining testimonial evidence, such as statements from individuals who saw an event or have direct or indirect knowledge of anything relevant to the investigation. They should normally be conducted face-to-face, particularly interviews with the subject of an investigation; however, in some situations, phone calls, skype and other electronic communication will suffice; the investigator should keep on record why an interview with a subject was not conducted face-to-face.

General standards for conducting interviews

- Interviews (subject and witness) are normally conducted by two members of the investigating team together with one other person. There may be situations where the investigation team requests the assistance of a suitably qualified staff member to conduct the interview, e.g. interviews requiring specific social or cultural considerations.
- Considering the social, cultural, gender and other elements of the case, the team may select an observer (e.g. social worker) to attend the interview. For example, provisions may be made for the presence of a third party in circumstances when an interview participant has specific needs, for example a minor or person with disability.
- A face-to-face interview may be conducted by an investigator without the physical presence of second person assisting the investigator. However, such interviews will be audio recorded and, where possible, the record of interview signed by the concerned parties.
- The team should make an effort to ensure that the interview is conducted in an appropriate environment, at a reasonable time, and for a reasonable duration with breaks as needed.
- Staff members who are interviewed as potential witnesses will be provided with notification prior to or at the time of the interview.
- Staff members who are interviewed as a subject will be provided with notification prior to the interview.
- At the commencement of an interview with ABAAD personnel, the investigator should normally inform the interviewee of the following:
 - the identity and role of the individual(s) present;
 - the purpose of the interview;
 - the investigation team has authority to conduct investigations and the duty of staff to cooperate;
 - the investigative process and possible consequences of an investigation;
 - the importance of confidentiality;
 - a written record of the interview will be completed as soon as is practicable;
 - the record of interview may be used as evidence; and
 - in the case of a subject interview, details of the allegations.
- At the end of the interview, the interviewee will normally be given the opportunity to provide additional comments.
- The investigator normally prepares a written record of the interview and the interviewee will be requested to review the record of interview and, if necessary, clarify statements made during the interview. This may be done after the interview. Interviewees will be granted a reasonable time to respond, but not more than 5 working days; this could be extended in exceptional circumstances (e.g. medical reasons or the staff member is on an emergency mission, etc.).
- For interviews with ABAAD staff members, and when it is likely that the interview will be used as evidence, each page of the interview record should be initialed and the end of the

document signed and dated by all persons who attended the interview as an accurate record of the interview.

- In circumstances when a staff member refuses to sign the written record of the interview, the investigator should document the reasons for the refusal and, in the event that the refusal is not documented in writing or by email, attempt to have another person witness the refusal and endorse that fact by signature.
- For confidentiality reasons and to ensure their full participation in the interview conversation, interviewees may not make their own audio recordings or written transcript during the interview. Interviewees may, however, briefly note down points if they wish. Also, interviewees may bring their own documents (e.g. email printouts) to an interview to refer to and in the interest of better accuracy of response.

Use of interpreters during interview

- Should an interpreter be required during the interview, the investigating team will determine the appropriate interpreter to be used. The interpreter should be proficient in the languages of interpretation and should not be connected with the matter under investigation. Prior to the interview, the investigator should inform the interpreter about the role of the investigating team and the general nature of the interview. The interpreter is required to respect the confidentiality of the investigation by signing a confidentiality agreement.

Interviews with a subject

- Owing to the importance of the subject's testimony to an investigation, the following will apply:
 - The investigator will notify the subject in writing that they are the subject of the investigation and the nature of the allegations. Due process requires that this notice be given in advance of the interview and is sufficiently clear. In exceptional circumstances, this notice will be given immediately prior to the interview.
 - Interviews with subjects should be audio recorded by the investigating team and a precise written record of the interview may be transcribed from the audio recording.
 - If the subject refuses to be interviewed using an audio recorder, the recording device will nonetheless be turned on and an introduction made of all persons present with the subject being asked to comment on the fact that the subject does not wish to be audio recorded during the interview. The investigator shall remind the subject of the subject's obligation to cooperate and that failure to cooperate with the investigation may be reported in the investigation findings and may constitute grounds for misconduct. The investigator will decide whether to proceed with the interview by taking

contemporaneous notes. Where the investigator decides not to proceed with the interview, the Investigation Team Leader will be informed.

- During the interview, the subject shall be informed about the allegations and be given an opportunity to respond to the collected evidence.
- If it is not possible to audio record the interview (e.g. technical reasons), the investigator(s) may decide to take contemporaneous notes and prepare a written record of the subject's testimony as close as possible to verbatim. The written record shall contain an explanation of why it was not possible to audio record the interview. Alternatively, the investigator may decide to postpone the interview.
- The subject will be invited to review and sign the record of interview. In addition, the subject will be given the opportunity to provide a signed statement containing any clarification of the subject's statements during the interview.

Interviews with non-ABAAD staff

- When a non-ABAAD witness is interviewed (i.e. the witness has no contractual link to ABAAD), a written record of conversation is normally prepared by the investigating team. The team should endeavor to have the witness sign the record of conversation; although this is not always possible, nor is it a mandatory requirement, it should be sought in cases where the witness provides direct evidence of importance to the investigation.
- In specific circumstances, a non-ABAAD witness may be permitted to have a person accompany them during the interview. This decision is at the discretion of the investigator and on the understanding that:
 - (i) it is the wish of the witness, or in the interests of the witness to have the accompanying person present;
 - (ii) the person is not connected with the matter of investigation;
 - (iii) the person's presence is unlikely to influence the testimony of the witness; and
 - (iv) the person refrains from interfering with the interview process and agrees to maintain confidentiality. Also, at any stage during the interview the investigator or the witness may request the accompanying person to leave the interview and the person is obligated to leave.
- An accompanying person may include, for example, a nurse or other appropriate carer where the witness has a particular medical condition or disability, or in cases where the witness is a minor or a survivor of Sexual Exploitation and Abuse (SEA). The accompanying person will be required to sign a confidentiality agreement.
- Interviews in cases of alleged harassment, sexual harassment, abuse of authority and sexual exploitation and abuse (SEA).
- Aggrieved individuals directly affected by the alleged misconduct should be interviewed by the designated investigator in-person and sign the record of interview, with possible

exceptions for non-staff members. In all such cases, the interviews should be audio-recorded.

- The identity of the complainant and/or other investigation witnesses may need to be shared with the subject of the investigation for purposes of due process. The aggrieved individual should be made aware of this.
- The investigating team should provide feedback to an aggrieved individual directly affected by the alleged misconduct, as it deems appropriate and without prejudice to the subject's due process rights and confidentiality. In cases where the team closes the investigation (i.e. the allegations cannot be substantiated), the team shall inform the aggrieved individual. In cases where the allegations are substantiated and the team submits an Investigation Report to the latter shall inform the aggrieved party of its decision.

Video and/ or audio recording of interviews

- Investigators shall endeavor to audio record all interviews; however, there may be reasonable exceptions depending on the nature of the interview and the evidence likely to be derived. Interviews with the subject and key witnesses will be transcribed from the audio recording. For all other interviews, the norm will be to prepare written records based on contemporaneous notes taken at the time of the interview; the audio recording will be retained on the investigation file for future reference, if necessary.
- When using audio recording devices, the subject or witness will be informed that the interview is being recorded and confirm that they understand that a transcription of the recording may be part of the official record of the interview.
- If for any reason there is a malfunction with the audio recording device, an accurate record of the interview is to be prepared by the investigator, then reviewed and signed by the concerned parties, as appropriate.
- In cases where interviews are not audio-recorded or are unlikely to be transcribed from the recording, two members of the investigating team (e.g. an investigator and person assisting the investigator) should be present at the interview and contemporaneous notes should be taken.

Interviews by telephone or audio-visual conferencing

- Operational constraints may prevent the investigating team from being able to conduct interviews face-to-face. Accordingly, interviews may be conducted by telephone, skype or other audio-visual conferencing. In such situations, the team will take reasonable steps to ensure:
 - (i) the identity of the person being interviewed;
 - (ii) the person is not accompanied by an unauthorised person;
 - (iii) the confidentiality of the location where the interview is taking place and the interviewee is able to speak freely and in privacy; and
 - (iv) the integrity of the communication.

- If an interpreter is required during an interview conducted by telephone or audio-visual conferencing, the interpreter should accompany the ABAAD investigator.

12. Reporting the investigation findings

- Based on the facts and related analysis, one of two possible outcomes is likely:
 - The investigating team prepares a Closure Report when the investigation has determined the allegation(s) to be unfounded or cannot be substantiated. In specific cases, the investigation team may prepare a Closure Note (e.g. when the investigation team is unable to proceed with an investigation); or
 - The team prepares an Investigation Report when the established facts substantiate the alleged misconduct. The report is submitted to the Director, or alternate authority (board members) if necessary, for appropriate action.
- Investigative findings include all relevant facts established through the investigation process. The findings shall be factual, impartial, objective and clear, and may include reasonable inferences. The findings are determined after an analysis of the evidence collected during the investigation process.

Submission of the draft investigation findings to the subject

- If the investigation is likely to conclude a finding of misconduct and/or a finding of serious performance issues on the part of the subject, the investigating team may provide a copy of the draft investigation findings to the subject for comments prior to finalizing the investigation. The draft investigation findings do not include the team's analysis of the factual findings or any of the annexes (e.g. records of interview).
- The draft investigation findings may be redacted by the investigating team, usually to protect the identity of certain individuals. In exceptional cases, it may be considered that for serious reasons, including the safety of witnesses, the findings should not be shared with the subject.
- The investigation subject will be invited to provide comments on the draft findings of the investigation and to provide countervailing evidence. The team shall take into consideration the comments and any countervailing evidence provided by the subject prior to concluding the investigation, as appropriate.
- The investigating team shall provide the subject a reasonable period of time to respond, normally 5 working days, depending on the seriousness and complexity of the case. The team may, exceptionally, grant the subject an extension of time in which to respond, provided the subject sends a written request to the investigating team setting forth compelling reasons why he or she is unable to comply within the normal timeframe. The investigating team shall normally grant only one extension. If the subject fails to respond within the designated timeframe, the team shall nevertheless proceed to finalize the investigation explaining in the report that the subject failed to respond.
- Legal representation is not permitted at this stage of the investigation process. The subject of the investigation is entitled to legal representation only at a later stage, if formal charges are

brought against the subject. The investigating team will endeavour to remind the subject of this at the time of providing the draft investigation findings.

Closure Note

- A Closure Note, usually in the form of a note for the file, should comprise a brief description of the case and the reason for the closure. A Closure Note may be prepared when, for example,
 - (i) for reasons beyond the control of the investigating team, it has been determined that the investigation cannot be completed to a satisfactory standard;
 - (ii) the investigating team is unable to conduct an effective investigation due to security concerns;
 - (iii) there is clear and convincing evidence that the reported allegations of misconduct are manifestly unfounded;
 - (iv) it has been determined that evidence cannot be obtained in regards to the reported misconduct; and
 - (v) in specific cases, the subject resigned, separated from service or deceased prior to completion of the investigation.
- The Closure Note should be signed by the investigator and the Investigation Team Leader
- , thereby approving closure of the case. The case may be re-opened for investigation should additional information or reason come to light to warrant a re-opening of the case.

Closure Report

- A Closure Report outlines the facts established through the investigation process. The report contains a description of the alleged misconduct, the investigative methodology and the established facts that justify a conclusion that the case should be closed. The Closure Report serves to ensure accountability of the process, including the decision to close an investigation if the allegations are not substantiated or are unfounded.
- The Closure Report should be signed by the investigator/s and the Investigation Team Leader
- , thereby approving closure of the case. The case may be reopened for investigation should additional evidence come to light to warrant a reopening of the case.
- The investigating team does not normally provide closure reports to subjects, investigation actors or any individuals named therein.
- Upon finalising the Closure Report, the subject may be notified in writing by the investigating team that the case has been closed. In cases where the Closure Report includes a finding of serious performance issues on the part of the subject, and where the subject has had an opportunity to respond to the draft investigation findings, the Head of the investigation team may decide to report such finding to the Director ABAAD, in which case the team will also notify the subject of its decision.

- In cases of harassment, sexual harassment, and abuse of authority, the investigating team will also inform the aggrieved individual of the closure decision.

Investigation Report

- An Investigation Report presents the facts established through the investigation that substantiate a finding of misconduct by ABAAD's personnel in contravention of the ABAAD Staff Regulations and Rules and/or administrative policies and issuances. If the investigation finds the allegations to be well founded and supported by the evidence, the investigator will prepare an Investigation Report, setting forth the findings of the investigation.
- Although it is not for the investigating team to assert the standard of proof that has been established, suffice it to note that for disciplinary cases where termination is a possible outcome, misconduct should be established by clear and convincing evidence and that the truth of the facts asserted is highly probable.

Structure of an Investigation Report and Closure Report

Both an Investigation Report and a Closure Report should be an objective account of the facts established. The report should cover the following major areas:

- Background
- Personnel implicated
- Applicable rules and regulations
- Methodology
- Investigation findings
- Investigation conclusion

Finalization and submission of the Investigation Report

- After a final internal quality review and approval by the Head of the investigation team, the Inspector General will sign a memorandum issuing the Investigation Report (together with the comments and any countervailing evidence provided by the investigation subject, as set forth above) and accompanying exhibits to the Director of ABAAD. Copies of all evidence cited or referred to in the Investigation Report will be submitted as annexes to the report.
- The subject will be notified in writing by the investigating team that an Investigation Report has been submitted to the Director of ABAAD. Where applicable, this will include notification that the Investigation Report includes a finding of serious performance issues on the part of the subject, which may be recorded in the subject's performance appraisal in accordance with ABAAD's Policy on Performance Management.

Confidentiality of investigation reports

- Investigation reports contain confidential and sensitive information about individuals and ABAAD's operations and activities. Disclosure of such information may be detrimental to the organization's functioning, the welfare and safety of its staff or third parties and may also violate the organization's legal obligations. As such, investigation reports are considered strictly confidential internal documents. Investigation reports will be given prominent confidentiality markings and their distribution will be restricted to specific instances provided for under the investigation's team mandate.

Redaction of investigation reports

- With respect to due process requirements, and in exceptional cases (e.g. involving staff safety and/or organizational risks), an investigation report may be altered. The information to redact (e.g. name, nationality, address and phone number etc. in order to protect the identity of an individual), will depend on the specific circumstances and shall be determined by the appointed investigator.

13. Resignation or separation from service of the subject

If the subject is a ABAAD staff member and resigns or otherwise separates prior to the completion of the investigation, such investigation will continue despite the resignation or separation, unless it is decided by the Investigation Team Leader

to prepare a Closure Note.

14. File management

The investigation team will have an internal note on file management.

15. National authorities

ABAAD requests national authority for investigation reports and supporting documents or for collaboration to pursue possible criminal or civil action.