

**United Nations Development Programme  
Office of Audit and Investigations**



*Empowered lives.  
Resilient nations.*

# **Investigation Guidelines: Social and Environmental Compliance Unit**

**June 2014**

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## 1. Purpose

The purpose of the Investigation Guidelines (Guidelines) for the Social and Environmental Compliance Unit (SECU) is to:

- Inform the UNDP's staff, UNDP-supported organisations, and those affected by UNDP-supported projects about the procedural process of SECU;
- Provide guidance for SECU in order to ensure that investigations of alleged breaches of UNDP social and environmental policy are conducted thoroughly, objectively, and effectively.

These procedures will apply when UNDP's Social and Environmental Standards come into force (planned date: 31 December 2014). Before this date, the procedures will apply to projects for which UNDP has committed to providing a compliance review process for social and environmental commitments made by UNDP in the context of the specific funding programme or project.

In order to foster consistency, investigations are conducted in accordance with these guidelines to the extent possible; however, the circumstances of a particular investigation may affect the application of the Guidelines in the interest of a fair process to the complainants. In addition, best practices through practical experience may inform an evolution of specific procedures.

The Guidelines explain the process that SECU will utilise in investigating alleged violations of UNDP's social and environmental commitments. If the compliance review process outlined in the Guidelines results in findings of non-compliance, SECU will make recommendations to bring the project into compliance and, where appropriate, mitigate any harm that results from the breach of UNDP's social and environmental commitments. SECU may also refer the claim to the Administrator for further action, pursuant to Section 10 of the Guidelines.

### 1.1. Policy Basis

The compliance review process is intended to investigate alleged or potential violations of UNDP's social and environmental commitments in the context of UNDP-supported projects, including the following:

- Social and environmental elements of the UNDP Programme and Operations Policies and Procedures (POPP)<sup>1</sup>, including the Social and Environmental Standards and the Social and Environmental Screening Procedure; and
- Social and environmental commitments made by UNDP in the context of the specific funding programme or project.

The following complaints will be excluded from UNDP's compliance review process:

- 1) Any complaint that is filed fraudulently or for malicious purposes. Note that the SECU may continue on its own initiative to investigate a complaint that was filed with malicious intent but otherwise merited an investigation;
- 2) Allegations in and complaints that raises issues of fraud, corruption or abnormalities in the procurement process will not be processed by the Unit, but will be forwarded to the appropriate units of the OAI;

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<sup>1</sup> UNDP Programme and Operations Policies and Procedures, available at [http://www.undp.org/content/undp/en/home/operations/accountability/programme\\_and\\_operationspoliciesandprocedures.html](http://www.undp.org/content/undp/en/home/operations/accountability/programme_and_operationspoliciesandprocedures.html).

- 3) Complaints that neither implicitly nor explicitly raise issues of potential non-compliance with UNDP's environmental and social commitments in a specific project or programme;
- 4) Complaints relating to projects or programmes that are not supported by UNDP or where UNDP's support has ended and its role can no longer reasonably be considered a cause of the concerns raised in the claim;
- 5) Complaints by a complainant who has already raised the same issue with respect to the same project with SECU, unless significant new information is available or there has been a significant change in circumstances;
- 6) Anonymous complaints.

The compliance review process must be consistent with the Charter of the Office of Audit and Investigations.<sup>2</sup> The definition of a compliance investigation is as follows:

A systematic, documented process of objectively obtaining and evaluating evidence to determine whether UNDP-supported activities are in conformance with UNDP's social and environmental commitments.

SECU investigations are administrative fact-finding processes. SECU employs the preponderance of evidence standard of evidence, which is to determine if the evidence reflects that a statement is more likely to be true than not true.

## **2. SECU's Mission and the Nature of its Investigations**

SECU provides UNDP, and those affected by UNDP projects, with an effective system of independently and objectively investigating alleged violations of UNDP's social and environmental commitments. SECU seeks to protect locally-affected communities and, in particular, disadvantaged and vulnerable groups, and to ensure participation of local stakeholders.

## **3. Responsibilities**

SECU will engage in the following activities in order to ensure compliance with social and environmental commitments:

- Receive Complaints and determine eligibility of requests for compliance review;
- Ensure that information is provided to Complainants about their choice to use SECU or the Stakeholder Response Mechanism (SRM), when both processes are available to the Complainant;
- When Complaints are eligible and the compliance review process has been chosen, conduct thorough and objective reviews of policy compliance, including in-country inspections, interviews of people affected by UNDP-supported projects, and comprehensive information gathering to provide for a factual determination of the issues raised;
- Publicly issue reports with findings on policy compliance and accept public comment on its findings;
- Issue draft recommendations with regard to how project managers can ensure a project complies with UNDP social and environmental commitments;
- Receive comments from, and, as appropriate, consult with those who have alleged non-compliance, UNDP staff, non-governmental organisations, private investors, and governments affiliated with UNDP-supported projects;
- Issue final reports to the UNDP Administrator with findings and recommendations;
- Monitor implementation of the UNDP Administrator's decisions on compliance, and make

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<sup>2</sup> Charter of the Office of Audit and Investigations (December 2012).

- monitoring plans and reports available to the Complainant and the public;
- Report at least annually to the UNDP Administrator on the functions, operations and results of the compliance review process and make these reports available to the public and other stakeholders;
- Issue to the Administrator reports that provide systemic advice based on lessons learned from past cases; and
- Explain the SECU process to potentially affected persons, through various means and collaborations, including through project-level grievance mechanisms and in collaboration with the Stakeholder Response Mechanism.

These activities are described in greater detail in Paragraphs 7 through 11, below.

#### **4. Transparency**

The principle of transparency requires public comment and participation in the operations of SECU. To this end, SECU publishes the Guidelines on its website and makes them readily available to those requesting it. In addition, SECU makes public its terms of reference, factual findings, draft reports, and final reports. SECU also publicises the social and environmental compliance mechanism to the general public, particularly in areas where UNDP projects are implemented.

Public disclosure of the facts of each investigation is integral to ensuring the transparency and effectiveness of SECU. As such, SECU will post on its website all conclusions and factual findings of a compliance investigation.

In furtherance of disclosure SECU administers a website that contains information about the following:

- Compliance review procedures;
- The Stakeholder Response Mechanism;
- Instructions about how to file a Complaint and or a grievance with the Stakeholder Response Mechanism;
- A link to an external page to file a Complaint;
- A registry of Complaints, including information about the Complaint and the Complaint's status;
- Terms of reference and investigation reports pertaining to each Complaint;
- Other information as reflected in the SECU Disclosure Policy;
- Annual reports describing SECU's activities.

#### **5. Independence**

SECU functions within the Office of Audit and Investigation (OAI), which is independent from all UNDP bureaux and directorates. Independence is further reinforced in a number of structural ways:

- OAI reports to the Administrator and functions independently from UNDP projects and programmes;
- The OAI Director is limited to one five-year term with the possibility of extension for one more term.
- The staff for SECU is hired by OAI;
- The Lead Compliance Officer may not have worked for the UNDP within three years of being appointed to this position and cannot work for the UNDP after his or her service is complete.

#### **6. Investigation Standards**

The general principles set out in the *Uniform Principles and Guidelines for Investigations*, as endorsed by

the 10<sup>th</sup> Conference of International Investigators, apply to all compliance investigations<sup>3</sup>. These principles include the following:

- The investigation office will maintain objectivity, impartiality and fairness throughout the investigative process and conduct its activities competently and with the highest levels of integrity;
- SECU will perform its duties independently from those responsible for, or involved in, operational activities and from staff members liable to be related to an investigation;
- SECU investigations will be free from improper influence and fear of retaliation;
- SECU staff and consultants will disclose to a supervisor in a timely fashion any actual or potential conflicts of interest;
- Appropriate procedures will be put in place to investigate allegations of misconduct on the part of any staff member of SECU;
- SECU will take reasonable measures to protect as confidential any non-public information associated with an investigation (see Public Disclosure SOP);
- Investigative findings will be based on facts and related analysis, which may include reasonable inferences;
- SECU expert consultants and investigators will make recommendations to the Lead Compliance Officer and Compliance Officer derived from its investigative findings;
- All investigations conducted by SECU are administrative in nature.

## 7. Complaints

Any person, group, or representative of a person or group, who is potentially affected by UNDP-supported project, is permitted to file a Complaint. Complaints are received by mail, email, telephone, facsimile, and SECU's dedicated online submission form. Anonymous Complaints are not accepted, however, the Complainant's name will be kept confidential if he or she so requests. Note that after the initial Complaint is filed, Complainants may amend complaints, providing additional information or evidence or alleging new violations. If new policy violations are alleged after the process has started, the process may need to be restarted.

Investigations may also be triggered on SECU's own initiative by the Lead Compliance Officer, or at the request of the UNDP Administrator. When this occurs, disclosure of documents will occur in a manner similar to disclosure pursuant to complaint processes triggered by community complaints. UNDP takes all reports of alleged breaches of social and environmental commitments seriously, and all allegations are assessed to determine whether an investigation is appropriate.

The channels for reporting a matter to SECU are as follows:

- By email (directly to SECU): [secuhotline@undp.org](mailto:secuhotline@undp.org)
- Through an online form accessible on the SECU's website:
- Through UNDP's hotline telephone answering system (toll-free):
  - Worldwide:
  - In the United States:
- By facsimile:
- By mail addressed to: Social and Environmental Compliance Unit, 220 East 42nd Street, Rm. 2300 New York, NY 10017, USA

Anyone with information regarding a possible violation of UNDP social and environmental commitments may report this information through the various channels. Reports should be as specific as possible,

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<sup>3</sup> Uniform Principles and Guidelines for Investigations, 10<sup>th</sup> Conference of International Investigators (2009).

describing current or future adverse impacts that have a plausible causal link to a UNDP-supported activity and, if possible, the UNDP social and environmental commitments that are believed to have been violated.

## **8. The Complaint Review Process – Eligibility and Terms of Reference**

Complaints not automatically excluded from UNDP’s Compliance Review Process (see Section 1.1 Policy basis, above) will be registered by SECU within five days of receipt by SECU. If a complaint has been sent to the wrong office, it should be redirected, rather than registered. Concurrent with registration, SECU will acknowledge receipt of the Complaint to the Complainant. If SECU can immediately determine that the Complaint is ineligible, it will notify the Complainant in writing. The registration of the Complaint will be accessible to the public through SECU’s web site. SECU will also inform the Stakeholder Response Mechanism and provide it with a copy of the Complaint.

### **8.1. Determining Eligibility of a Complaint**

Within twenty business days from registration of a Complaint SECU, shall determine the eligibility of the Complaint and inform the Complainant of the decision. The SECU will interpret eligibility broadly to ensure the mechanism is accessible to all stakeholders potentially affected by UNDP-supported projects, but also ensure that a plausible causal relationship exists between UNDP’s involvement and the risk of potential harm to some person or group. If the Complainant does not allege any specific violations, SECU will evaluate the Complaint itself to determine if the Complaint raises issues of potential violations of UNDP’s social and environmental commitments. During the eligibility phase, SECU may consult the Complainant, UNDP staff, and project sponsors, as well as review any relevant documents. If a Complaint is determined to be ineligible, SECU will provide the Complainant and the public a clear and detailed explanation of the reasons for the determination. If the Complaint is accepted it will then move to the investigation stage, (see Section 9).

### **8.2. Eligibility Assessment**

An eligibility assessment is the process of determining whether the Complaint is eligible for an investigation. The Lead Compliance Officer will render the ultimate decision as to whether an investigation should be pursued. This determination is made in accordance with the likelihood that the UNDP-supported project has violated UNDP social and environmental commitments. The Lead Compliance Officer will make one of two determinations during the assessment stage:

- A case closure because eligibility criteria are not met or the Complaint is of a type listed on the Exclusions List;
- Preparation of an investigation plan setting forth the steps to objectively determine the factual basis of the allegation(s). Investigations will commence as soon as possible.
- In order to be eligible a complaint must:
  - Relate to a project or programme supported by UNDP; and
  - Raise actual or potential issues relating to compliance with UNDP’s social and environmental commitments.

When UNDP’s support has ended, but impacts can be fairly and reasonably traced to UNDP’s involvement, the SECU will accept complaints that are likely to provide institutional learning, prevent future mistakes and abuses, or support resolution of concerns of communities (Note, however, Exclusion 4, in Section 1.1, Policy Basis).

### **8.3. Consultation with the Stakeholder Response Mechanism and the Complainants**

While determining the eligibility of the Complaint for compliance review, SECU will consult with the

Stakeholder Response Mechanism function based in UNDP Headquarters to obtain their assessments of the Complaint. If both processes are applicable, the Complainant will be informed that both are applicable, and given the choice to proceed with compliance review, stakeholder response, or both. Offices may together provide this information to the Complainant. If the Complaint is deemed ineligible for compliance review, the Complaint may still be eligible for the grievance process and may be referred to the Stakeholder Response Mechanism.

#### **8.4. Developing Terms of Reference for the Compliance Review**

Within twenty business days of determining that a Complaint is eligible, SECU will develop and publicly release a draft terms of reference and time frame for its investigation. UNDP staff, Complainants, and other interested parties will be given ten business days to comment on the draft terms of reference. After considering all comments, SECU will issue final terms of reference, which can be amended at any time after allowing a similar opportunity for Complainants and the public to comment.

#### **8.5. Protection Against Retaliation or Retribution**

In the event that a UNDP staff person fears retribution or retaliation after reporting allegations of non-compliance with UNDP social and environmental commitments, or cooperating with an investigation, he or she may report the matter to the Director, Ethics Office at the following email address: [ethicsoffice@undp.org](mailto:ethicsoffice@undp.org). The UNDP Policy for Protection against Retaliation applies in these cases. SECU will identify other measures available to non-UNDP staff to respond to concerns of retribution or retaliation when confidentiality measures are inadequate for this purpose.

### **9. Investigation**

Upon determining that a Complaint is eligible, SECU will initiate the investigation process.

- Notify the Complainants and other potentially-affected persons that the investigation process has been initiated;
- Interview those people with relevant information including, for example, both the Complainants and Project Manager of the project at issue;
- Obtain documents and other related evidence;
- Evaluate information and evidence;
- Conduct on-site visits.

#### **9.1. The Draft Compliance Review Report**

After completing its investigation and making findings and proposed recommendations, SECU will issue to the Director, OAI, a draft compliance review report, which will also be released to UNDP staff, the Complainants, and the public. Comments may be provided on the draft report for twenty business days by UNDP, Complainants, other affected persons, or any other interested person. The compliance review report will include:

- A discussion of the procedural steps taken to address the Complaint;
- Any factual findings, including any findings of non-compliance;
- Recommendations to bring UNDP into compliance with social and environmental commitments or to mitigate harm to the Complainants; and
- A proposed plan for monitoring implementation of any recommended actions that UNDP decides to take in response to the Complaint.



## **9.2. Submission of Final Report**

Within twenty-five business days of receiving comments on the draft report, SECU will issue to the Director, OAI, a final compliance report, including findings and recommendations, and input from Complainants and other stakeholders. The SECU will notify the public that this has been done. The Director, OAI, will review and submit the report to the UNDP Administrator within ten working days, with a copy sent to the requesters and released to the public. This process may be delayed by exigent circumstances or reasons.

## **9.3. The Administrator's Decision**

Within twenty-five business days from receipt of the final compliance review report, the UNDP Administrator will make a final decision regarding what steps, if any, UNDP will take to bring the project or programme into compliance and/or mitigate any harm to the Complainants or other affected persons, as appropriate. Underlying legal documents, including general provisions of the Project Agreement, should clarify that violations of UNDP social and environmental commitments are material breaches and ensure that the Administrator or the Steering Committee has the authority to order the permanent suspension of any financial disbursements if the project is not otherwise able to come into compliance with UNDP's social and environmental commitments. The UNDP Administrator's decision will be sent to the Complainants, publicly released, and summarized on SECU's website.

## **10. Compliance**

There are numerous options to encourage compliance with UNDP's social and environmental commitments. Such options include:

- Case-specific and UNDP-wide recommendations for improving implementation;
- Revisions to the project;
- Action by the Administrator, where harm to affected people is imminent, to stop UNDP's financial disbursements or other support to a project pending the outcome of SECU's compliance review;
- Permanent suspension of any financial disbursements by the UNDP Administrator, assuming that the project is not otherwise able to comply with the UNDP's social and environmental commitments;
- Decision by the UNDP Administrator to mitigate any harm caused by a project, and to restore claimants to a pre-harm state, in collaboration with the implementing partner, where the circumstances and financial resources allow for it.
- Condition future UNDP participation in a project or programme on compliance with UNDP policies;
- Include in underlying legal documents provisions indicating that breach of social and environmental policies are material breaches of the project agreements.

In all cases the UNDP Administrator has the ultimate authority to rule on the remedy. The compliance review function is not a court of law, and thus does not create any legally enforceable responsibility, immunity, or liability for the UNDP or affiliated organisations.

## **11. Monitoring**

SECU will prepare as part of its compliance review report a proposed plan for monitoring implementation of any decisions made as the result of a compliance investigation. At a minimum, SECU will issue a monitoring report on the status of implementation at least annually until such time as the actions identified by the Administrator have been completed. As part of the monitoring plan, SECU will consult with the Complainants. All monitoring plans and monitoring reports will be made available to Complainants and the public on the SECU website.

## **12. Advisory Notes**

SECU may on its own initiative provide Advisory Notes to the UNDP Administrator regarding systemic, institution-wide, or policy issues that it believes need to be addressed, based on lessons learned from investigating social and environmental non-compliance in specific cases. The UNDP Administrator may also request an Advisory Note from SECU on social and environmental issues. Advisory Notes will be made available to the public on SECU's website. The SECU will release a draft advisory note and solicit comments from the public and other stakeholders unless the effectiveness of the Notes would be constrained by such action, i.e., prompt action is needed in response to the Advisory Note.

## **13. Temporary and Pre-emptive Measures**

Notwithstanding the procedures set forth above, if at any time after receiving a Complaint the Lead Compliance Officer believes significant, irreversible harm to the Complainants or other affected people is imminent, the Lead Compliance Officer may recommend to the Administrator that UNDP take interim measures pending completion of compliance review. The Lead Compliance Officer may employ outside experts to secure evidence to inform such a recommendation. Such interim measures could include suspending financial disbursements or taking other steps to bring UNDP into compliance with its social and environmental commitments, or to address the imminent harm. The Lead Compliance Officer will endeavor to consult potentially affected people on these measures, depending on time and related constraints.

## **14. Annual Report**

SECU will report at least annually to the UNDP Administrator on the functions, operations and results of the compliance review process. Such annual reports will also be made available to the public and to other stakeholders.

## **15. Responsibility for Updating the Guidelines**

The Director of OAI has approved the Guidelines, and the Lead Compliance Officer is responsible for keeping the Guidelines up to date. A review will be conducted in 2016 after a year of implementation. The review will include an internal and external consultation process and the Guidelines will be revised accordingly.

## **ANNEX I – Definitions**

**Accountability Framework** – UNDP’s existing Accountability Framework, which applies to all levels of UNDP through Planning & Strategic Direction, Policy & Programme, Results & Performance and Partnership Management.

**Accountability Mechanism** – this term has been typically used to describe both compliance review and grievance process at the international financial institutions and bilateral finance agencies.

**Affected Persons** – Individuals or groups who may be affected by a UNDP Project or Programme, as defined in the SES.

**Assessment** – the evaluation of an allegation by SECU to determine its credibility, materiality and verifiability. All allegations are assessed to determine whether there is a legitimate basis to warrant an investigation<sup>4</sup>.

**Compliance Review** – the process of accepting and addressing Complaints alleging non-compliance with the social and environmental elements of UNDP’s policies and procedures in an independent, transparent, fair, accessible, and effective manner. SECU must adhere to these principles when investigating Complaints.

**Complainant** – the person making an allegation.

**Duty of cooperation** – the obligation placed on staff and other personnel to assist in an investigation when requested to do so.

**Evidence** – any type of proof that tends to establish or disprove a fact material to the case. It includes, but is not limited to, oral testimony of witnesses, including experts on technical matters, documents, electronic, audio, video records, and photographs.

**Investigation** – a detailed inquiry and examination of evidence to objectively determine the facts following the receipt of an allegation. At the conclusion of an investigation, a dossier of evidence is assembled to form the basis of findings and recommendations to the Administrator.

**Investigator** – a person employed or engaged by SECU as an investigator.

**Project Manager** – a staff member or other personnel with a supervisory role of a UNDP project.

**Personnel** – UNDP staff members, service contract holders (SCs), individual contractors (ICs), interns, and United Nations volunteers (UNVs)<sup>5</sup>.

**Staff Members** – any person who holds a UNDP Letter of Appointment according to the United Nations Staff Regulations and Rules<sup>6</sup>.

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<sup>4</sup> Paragraph 30, “Uniform Principles and Guidelines for Investigations” as endorsed by the 10th Conference of International Investigators (June 2009).

<sup>5</sup> Definition of “personnel” from the UNDP Anti-Fraud Policy.

<sup>6</sup> Definition of “Staff Members” from the HR User Guide section on workplace harassment and abuse of authority.

## **ANNEX II – References**

Social and Environmental Screening Procedure (SESP)

Social and Environmental Standards (SES)

Charter of the Office of Audit and Investigations (December 2012) (OAI)

UNDP Legal Framework for Addressing Non-Compliance with UN Standards of Conduct (January 2010)

UNDP Programme and Operations Policies and Procedures (UNDP POPP)

Uniform Principles and Guidelines for Investigations, adopted by the 10<sup>th</sup> Conference of International Investigators (June 2009)

<b>Title</b>	<b>SECU Public Disclosure Policy</b>
<b>Date of Original Issue</b>	<b>May 2013</b>

## **Introduction**

1. SECU's approach to transparency and public engagement is in compliance with UNDP's transparency policy.<sup>7</sup> As such, SECU will make all appropriate public documents<sup>8</sup> available through public disclosure<sup>9</sup> via SECU's website and available upon request.
2. This SOP describes the methodology that SECU will use to disclose information relating to the social/environmental issues within its purview, as well as the results of its investigations.

## **Rationale**

3. Public involvement is fundamental to SECU's work. As such, SECU will provide access to information and strengthen public participation in decision making in order to:
  - a. Enhance the quality and impact of UNDP's decisions;
  - b. Contribute to public awareness about social and environmental issues;
  - c. Provide the public, particularly project-affected parties, with the opportunity to express its concerns about UNDP development projects.<sup>10</sup>

## **Public Documents**

4. Public documents include:
  - a. Complaints, posted after the Eligibility determination and only when Complainants have not requested that these remain confidential;
  - b. Draft and final reports;
  - c. Closure notices submitted to complainants;
  - d. Terms of Reference;
  - e. The Administrator's decision;
  - f. Monitoring Report;
  - g. Advisory Report;
  - h. Annual Report;
  - i. Written materials, pictures, recordings and other information gathered for purposes of an investigation, except for those covered in paragraph 9 below.

## **Transparency and Public Engagement**

5. Transparency and public disclosure of information are fundamental to SECU.
6. SECU will publish and disseminate an annual report detailing and summarising the outcomes of its investigations and related policy documents.
7. SECU recognises that it is essential that the general public meaningfully participate in its activities in order to improve social and environmental compliance. SECU, thus, encourages the general public to address any grievances it may have related to social and environmental compliance through using

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<sup>7</sup> See UNDP Disclosure Policy: [http://www.undp.org/content/undp/en/home/operations/transparency/information\\_disclosurepolicy/](http://www.undp.org/content/undp/en/home/operations/transparency/information_disclosurepolicy/).

<sup>8</sup> See paragraph 4 for definition of public documents.

<sup>9</sup> See paragraph 5 for definition public disclosure.

<sup>10</sup>This SOP draws upon Aarhus, *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters*, 25 June 1998.

SECU's various methods of communication (mail, email, telephone, facsimile, and online compliant forms).

8. SECU will make a concerted effort to publicise its work, particularly in areas where UNDP is engaged in development projects, in order to increase awareness about its activities amongst the general public.

### **Restrictions on Public Disclosure**

9. Public disclosure is subject to restrictions. Documents may be kept confidential if one or more of the following events could occur:
  - a. Disclosure could impair the safety of a complainant, witness, SECU staff, and UNDP staff and personnel;
  - b. Disclosure could undermine SECU's work through, for example, compromising, destroying or manipulating evidence;
  - c. Disclosure could undermine the confidentiality of a parallel criminal or wrongdoing investigation that involves similar parties;
  - d. Disclosure could compromise an individual's due process rights.
10. When the name of an individual must remain confidential due to the reasons outlined in paragraph 9, or the individual requests confidentiality as per SOP 001, SECU will redact the documents accordingly; however, SECU will make the remainder of the information available as long as this does not compromise the safety of an individual or compromise an investigation.
11. SECU must justify non-disclosure or redaction through a memorandum that will be made public when the information no longer implicates any of the concerns as enumerated in paragraph 9.

### **Updated and Accessible Information**

12. SECU will ensure that it updates all relevant information relating to social and environmental compliance investigations in a timely fashion, and this information is available on its website.

This SOP is effective immediately.

Helge S. Ostveiten  
Director, OAI

<b>Title</b>	<b>Proactive Investigations</b>
<b>Date of Original Issue</b>	<b>May 2013</b>

## **Introduction**

1. This Standard Operating Procedure formalises the process whereby the Administrator or Lead Compliance Officer might initiate an investigation of a UNDP-supported project on her or his own initiative.

## **Rationale for proactive investigations**

2. The experience of OAI has shown that it is not effective to rely exclusively on Complaints as the sole driver for investigations. Cultural factors, the limited reach of reporting mechanisms, a lack of awareness of what should be reported, and how to report non-compliance, are only some of the limitations to reporting. Thus, it is likely that many cases may not be reported and therefore not investigated.
3. Proactive investigations are defined as investigations intended to identify and control an existing, (but yet unidentified), occurrence of non-compliance with UNDP social or environmental commitments.
4. The aim of proactive investigations is to introduce an additional component to the identification of issues for which SECU should conduct investigative work without awaiting the receipt of a Complaint.
5. The ability to proactively investigate social or environmental compliance is intended to:
  - Allow SECU to cover areas of high risk for which it has not received a Complaint;
  - Address the situation for which, for a variety of reasons (e.g. cultural, lack of knowledge, etc.), non-compliance with social and environmental policies and procedures is not likely to be reported;
  - Signal UNDP's commitment to identify and pursue non-compliance with its social and environmental commitments;
  - Serve as an effective deterrent for social and environmental non-compliance;
  - Strengthen UNDP's credibility with donors and the international community.
6. A formal approach to proactive investigations allows SECU to better prioritise the areas for investigation and allocate its resources. Proactive investigations should allow UNDP to more systematically mitigate the risk of social and environmental non-compliance, and identify weaknesses in systems and processes that allow non-compliance to occur. Addressing these weaknesses will help to prevent non-compliance and may assist deterrence.

## **Methodology**

7. SECU will employ elements of UNDP's Social and Environmental Screening Procedure<sup>11</sup> in order to aid with proactive investigations.

Projects assessed as having a heightened risk of social and environmental non-compliance must keep a "Risk Log" during the development and implementation of the project. The Risk Log outlines:

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<sup>11</sup> *Environmental and Social Screening Procedure for UNDP Projects*, Guidance Note, 19 March 2012, Table 4.1, available at [https://info.undp.org/global/documents/ppm/ESSP\\_Guidance\\_19Mar12\\_English.docx](https://info.undp.org/global/documents/ppm/ESSP_Guidance_19Mar12_English.docx).

- A description of the risk;
- Date identified;
- Type of risk (social or environmental);
- Impact of risk;
- Probability that the risk will occur (ranking on a scale from 1-5);
- Countermeasures and managerial Response to the risk;
- Who submitted the log; and
- Updates on the risk and responses.

The Lead Compliance Officer, Compliance Officer, or investigator will consult the Risk Log as a means to identify projects that might warrant a proactive investigation. Examining, for instance, whether the counter measures and responses to the identified risk outlined in the Risk Log were implemented, might provide impetus for a proactive investigation. If the measures were not implemented, this could lead to an investigation into possible non-compliance.

8. The risk log, however, will only act as a starting point for proactively investigating a UNDP-supported project. The UNDP Administrator or Lead Compliance Officer may request a compliance review if she or he has knowledge about social or environmental issues that may be associated with non-compliance.
9. Investigators are also encouraged to pursue potential leads while engaged in an investigation. Should there be an indication of social and environmental non-compliance unrelated to the initial investigation, the Lead Compliance Officer, Compliance Officer or investigator has the discretion to investigate such matters, and to recommend opening an investigation on new grounds should the prima facie evidence warrant it.

This SOP is effective immediately.

Helge S. Ostveiten  
Director, OAI



<b>Title</b>	<b>Intake of Complaints and Eligibility Assessment</b>
<b>Date of Original Issue</b>	<b>May 2013</b>

This Standard Operating Procedure provides guidance to the staff of the Social and Environmental Compliance Unit (SECU) on how to:

- Document all Complaints received by SECU;
- Assess and prioritize these Complaints; and
- Ensure that appropriate steps are taken in a timely and structured manner in reviewing the allegations.

### **Intake of Complaints**

1. SECU maintains a Complaint Hotline, (managed by an independent service provider), which includes multi-language, web-reporting, and toll-free telephone lines accessible from any country in the world, along with traditional email, fax and mail reporting options. Complaints shall be accepted in any language. Note that subsequently prepared documents in response to the complaint will be translated into relevant languages as useful. If the translation involves a locally distinct language not often encountered by UNDP, timeframes for issuance of documents may need to be revised.
2. The Lead Compliance Officer or Compliance Officer screens the Complaints received and registers Complaints not excluded due to lack of a Policy Basis (See Section 1.1, above) in the Case Management System.
  - a. The Lead Compliance Officer or Compliance Officer assigns a case number, and the case file is created on the SECU shared drive.
  - b. All documents related to the case are stored on the drive using the “standard naming convention.”
  - c. A green folder is opened to collect and file all original/printed documents relevant to the case.
  - d. The Complaint is listed on a registry accessible to the public through the SECU website.
  - e. SECU will also inform the Stakeholder Response Office and provide it with a copy of the Complaint.
3. The Lead Compliance Officer or Compliance Officer will acknowledge receipt of the Complaint to the Complainant within five working days of receiving the complaint.

### **Determination of Eligibility of a Complaint**

4. After a Complaint has been registered in the system, the Lead Compliance Officer or Compliance Officer will assess the case. The primary purpose of the eligibility review is to determine:
  - If the Complaint meets the eligibility criteria and the process should be continued, or if the Complaint does not meet the eligibility criteria and thus should be closed without further assessment;
  - If the Complaint is of a type listed on the Exclusions List, and therefore, not amenable to the compliance process, and thus should be closed without further assessment;

- If the Complainant requests a compliance review investigation or stakeholder response process, or both, assuming both processes are applicable to the Complaint;
  - If the Complaint should be referred to another unit.
5. The Lead Compliance Officer or Compliance Officer completes the Assessment as a summary directly in the case management system and/or SECU shared drive as appropriate. The Assessment details information regarding the origin, date, allegations, and status of the case and all actions taken during the eligibility assessment stage.

### **Results of Eligibility Assessment**

#### **(A) Closure or Referral**

6. If the Complaint does not meet the eligibility criteria the Lead Compliance Officer will prepare a closure note recommending closure of the case without further assessment. SECU will provide to the Complainant and the public a clear and detailed explanation of the reasons for the ineligibility determination.
7. The Lead Compliance Officer or Compliance Officer will determine within twenty business days from registration of the complaint or referral of a request from the Stakeholder Response Office if the Complaint is eligible, and will notify the parties.

#### **(B) Investigation**

8. If there are sufficient grounds to warrant a formal investigation, the Lead Compliance Officer or Compliance Officer will prepare the case file for possible assignment to a social or environmental consultant and investigator based on: geographic location, specialization/skills, language, and workload. Within 20 days of determining a Complaint eligible for an investigation, SECU will release a draft Terms of Reference. UNDP staff, Complainants and other interested parties will be given ten business days to comment on the Terms of Reference.

This SOP is effective immediately.

Helge S. Ostveiten  
Director, OAI

<b>Title</b>	<b>Interview Guidelines</b>
<b>Date of Original Issue</b>	<b>May 2013</b>

1. This Standard Operating Procedure describes how SECU will conduct interviews and gather testimonial evidence.

### **Purpose of Interviews**

2. Interviews are aimed at obtaining testimonial evidence. Testimonial evidence refers to the recollection evidence from individuals who have knowledge or expertise relating to an event or issue under investigation.

### **Confidentiality**

3. The interview process is on the record. Only in justifiable instances as outlined in the SECU's disclosure policy will an interview be treated as confidential in SECU records and reporting.

### **Basic Requirements**

4. All interviews shall be conducted in an appropriate environment, at a reasonable time, and for a reasonable duration with breaks as needed.
5. Affected Persons shall receive advance notice of the interviews and full information disclosure prior to the interview.
6. Before conducting an interview of UNDP personnel, investigators shall inform the interviewee of the:
  - Identity and function of the individual(s) conducting the interview;
  - Investigative process and purposes of an investigation;
  - SECU's rules with regard to conducting an interview;
  - In the case of UNDP staff and personnel, the duty of all staff to cooperate.
7. At the end of every interview, the interviewee shall be given the opportunity to provide any additional comments or relevant information.
8. At the end of the interview (or as soon as the notes of the interview are prepared) the interviewee should be asked to review the record of his or her interview prepared by SECU to ensure that it is accurate.
9. Investigators shall not engage in covert recording of interviewees, nor shall they request others to do so.

### **Witnesses**

10. A witness is any individual whose statements are transcribed or memorialised by SECU and used as evidence.
11. Any individual with direct or indirect knowledge or expertise of matters relevant to the investigation may be a witness. Types of witnesses include (but are not limited to):
  - Individuals making an allegation;
  - Victims of the alleged act and their representatives;

- Experts.
12. A written record shall be made of every witness interview, regardless of whether an audio or video recording was also made. Audio or video recording of witness interviews shall be limited to exceptional cases, after consultation with the Lead Compliance Officer (for example, where there is limited time and the issues covered are highly specialised or complex and it may therefore be useful to be able to review the recording), or when requested by Affected Persons.
  13. A witness shall be permitted to amend or correct his or her testimony upon reviewing the written record prepared by investigators. In cases where a witness retracts or amends a prior statement for known reasons, investigators may at their discretion preserve the original record of interview and incorporate the witness's corrections and amendments in the form of a separate addendum signed by the witness.

### **Interpreters**

14. An interviewee shall be notified in advance of the interview that he or she is entitled to the use of an interpreter if the language in which the investigators will conduct the interview is not one that the interviewee speaks natively. The interpreter shall be provided by SECU or, if the interviewee is a UNDP employee, by the Head of Office to whom the interviewee answers. The interviewee should not furnish her or her own interpreter.

### **Observers**

15. Compliance Officers may on their own initiative, or for any other reason, invite an observer to attend the interview if after considering the cultural context of the interview they conclude that the observer's presence is in the best interest of the investigation. Compliance Officers may on their own initiative, or for any other reason – including a request from Affected Persons - invite an observer to attend the interview if after considering the cultural context of the interview they conclude that the observer's presence is in the best interest of the investigation. Affected Persons can reject an observer proposed by SECU for an interview of an Affected Person.

This SOP is effective starting immediately.

Helge S. Ostveiten  
Director, OAI