

**2019 UNDP Annual Report of the Administrator on Disciplinary Measures and Other
Actions Taken in Response to Fraud, Corruption and Other Wrongdoing**

I. Introduction

1. Article 101, paragraph 3 of the Charter of the United Nations states that the “*paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity*”. UN Staff Regulation 1.2 (b) provides that “[t]he concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status”.
2. In observance of the above principles, UNDP is committed to preventing, identifying, and addressing all breaches of the required standards of conduct whether committed by UNDP staff members, other personnel¹ or third parties such as vendors or implementing partners.
3. Since 2001, UNDP has been reporting on the results of cases concerning allegations of misconduct involving staff members of UNDP, including staff members of other agencies and entities serving under UNDP Letters of Appointment. Since 2011, UNDP has also been reporting on the results of cases of violations of standards of conduct by other personnel as well as vendors.
4. This report identifies cases involving allegations of wrongdoing against UNDP staff members and other personnel or entities, leading to disciplinary sanctions and other measures for the year 1 January to 31 December 2019.

¹ Personnel include UN Volunteers and contractors such as Service Contract holders and Individual Contractors.

5. In addition, this report identifies any recovery of moneys owed to the Organization associated with cases involving disciplinary sanctions and other measures. Cases involving referral to national authorities pursuant to General Assembly Resolution 62/63 are also indicated.

II. Cases involving allegations of misconduct against staff members

A. Overview

6. This section contains a summary of cases considered by the Legal Office, Bureau for Management Services (LO/BMS) involving staff members following the receipt of reports of investigations into allegations of misconduct.
7. The Administrator or the Associate Administrator imposes disciplinary measures following a thorough process as defined in the “UNDP Legal Framework for Addressing Non-Compliance with United Nations Standards of Conduct” (the “Legal Framework”).²
8. Appeals against the decision to impose a disciplinary or an administrative measure following an investigation and/or a disciplinary process are heard by the UN Dispute Tribunal. In accordance with the UN Staff Regulations and Rules, decisions by the UN Dispute Tribunal may be appealed, either by staff members or by the Organization, to the UN Appeals Tribunal. The decisions of both Tribunals are binding on UNDP.
9. Disciplinary proceedings within the UN system are administrative, not criminal, in nature. Proof beyond reasonable doubt is not a requirement. Where serious misconduct is alleged, what is required is the identification of clear and convincing evidence that an intentional, grossly negligent or reckless violation of the UN Regulations and Rules, including the standards of conduct applicable to staff members, has occurred. Throughout such proceedings, staff members have the right to due process as detailed in the Legal Framework.

² The Legal Framework may be found on the UNDP intranet website. It was updated and reissued by the Administrator in March 2018.

10. In UNDP, OAI is generally responsible for investigating all allegations of misconduct. Investigation reports relating to staff members are submitted to LO/BMS for review and further action.

B. Statistical breakdown

11. During the period covered by this report, 26³ investigation reports were issued, of which 25 were accepted by LO/BMS. During the same period, LO/BMS considered a total of 52 investigation reports, comprising the 25 reports accepted by LO/BMS in the period, and the 27 open cases from previous years that continued to be dealt with during the period under review.

12. Of these 52 cases that were considered, 30 cases were concluded. Of the 30 cases:

- a. 20 cases resulted in the imposition of a disciplinary sanction on a staff member. Of these 20 cases,
 - i. 14 cases led to the staff member's dismissal or separation from service;
 - ii. 3 cases led to a demotion with deferment;
 - iii. 2 cases led to a loss of steps;
 - iv. 1 case led to a written censure.
- b. The 10 remaining cases were concluded by other administrative action, whether through clearance of the allegations of misconduct, or because the staff member separated prior to the completion of the investigation or disciplinary proceedings. Of these 10 cases,
 - i. 7 cases were concluded with the placement of a note on the matter on the staff member's Official Status File pursuant to the Legal Framework, because the staff member had resigned or otherwise separated from the Organization during the investigation or prior to a decision on the case;

³ This figure includes reports reissued by OAI following amendment or revision, and reports issued to LO/BMS from other investigation entities besides OAI.

- ii. 3 cases were closed with the clearance of the staff member from allegations of misconduct as it was found that the facts established by the investigation report did not rise to the level of misconduct or there was insufficient evidence to initiate disciplinary proceedings;

13. 22 cases were still under review at the end of 2019.

14. As at 31 December 2019, 4 cases that had given rise to a disciplinary measure in 2019 had been appealed by a staff member to the UN Dispute Tribunal.

C. Summary of cases resulting in disciplinary measures in 2019

Assault

15. A staff member at the NO-B level was found to have physically assaulted another staff member on UN premises. The fact that the staff member was reacting to the other staff member's clear verbal provocation, admitted his responsibility and expressed regret afterwards were considered in the imposition of a disciplinary sanction.

*Sanction: Separation from service with compensation in lieu of notice and with termination indemnities.*⁴

Cheating

16. A staff member at the P-5 level was found to have engaged in misrepresenting information to another UN agency by preparing answers to two recruitment exams for her partner. The staff member used her UNDP email account to carry out that conduct, which also amounted to a misuse of that UNDP resource. That the staff member used her seniority and policy experience to help another cheat was recognized as an aggravating factor. There was no finding of direct financial loss in this case.

Sanction: Separation from service with compensation in lieu of notice and with termination indemnities.

⁴ In the disciplinary context, a staff member may, at the discretion of the Administrator, receive a termination indemnity not exceeding one half of the indemnity that the staff member would otherwise be entitled to.

Conflict of Interest

17. A staff member at the NO-B level, with human resources functions, engaged in a conflict of interest by using her position to promote the interests of her family members' company in a UNDP procurement process by (i) facilitating the company's registration as a vendor (ii) seeking business opportunities for it, and (iii) providing it with non-public procurement information. There was no finding of direct financial loss in this case.

Sanction: Demotion by one grade with deferment, for two years, of eligibility for consideration for promotion.

18. A staff member at the G-6 level, with administrative and supervisory functions, engaged in a conflict of interest by requesting a personal favor from a UNDP vendor. In carrying out the conduct, the staff member also misused her official UNDP email account. The staff member also attempted to obstruct OAI's investigation into her conduct. The staff member's failure to recognize the impropriety of her conduct was considered a significant aggravating factor. There was no finding of direct financial loss in this case.

Sanction: Separation from service with compensation in lieu of notice and without termination indemnities.

Failure to Comply with Obligations

19. A staff member at the P-4 level, with supervisory functions, was grossly negligent by sharing her work password with others and requesting others to share their work passwords. The staff member did not act in bad faith or for personal gain. There was no finding of direct financial loss in this case.

Sanction: Loss of one step in grade and a written censure.

Failure to Report Misconduct

20. A staff member at the NO-D level, with supervisory functions, was found to have failed to report the preparation of fraudulent documents, which were intended to be used to justify a non-competitive procurement process. The fact that the staff member had tried to raise his misgivings about the procurement with management and admitted to his responsibility in the

matter were considered mitigating factors. There was no finding of direct financial loss in this case.

Sanction: Loss of two steps in grade and deferment, for two years, of eligibility for salary increment.

Forgery

21. A staff member at the D-1 level was found to have instructed another UNDP staff member to forge documents with a view to avoiding a competitive procurement process. In doing so, the staff member was also found to have demonstrated favoritism in the award of a contract. There was no finding of direct financial loss in this case.

Sanction: Separation from service with compensation in lieu of notice and without termination indemnity.

22. A staff member at the NO-C level was found to have engaged in forging official documents. That the staff member was acting on the instruction of her supervisor and derived no personal benefit were recognized as mitigating factors. There was no finding of direct financial loss in this case.

Sanction: Demotion by one grade and deferral, for six months, of eligibility for consideration for promotion.

Fraud - Entitlements

23. A staff member at the NO-C level, with supervisory responsibilities, committed entitlement fraud by knowingly submitting fraudulent medical claims to an insurance provider. The staff member also knowingly failed to report another staff member's fraudulent actions with respect to entitlement claims. As a result of this conduct, UNDP incurred a financial loss, which has been recovered from the staff member.

Sanction: Dismissal.

24. A staff member at the G-6 level committed entitlement fraud by knowingly and repeatedly submitting fraudulent medical claims to an insurance provider and intentionally interfering with an ongoing OAI investigation. As a result of this conduct, UNDP incurred a financial loss, which has been recovered from the staff member.

Sanction: Dismissal.

25. A staff member at the G-4 level committed entitlement fraud by knowingly submitting fraudulent medical claims to an insurance provider. While the staff member engaged in the conduct on two separate occasions, that the staff member expressed remorse and paid back the loss in full were recognized as mitigating factors. As a result of this conduct, UNDP incurred a financial loss, which has been recovered from the staff member.

Sanction: Separation from service with compensation in lieu of notice and without termination indemnity.

26. A staff member at the G-6 level committed entitlement fraud by knowingly and repeatedly submitting fraudulent medical claims to an insurance provider. There was no finding of direct financial loss since the insurance provider did not make any reimbursements with respect to the fraudulent claims.

Sanction: Dismissal.

27. A staff member at the G-1 level committed entitlement fraud by repeatedly submitting fraudulent medical claims to an insurance provider. That the staff member fully complied with the investigation and immediately returned the loss were recognized as mitigating factors. As a result of this conduct, UNDP suffered a financial loss, which was recovered from the staff member.

Sanction: Separation from service with compensation in lieu of notice and without termination indemnity.

28. A staff member at the G-5 level committed entitlement fraud by repeatedly submitting fraudulent medical claims to an insurance provider. The fact that the staff member refused to admit responsibility for her conduct was considered an aggravating factor. As a result of this conduct, UNDP sustained a financial loss, which has been recovered from the staff member.

Sanction: Dismissal.

29. A staff member at the G-5 level committed entitlement fraud by repeatedly submitting fraudulent medical claims to an insurance provider. That the staff member complied fully with the investigation and immediately returned the loss were recognized as mitigating factors. As

a result of this conduct, UNDP incurred a financial loss, which has been recovered from the staff member.

Sanction: Separation from service with compensation in lieu of notice and without termination indemnity.

Misrepresentation

30. A staff member at the P-5 level was found to have committed knowing misrepresentations and false certifications by failing to disclose a serious criminal history on a P11 form submitted in support of applications to two UNDP positions. The seniority of the staff member, the reputational risk for the Organization and the repetitive nature of the staff member's conduct were considered aggravating factors. There was no finding of direct financial loss in this case.

Sanction: Dismissal

Misuse of Resources

31. A staff member at the P-3 level, with security functions, was found to have operated an UN-armored vehicle while intoxicated. The staff member was also found to have failed to promptly report the incident and been untruthful during the investigation process. There was no finding of direct financial loss in this case.

Recommended sanction: Separation from service with compensation in lieu of notice and without termination indemnity.⁵

Sexual Harassment

32. A staff member at the P-4 level, serving as a head of an office and holding security and safety functions, was found to have engaged in sexual harassment by making unwanted sexual advances on a subordinate. A significant aggravating factor was that the staff member suggested a quid pro quo in employment benefits for a sexual relationship, placing the victim in a particularly vulnerable position.

⁵ The staff member in this case transferred to the UN after initiation of the disciplinary proceedings, thus this measure was recommended to the UN for its action.

*Sanction: Dismissal*⁶

33. A staff member at the D-2 level was found to have engaged in sexual harassment by an instance of inappropriately touching a direct subordinate on the leg and making a sexually suggestive comment. The staff member also separately engaged in workplace harassment of another colleague.

Sanction: Demotion by three grades with deferment, for one year, for consideration for promotion.

Workplace Harassment

34. A staff member at the G-5 level was found to have engaged in workplace harassment by shouting at another staff member and making an extremely offensive comment to aggravate and insult that staff member. The fact that he did so in the presence of another colleague was considered an aggravating factor.

Sanction: Written censure.

D. Action taken where the subject of an investigation separated from UNDP prior to the conclusion of the case

1) Actions taken pursuant to paragraph 72 (a) of the Legal Framework

35. Pursuant to paragraph 72 of the Legal Framework, if an investigation subject resigns or otherwise separates prior to the completion by OAI of an investigation report, the investigation report may be finalized at OAI's discretion, despite the investigation subject's resignation or separation.
36. Notwithstanding a staff member's separation, if the investigation report is finalized, OAI sends the draft investigation report to the former staff member providing the former staff member with the opportunity to submit his or her comments on the factual findings and conclusions in the draft report. After consideration and amendment as appropriate, the investigation report and comments are sent to LO/BMS for review. Following review, the Director of LO/BMS

⁶ The staff member in this case transferred to the UN after initiation of the disciplinary proceedings, thus this measure was recommended to the UN for its action.

issues a letter to the former staff member indicating whether, if he or she had remained on a staff appointment: (i) a recommendation would have been made for charges of misconduct to be initiated against him or her, or (ii) he or she would have been exonerated from the allegations of misconduct, or (iii) the matter would have been dealt with from a work performance standpoint, and if so how (e.g. by a letter of reprimand). The former staff member is invited to comment on the letter, and the Director, LO/BMS's letter, and the former staff member's comments thereon, are placed in his or her Official Status File.

37. In the period under review, 6 such cases were closed under paragraph 72 (a).

Summary of cases

Cheating

38. A former staff member at the G-7 level was informed that a recommendation would have been made to charge him with misconduct for using text from external sources and passing that text off as his own in the context of an exam. There was no finding of direct financial loss in this case.

Embezzlement

39. A former staff member at the G-5 level, with finance functions, was informed that a recommendation would have been made to charge him with misconduct for embezzling leftover funds from DSA payments in connection with a workshop. As a result of this conduct, UNDP incurred a financial loss, which has been recovered from the former staff member.

40. A former staff member at the G-5 level was informed that a recommendation would have been made to charge her with serious misconduct for (i) repeatedly defrauding UNDP into making unjustified payments for a workshop, and (ii) misusing UNDP's property and assets to do so. As a result of this conduct, UNDP incurred a financial loss, which UNDP will seek to recover from the former staff member.

Gross Negligence

41. A former staff member at the D-1 level, with security advisory functions, was informed that a recommendation would have been made to charge him with misconduct for gross negligence in failing to implement proper oversight and responsibility for weapons and ammunition. There was no finding of direct financial loss in this case.

Misuse of Official Resources

42. A former staff member at the G-2 level was informed that a recommendation would have been made to charge him with serious misconduct for engaging in the unauthorized use of official vehicles for his private benefit and for failing to comply with the Organization's policies on managing transportation equipment. There was no finding of direct financial loss in this case.

Unauthorized Outside Activities

43. A former staff member at the P-4 level was informed that a recommendation would have been made to charge him with misconduct for engaging in unauthorized outside activities by accepting employment with, and working for, an external entity without approval. There was no finding of direct financial loss in this case.

2) Actions taken pursuant to paragraph 72 (b) of the Legal Framework

44. When OAI decides that the investigation report cannot be finalized, the Director of LO/BMS places a letter in the former staff member's Official Status File, indicating that he or she: (i) resigned or, (ii) his or her contract expired, while under investigation. In both instances, the former staff member is given an opportunity to present comments, and the letter and his or her comments are placed in his or her Official Status File.

45. In the period under review, no cases were closed under paragraph 72 (b).

3) Actions taken pursuant to paragraph 81 (a) of the Legal Framework

46. Under paragraph 81(a) of the Legal Framework, if the investigation subject resigns or otherwise separates from service after the initiation of disciplinary proceedings but prior to the imposition of a disciplinary sanction, the Director, LO/BMS may nevertheless decide whether,

if the subject had remained a staff member, a recommendation would have been made to impose disciplinary sanctions on the subject. The Director LO/BMS may place a letter to this effect, indicating the relevant sanction, on the subject's official status file. The subject will be invited to comment on the letter, and his or her comments will be attached to the letter from the Director LO/BMS to be placed in his or her official status file. The Director LO/BMS may similarly recommend that the former staff member be exonerated of misconduct and/or that the matter should be treated as a performance issue. In such a case, such a recommendation will be made to the Assistant Administrator and Director, BMS who may formally and fully exonerate the subject or exonerate the subject and issue a reprimand.

Summary of cases

47. In the period under review, 1 case proceeded under this process.

Forgery

48. A former staff member at the G-7 level was informed that a recommendation would have been made to impose the disciplinary sanction of *separation from service with compensation in lieu of notice and without a termination indemnity* for forging her supervisor's signature to approve an official claim for overtime. As a result of this conduct, UNDP incurred a financial loss, which has been recovered from the former staff member.

E. Cases of clearance of the allegations

49. Where it is considered that the allegations are not substantiated, or the facts do not warrant disciplinary measure because the staff member's conduct was not found to rise to the level of misconduct, or where there is insufficient evidence to proceed with a disciplinary proceeding, the staff member may be cleared from the allegations.

50. As noted, during the period under review, 3 cases resulted in such clearances.

III. Cases involving other personnel

A. Overview

51. UNDP has zero tolerance for fraud, corruption and other wrongdoing by any personnel. During the period covered by this report, OAI submitted investigation reports directly to the concerned Offices in a number of cases where the investigation revealed evidence of wrongdoing by personnel other than staff members and UN Volunteers. As these individuals are not UNDP staff members, their contract with UNDP constitutes the legal framework governing their employment with UNDP, and subscribers are only subject to the explicit terms and conditions provided therein. The violation of the standards of expected conduct may lead to the termination or non-renewal of their contracts. Such decisions are within the competence and authority of the Offices for which the non-staff personnel is working, further to the Offices' accountability for such non-staff personnel.

52. LO/BMS is aware that OAI sent 11 investigation reports involving 7 Service Contract (SC) holders and 4 Individual Contract (IC) holders directly to Offices which resulted in action taken in the current reporting period. LO/BMS also received an investigation report from another UN Agency involving 2 UNDP SC holders on behalf of that Agency. In addition to the OAI and UN Agency investigation reports, LO/BMS was contacted directly by 5 Offices regarding issues involving 6 SC holders. In preparing this report, LO/BMS followed up on the outcome of all 19 cases. The results are as described below.

B. Description of cases

Abuse of Authority

- 1 SC holder was found to have engaged in abuse of authority. The contract was terminated.

Bribery

- 1 SC holder was reported to have engaged in bribery. The SC resigned before an investigation commenced.

Fraud

- 4 SC holders, including 2 contracts on behalf of another UN Agency were found to have engaged in medical insurance fraud. All 4 contracts were terminated.
- 1 IC holder was found to have engaged in procurement fraud. The contract was not renewed.
- 2 SC holders were found to have engaged in entitlements fraud. 1 contract was terminated, 1 SC holder received a reprimand letter.

Misrepresentation, Forgery and False Certification

- 2 SC holders on contracts on behalf of another UN Agency were found to have forged signatures. Both contracts were terminated.
- 1 IC holder was found to have had assistance in a written assessment in a procurement process. The contract was not renewed.

Misuse of Official Resources

- 1 IC holder was found to have misused official UNDP resources. The IC holder resigned before the completion of the investigation report.

Other Failure to Comply with Obligations

- 1 SC holder was found to have requested and accepted assistance in completing requirements for two separate recruitment processes. The SC holder received a reprimand letter.
- 1 IC holder was found to have given unauthorized assistance to a government. The contract expired before investigation report was issued.

Sexual Exploitation and Sexual Abuse/Sexual Harassment /Sexual Assault

- 1 SC holder was found to have sexually assaulted a staff member from another UN Agency. The contract was terminated.
- 1 SC holder was found to have sexually harassed a colleague. The SC holder resigned before the investigation was completed.

Unauthorized Outside Activity

- 1 SC holder was found to have engaged in unauthorized political activity. The SC holder resigned before the investigation report was issued.
- 1 SC holder was found to have a contract with another UN Agency while on a UNDP SC. The contract was terminated.

IV. Possible criminal behavior

53. In its resolution 62/63, the General Assembly requested the Secretary-General “to bring credible allegations that reveal that a crime may have been committed by United Nations officials and experts on mission to the attention of the States against whose nationals such allegations are made, and to request from those States an indication of the status of their efforts to investigate and, as appropriate, prosecute crimes of a serious nature [...]”. The UN Under-Secretary-General for Management reports on such cases in the yearly “Information Circular” entitled “Practice of the Secretary-General in disciplinary matters and possible criminal behaviour”.
54. When OAI findings reveal credible evidence that a violation of national law has occurred to warrant referral to the law enforcement authorities of a Member State, UNDP recommends referral of such matters to the UN Office of Legal Affairs (OLA) for its review and appropriate action.

55. During the reporting period covered by this report, UNDP referred 12 cases to OLA related to the conduct of staff members. At the conclusion of the reporting period, OLA had referred 7 of the 12 cases to the competent national authorities.⁷

56. During the reporting period covered by this report, UNDP referred no cases of non-staff personnel to OLA.

V. Cases involving United Nations Volunteers

57. UN Volunteers are not staff members and are not subject to the disciplinary process provided in the UN Staff Regulations and Rules or in the Legal Framework. They are subject to disciplinary procedures under the respective UNV Conditions of Service for International and National UN Volunteers.

58. During 2019, 25 cases were reviewed concerning allegations against UN Volunteers assigned across the United Nations system. 19 of these cases resulted in the imposition of disciplinary sanctions. Of these 19 cases, 10 resulted in censures, three resulted in non-extension of current contract, five resulted in non-extension with 5 years exclusion from Talent Pool, and one resulted in early separation. One resulted in a reprimand, four resulted in exoneration and one was closed without further action.

VI. Vendor sanctions

59. In 2019 the Vendor Review Committee (VRC) received 30 investigation reports from OAI. The VRC reviewed and closed 28 cases in 2019 (9 from 2019 and 19 from 2018) resulting in the debarment of 48 vendors and individuals and 3 letters of censure.

60. Also, during 2019, 12 vendors were suspended on an interim basis, while either waiting completion of an OAI investigation or VRC action.

⁷ This figure does not include referrals made by OLA in prior years.