

FUNCTIONING OF THE OFFICE OF THE INSPECTOR GENERAL

1. The Executive Committee at its October 2004 plenary session requested the Bureau, in cooperation with UNHCR, to organize informal consultations on enhancing the independence of the Inspector General's Office (IGO). Two Informal Consultative Meetings on this subject were held on 22 February and 21 July 2005. These led to the adoption of a decision at the 2005 plenary session in which, *inter alia*, the Executive Committee expressed "*its intention to hold further consultations with the Inspector General in regard to the functioning of his office, with a view to the possible adoption of a decision on this issue at its fifty-eighth plenary session.*" The present Informal Consultative Meeting has been organized pursuant to this and takes into account also the request of the Inspector General to advance these discussions so as to allow a decision, if any, on this subject to be taken at the Executive Committee's fifty-seventh session.

2. In the course of 2005 UNHCR undertook a comprehensive review of the terms of reference of the IGO. This drew on lessons learned since the operative rules governing the role and functions of the IGO were last revised in September 2003, and was informed by the discussions that took place in the February and July 2005 informal consultations. The outcome was the issuance, in November 2005, of a directive from the High Commissioner establishing revised terms of reference for the IGO. The main purpose of this revision was to:

- strengthen provisions for assuring the independence of the IGO;
- introduce a new policy of dissemination of inspection reports aimed at enhancing transparency and accountability; and
- update the IGO's operational policies and procedures in line with relevant recent administrative instructions from the Secretary-General and in light of experience gained since the issuance of the preceding directive.

3. The directive (IOM 054/2005 – FOM 054/2005 of 3 November 2005), in addition to spelling out the IGO's mandate and role, sets out in detail the IGO's working methods and operational policies and procedures, and is therefore the relevant reference document for the present meeting. A copy is attached to this note.



UNHCR Inter-Office Memorandum No. 054/2005
UNHCR Field Office Memorandum No. 054/2005

To/à: All Staff Members at Headquarters and in the Field

From/de: The High Commissioner

Ref. / réf.: ADM-01-01, IGO-ADM-00

Date/date: 3 November 2005

Subject/objet: **The role, functions and *modus operandi* of the Inspector General's Office**

1. INTRODUCTION

1.1. This IOM/FOM supersedes and replaces IOM 65/03 – FOM 65/03 of 9 October 2003 on the role, functions and *modus operandi* of the Inspector General's Office (IGO). Its purpose is threefold:

- to strengthen provisions for assuring the independence of the IGO;
- to introduce a new policy of dissemination of inspection reports aimed at enhancing transparency and accountability; and
- to update the IGO's operational policies and procedures in line with relevant recent administrative instructions from the Secretary-General and in light of experience gained since the issuance of the preceding IOM/FOM.

2. MANDATE

2.1: The IGO's mandate comprises three functions: inspections of field offices and headquarters' units; investigations of possible misconduct by UNHCR personnel; and *ad hoc* inquiries into incidents of violent attacks on UNHCR personnel and operations where these involve fatalities, major injuries, or large-scale damage to UNHCR assets. *Ad hoc* inquiries into other types of incidents that could directly impact the credibility and integrity of the Office can also be carried out by the IGO at the High Commissioner's request.

2.2. The ultimate aims of the IGO are to (1) support the effective, efficient and accountable management of UNHCR operations, including through preventive and pre-emptive measures that minimize the need for remedial action, and (2) play a positive role in upholding an environment of integrity in UNHCR by contributing to the maintenance of the highest standards of personal and professional conduct by UNHCR personnel, in accord with UNHCR's Code of Conduct. To these ends it also derives trends, lessons and best practices from its findings, and makes recommendations to the High Commissioner and Senior Management for the improvement of overall office policies, internal controls and management practices.

3. INDEPENDENCE OF THE IGO

3.1. The IGO must be able to perform its mandated functions, including through selecting and managing its staff, as it deems necessary and appropriate. It shall do so on the basis of this memorandum without need for prior clearance or further authorization, adhering throughout to the management standards and administrative and financial regulations, rules and guidelines that apply to all organisational units of UNHCR. Staff, including the High Commissioner and senior managers, are prohibited from interfering in the direction, organisation and conduct of its substantive work. The IGO must also be free of interference from any external party, including governments and other actors. In exercising its operational independence the IGO should at all times be guided by the fundamental principles of impartiality, fairness and due process. IGO staff is required both to demonstrate respect for these principles and high professional competence and integrity in the exercise of its responsibilities.

3.2. The High Commissioner retains the authority to appoint the Inspector General (IG); however, the IG may only be removed by the High Commissioner for just cause and with due process and - exceptionally - following consultations with the Executive Committee of the High Commissioner's Program (EXCOM). The person selected for the position of IG must be of the highest professional qualifications, personal conduct and integrity, will be chosen from candidates who are from within or external to UNHCR and normally will be appointed for a non-renewable term no longer than five years. To address concerns that the work of the IG may be influenced by his/her subsequent assignment (s), preference among qualified internal candidates will be given to individuals for whom the post would be their last assignment before retirement.

3.3. The IG is accountable for his/her performance, including for the management of the IGO, to the High Commissioner. He/she reports directly to the High Commissioner, and keeps EXCOM and the Oversight Committee informed of his/her office's activities while at all times preserving the confidentiality of the investigation process. The IGO's performance shall be subject to periodic independent review.

4. MODUS OPERANDI

4.1. The IGO has access to all persons engaged in activities under the authority of the Office, all UNHCR premises and all records, documents and communications (including in electronic form) and other materials and assets under the ownership or control of the Office, as required for its work, subject to applicable United Nations Regulations and Rules. Staff have the obligation to respond promptly and fully to its requests for information and the IG may call upon managers to ensure timely co-operation.

4.2. With a view to ensuring complementarity and minimizing duplication of efforts, the IGO coordinates relevant aspects of its work with other units engaged in oversight activities, including the Department of International Protection (DIP), the Division of Human Resource Management (DHRM), the Division of Financial and Supply Management (DFSM) and the Internal Audit Service (IAS). It also liaises with and, as needed and appropriate, refers issues to the United Nations Office of Internal Oversight Services (OIOS).

4.3. The following sections describe the functions of the IGO in more detail, setting out the specific aims, scope and parameters of inspections, investigations and *ad hoc* inquiries.

4.4. Inspections

Inspections (as defined further below) are an internal oversight and management tool designed to provide the High Commissioner and his senior managers with a detached and objective assessment of the quality of management of UNHCR operations and activities at Headquarters and in the Field. They focus particularly on those factors, both internal and external to the Office, deemed essential to the effective and efficient achievement of agreed objectives. Inspections furthermore provide the heads of the operations or units inspected, and the respective Directors, with positive recommendations for improving management or taking corrective action in their areas of responsibility, and, where necessary, a second opinion on difficult issues. Inspections also highlight recurring issues that need to be addressed at a higher or systemic level and identify best practices for dissemination.

4.5. Types of inspections

4.5.1. The IGO carries out standard or *ad hoc* inspections as defined below.

4.5.2. Standard inspections systematically check whether, and how effectively, established policies, guidelines, parameters and best practices are being applied in the management of a field office's or headquarters unit's activities, employing for this purpose standardized schedules and methods developed in consultation with concerned functional units (with separate modules adapted for field offices and headquarters units). Generic terms of reference established by the IGO will be uniformly applicable to all standard inspections and will be reflected in the Inspection Handbook.

4.5.3. *Ad hoc* inspections focus on specific management issues that cannot adequately be dealt with through the normal management structure and require a separate assessment. They will be carried out subject to confirmation by the responsible senior manager that other options available to her/him for dealing with the problem at hand have been exhausted, and subject to availability of resources. *Ad hoc* inspections are based on customized terms of reference prepared to address the particular need identified in each instance.

4.6. Selection of field offices and headquarters units to be inspected

4.6.1. The IGO will develop and periodically update an annual inspection plan listing field offices and headquarters units scheduled for a standard inspection. Before drawing up or amending this plan it will consult with concerned departments, divisions, regional bureaux and other work units, including IAS and EPAU in order to ascertain inspection needs and priorities. The Staff Council may also make suggestions in this regard. The IGO will also take into consideration any requests for inspections from heads of field offices or headquarters units; and managers of these offices/units may address such requests directly to the IG. The IGO will also be responsive to requests received from EXCOM pursuant to its statutory functions. The planning process will include review and analysis of past inspection, investigation, audit, evaluation and other relevant reports and documentation. The annual plan will give priority to the inspection of offices/units experiencing severe management challenges and/or which are considered vulnerable to potential management problems. It will also give special attention to offices/units that have not been inspected within the preceding five-year period, notwithstanding lower risk profiles. The annual inspection plan will be developed in consultation with the Oversight Committee and approved by the High Commissioner.

4.6.2. *Ad hoc* inspections may be undertaken upon the request of a senior manager or initiated by the IG. In the former case, costs must be covered by the requesting department or division or charged to the concerned field office.

4.7. Conduct of inspections

4.7.1. The following provisions and procedures apply to the conduct of all inspections:

- Inspections should be conducted after due consultation with concerned senior managers at Headquarters, and in the case of field offices, also with Representatives/Chiefs of Mission.
- Offices/units to be inspected are required to prepare a work program, including relevant external meetings, in coordination with the inspection team prior to its arrival on site. If during the course of an inspection changes to the program are necessary these should be accommodated to the extent possible.
- Inspection teams must have unhindered access to all staff and records at the location being inspected, subject to applicable United Nations Regulations and Rules. Staff members have the right to meet or communicate with inspection teams individually and on a confidential basis.
- Inspection teams may meet with any external interlocutor relevant to their work. To facilitate a free and frank expression of views, such meetings may be held separately, while keeping the head of office/unit informed.
- Before concluding its on-site work, the inspection team should provide a briefing on main findings to the head of the office/unit to enable the latter to provide any relevant clarifications, explanations or additional information.
- The head of the office/unit inspected and her/his respective Director should be provided adequate time (normally fifteen days) to comment on the full inspection report in draft prior to its finalization and issuance by the IGO. The content of the final report remains within the authority and responsibility of the IGO.
- Inspection Reports are submitted to the High Commissioner and distributed to the head of the office/unit inspected, to her/his responsible Director and to the other units responsible for implementation of specific recommendations.

4.8. Participation of other units

4.8.1. Where appropriate, staff from other units or consultants with relevant expertise not available within the IGO will be included in inspection teams. Given the particular competence and complementary responsibility for protection oversight of the Department of International Protection (DIP), a DIP-designated officer will, as a rule, participate in all standard inspections. For analogous reasons related to oversight of human resource management, standard inspection teams will normally also include a DHRM-designated staff member.

4.9. Reporting and follow-up

4.9.1. The full texts of all reports of inspections undertaken as of 1 September 2005 will be made available to staff and Members of EXCOM. Where necessary in order to ensure appropriate confidentiality, including the privacy of staff members concerned, these texts may be edited at the discretion of the IG. The IG will be available to EXCOM to respond to questions on inspection activities.

4.9.2. The heads of offices/units inspected have primary responsibility for implementing inspection recommendations or providing reasoned and convincing explanations why any given recommendation should not or cannot be implemented. Responsibility for ensuring that heads of offices/units respond to inspection recommendations in a timely and effective manner remains with the supervising Director, and the former are required to report through the latter to the IGO on the status of action on inspection recommendations, for which they are jointly accountable.

4.9.3. The IGO will follow up inspection recommendations until they are fully accounted for or until it determines they are no longer valid or actionable. Periodically, it will provide a summary analysis of inspected offices' response to inspection recommendations to the Oversight Committee, and will draw the attention of the Committee to egregious cases of non-compliance with the obligations set out in 4.9.2 above. The Oversight Committee will determine and oversee further steps necessary to deal with such compliance failures. *Inter alia*, it may request the IGO or other units with relevant expertise to field compliance missions, and/or require concerned supervisors to reflect compliance failures appropriately in relevant Performance Appraisal Reports.

4.9.4. Deadlines for the foregoing sequence of reporting and follow-up actions will be established by the IGO and should be respected by all concerned.

4.9.5. The IGO will maintain a computerized database of inspection reports, including listings of all recommendations and their implementation status, for the above purposes.

4.9.6. Annually, the IGO will provide the High Commissioner with a report summarizing recurrent inspection findings, lessons learned and best practices.

5. INVESTIGATIONS

5.1. Competence

5.1.1. The IG has overall authority and responsibility for ensuring that possible misconduct within UNHCR is investigated in a timely and appropriate manner and that findings are transmitted to the High Commissioner. The IG keeps the High Commissioner regularly informed of possible misconduct of a serious nature and the possible repercussions on the Office.

5.1.2. As set out in paragraph 2 of United Nations ST/AI/371 of 2 August 1991 on "Revised Disciplinary Measures and Procedures":

Where there is reason to believe that a staff member has engaged in unsatisfactory conduct for which a disciplinary measure may be imposed, the head of office or responsible officer shall undertake a preliminary investigation.

5.1.3. In UNHCR, this obligation is implemented through the IG, who is the responsible officer as provided for in ST/AI/371. All investigations undertaken prior to any formal charge of misconduct against a staff member are considered preliminary. The purpose of a preliminary investigation is to determine whether or not the facts support a finding of misconduct that may ultimately be subject to disciplinary action. An investigation is a fact-finding exercise and not a punitive undertaking.

5.1.4. The decision to institute disciplinary proceedings is made by the Director of DHRM in accordance with the procedure set out in ST/AI/371, the application of which is explained in IOM 38/02 – FOM 36/02 of 30 May 2002. The separation of functions between investigations under the IG's responsibility and disciplinary action taken by the Director of

DHRM provides necessary checks and balances for the proper administration of justice.

5.2. Misconduct

5.2.1. United Nations Staff Rule 110.1, defines misconduct as any:

failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other administrative issuances, or to observe the standards of conduct expected of an international civil servant.

5.2.2. Misconduct that may be subject to disciplinary measures includes but is not limited to:

Acts or omissions in conflict with the general obligations of staff members set forth in article 1 of the Staff Regulations and the rules and instructions implementing it;

Unlawful acts (e.g. theft, fraud, possession or sale of illegal substances, smuggling) on or off United Nations premises, and whether or not the staff member was officially on duty at the time;

Misrepresentation or false certification in connection with any United Nations claim or benefit, including failure to disclose a fact material to that claim or benefit;

Assault upon, harassment of, or threats to other staff members;

Misuse of United Nations equipment or files, including electronic files;

Misuse of office; abuse of authority; breach of confidentiality; abuse of United Nations privileges and immunities;

Acts or behaviour that would discredit the United Nations.

5.2.3. Misconduct involving sexual exploitation and sexual abuse of refugees, other persons of concern to UNHCR and other vulnerable populations is specifically covered by the Secretary-General's Bulletin ST/SGB/2003/13 of 9 October 2003, on special measures for the protection from sexual exploitation and sexual abuse, which are defined as follows:

Sexual exploitation: any actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another; and,

Sexual abuse: the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

5.2.4. The UNHCR Code of Conduct and the Standards of Conduct for the International Civil Service (Annex II to A/56/30) generally serve as guides for the expected standards of conduct of UNHCR staff members, whose legal obligations are set out in the UN Staff Regulations and Rules.

5.3. Scope of investigative authority

5.3.1. The IGO is responsible for ensuring that possible misconduct involving any person having a direct contractual link with UNHCR, including staff members, consultants, interns

and persons deployed to UNHCR offices under agreements with third parties¹ is properly investigated.

5.3.2. The fact that a staff member is separated from service with UNHCR does not preclude the IGO from investigating possible misconduct by that staff member during her/his employment with UNHCR.

5.3.3. Where the IGO becomes aware of possible misconduct related to personnel who do not fall within its investigative competence, information related to that possibility will be referred to the relevant department for appropriate action. This may include, for example, contractual remedies in the case of independent contractors, amendment of agreements for implementing partners and *demarches* with authorities if related to government counterparts.

5.3.4. If requested by the High Commissioner, the IG will undertake investigations into other incidents, including into alleged misconduct by non-UNHCR personnel (insofar as practicable), if such incidents pose a risk to the Office's mandated responsibilities, interests or operations.

5.3.5. The IG will refer to OIOS, as appropriate, possible cases of misconduct implicating senior staff of the Executive Office, including of the IGO. In cases related to other IGO staff the IG will carefully consider possible conflicts of interest, real or apparent, when determining, whether or not the matter should be referred to OIOS.

5.4. Reporting possible misconduct

5.4.1. The possibility of misconduct may be revealed by a direct allegation reported to the IGO, through inspection, inquiry, audit or other oversight observations or through circumstances that tend to indicate wrong-doing, for example missing or damaged property, even in the absence of a direct allegation.

5.4.2. All staff have a duty to report instances of misconduct as well as any information that relates to misconduct they have observed. This duty may be subject to conditions established from time to time in the interest of the organization and/or staff, and is currently subject to the exception relating to allegations of harassment, sexual harassment and abuse of authority set out in section 5.8. below. Reports subsequently determined to be unfounded will not give rise to any action against the staff member who reported the conduct unless the report was made in bad faith. Using the investigation process in a malicious manner or otherwise providing information either known to be false or with reckless disregard for its accuracy may constitute misconduct and will be investigated as a separate act of possible misconduct.

5.4.3. Staff should report possible misconduct either directly to the IGO or to their Director, Representative or Chief of Mission (hereinafter referred to as "Manager"), who must then promptly inform the IGO, which can be contacted confidentially as follows:

Confidential fax: +41-22-739-7380
Confidential E-mail: inspector@unhcr.ch
Telephone hotline: +41-22-739-8844

5.4.4. Reports can also be made in person to IGO staff at Headquarters or while IGO staff are on missions in the field. In such cases IGO staff will normally record the report in the form of a confidential note for internal IGO use.

¹ This includes investigating allegations against personnel recruited through the United Nations Office of Project Services (UNOPS) and United Nations Volunteers (UNVs) who are, or were at the time to which the allegation relates, assigned to UNHCR offices, and transmitting the findings of such allegations to UNOPS or UNV Headquarters for their appropriate action.

5.4.5. Telephone hotline calls are answered by an IGO staff member during normal working hours and are recorded after office hours. When answered by an IGO staff member, calls may also be recorded with the prior consent of the caller. The telephone hotline is also available for seeking any preliminary advice that may be needed prior to reporting possible misconduct.

5.4.6. For practical reasons, investigations normally will not be conducted into events more than five years old, or more than one year old in cases of possible harassment, sexual harassment and abuse of authority, unless materially relevant information previously unknown to the IGO is revealed after that period or the nature of the events otherwise permits effective investigation.

5.5. Protection of sources of information

5.5.1. The IGO shall safeguard the confidentiality of the identity of the person from whom or the entity from which it receives a report of possible misconduct. The identity of the source may only be disclosed if all the following conditions are met:

- the person or entity has been informed in advance of the disclosure;
- disclosure is necessary for administrative, disciplinary or judicial proceedings; and
- the IG has approved disclosure.

5.5.2. Notwithstanding the above, information contained within the complaint itself, as provided to the IGO, may be used in order to institute or implement administrative, disciplinary or judicial proceedings.

5.5.3. The identities of witnesses providing information relevant to investigations are disclosed only to the extent necessary for purposes of due process requirements arising from consequent administrative or disciplinary action.

5.5.4. Reprisals for reporting possible misconduct or disclosing information to, or otherwise cooperating with, the IGO constitute misconduct. If a credible claim of retaliation is received, the claim will be investigated as a separate act of misconduct. Retaliation against staff for assignments undertaken while serving in or attached to the IGO is also covered under this provision.

5.5.5. If a report of possible misconduct received by the IGO is considered to put a staff member at risk, the IG will immediately recommend protective measures to the High Commissioner.

5.6. Anonymous reports of possible misconduct

5.6.1. Generally, reports of misconduct are received from known sources, but where the source cannot be identified, the IG will assess information provided to determine whether a credible basis to proceed exists. If, through preliminary inquiries, the information offered anonymously can be corroborated with independently established facts an investigation may be initiated.

5.7. Initial assessment by Managers

5.7.1. Any Manager who receives a report of possible misconduct must promptly inform the IGO (subject to 5.4.2 above) along with the following initial assessments:

- whether the source is, in her/his view, *prima facie* credible, including the reasons and/or evidence for this judgment;
- whether it is specific and can be dated, including all pertinent information received or obtained in this regard;
- whether supporting evidence is available or might become available, including an itemization of such evidence, if possible;
- whether the alleged misconduct has possibly resulted in material or financial loss to the Office and if so the known or estimated amount of this loss; and
- whether the alleged misconduct has affected in any other way the credibility, integrity or image of the Office.

5.8. Optional procedure for allegations of harassment, sexual harassment and abuse of authority

5.8.1. IOM/FOM No. 29/2005 of 28 April 2005 and IOM/FOM No. 29/2005/Corr. 1 of 4 May 2005 sets out “UNHCR’s Policy on Harassment, Sexual Harassment and Abuse of Authority” and provides that staff members and non-staff personnel may choose to deal with any complaint or grievance of this nature through either an informal or formal process.

5.8.2. The Mediator is responsible for the facilitation of the informal process in dealing with harassment and abuse of power, and provides initial advice in case of possible incidents. Recourse to the Mediator is strictly voluntary and is treated with strict confidentiality.

5.8.3. The formal process will follow the procedures otherwise established in this memorandum for dealing with possible misconduct.

5.9. Registration and acknowledgement of complaints

5.9.1. The IGO shall acknowledge receipt of any report of possible misconduct to the source of that report and/or the reporting Manager within *five* working days. All reports of possible misconduct however revealed and from whoever received, will be logged in a confidential IGO register and assigned an identification number for case management purposes.

5.10. Initial examination of possible misconduct and designation of the Responsible Officer

5.10.1. Possible misconduct reported or revealed to the IGO initially will be examined by the Investigation Unit to assess credibility and to determine whether it falls within the competence of the IGO.

5.10.2. The decision to proceed with an investigation into possible misconduct normally will be communicated to the staff member who initially reported the possible misconduct and/or the reporting Manager within *thirty* days, unless further preliminary inquiries are needed in order to arrive at a determination. If the IGO initiates an investigation, the staff member who initially reported the possible misconduct and/or the reporting Manager will also be notified at this time as to the officer who will conduct the investigation (the “Responsible Officer”).

5.10.3. The IGO will, as soon as it is feasible without jeopardizing the effectiveness or integrity of the investigation process itself, formally communicate to the subject of an investigation that s/he is under investigation.

5.11. Responsibility for conducting investigations

5.11.1. While the IG has overall authority and responsibility for ensuring that possible misconduct is properly investigated, Managers of staff subject to investigation continue to exercise their normal supervisory responsibilities in respect of these staff. When a Manager receives a report or other information about possible misconduct she/he must immediately inform the IG (subject to 5.4.2.). The Manager is, furthermore, expected to support the IGO in its conduct of the ensuing investigation and may be requested by the IG to perform certain limited investigatory functions under IGO oversight.

5.11.2. Investigations are subject to the confidentiality provisions and other standards and procedural safeguards applicable to investigations, as set out in relevant regulations and rules, including the IGO Guidelines on Conducting Investigations and Preparing Investigation Reports. In cases where the IGO requests a Manager or other staff member to assist with an IGO investigation, the IGO Investigations Unit will oversee and provide guidance and support to ensure compliance with basic requirements. In all cases, investigation reports will be prepared in accordance with above-mentioned guidelines and, together with all supporting evidence, should be submitted to the IG for review and approval.

5.11.3. Reports or other information about possible misconduct that are received by the IGO from refugees or other persons of concern to the Office and that do not involve persons having a direct contractual link with UNHCR or deployed to UNHCR under agreements with third parties will be, in the first instance, referred to the Representative/Chief of Mission in the affected country, while keeping the respective Director of Regional Bureau informed. Where the rights and entitlements of refugees/returnees or other persons of concern to UNHCR are implicated, they should be dealt with directly by the responsible field office.

5.11.4. Reports of conduct that do not involve misconduct as defined in this memorandum may, after consultation with the source of the report, be referred by the IG to the competent manager or body for appropriate action.

5.12. Principles governing the conduct of investigations

5.12.1. The IGO Guidelines on Conducting Investigations and Preparing Investigation Reports provide detailed information on investigative procedures. These are based on the following principles and requirements:

5.12.2. Investigations must respect the individual rights and obligations of all staff as set out in the UN Staff Regulations and Rules and be conducted with strict regard for fairness, impartiality, the presumption of innocence and due process. When planning and conducting an investigation, the IGO shall consider the impact on staff members who might be negatively affected by the appearance of being investigated and/or targeted for investigation, and take all reasonable steps to protect the reputation of such staff members during the course of any investigation, including through raising general awareness of the fact-finding nature of investigations, maintaining and enjoining confidentiality, assuming an objective attitude towards all parties and acting in a professional manner in the conduct of investigations. When a staff member formally asks the Inspector General whether or not she/he is under investigation she/he will receive a definitive response in a manner consistent with paragraph 5.10.3

5.12.3. A staff member, whether of the IGO or another unit, who is required by the IGO to undertake an investigation (the "Responsible Officer"), or to assist with an investigation, must disclose to the IG any possible conflict of interest in a timely manner so as to enable the IG to take appropriate action to preserve the integrity of the investigation process.

5.12.4. Staff are required actively to cooperate with an investigation conducted under the

overall or direct authority of the IG and should provide upon request of the Responsible Officer full, free and prompt access to all records including files and data stored in any medium or transmitted using UNHCR equipment or with the assistance of UNHCR staff, and to UNHCR property and premises, subject to applicable regulations and rules. Staff members are also expected to provide to the Responsible Officer any additional relevant information that might be unknown to the latter, whether or not requested to do so. Deliberate non-cooperation with investigations, including withholding of information known to be of relevance, will be investigated as a separate case of possible misconduct.

5.12.5. Investigative findings should be presented in a draft preliminary investigation report and concerned staff afforded a fair and reasonable opportunity to respond to any information or fact that may tend to implicate them in misconduct. The timing and the manner in which this is done will be decided by the Responsible Officer with due regard for the interests of the staff member, the interests of the Office and the integrity and effectiveness of the investigation process. The concerned staff member can submit to the Responsible Officer any document, or make a written request for any witnesses she/he considers relevant to be interviewed. The documents and requests submitted by the staff member will be mentioned in and attached to the final preliminary investigation report submitted to the Director of DHRM.

5.12.6. The Manager responsible for a unit or operation that may be affected by an investigation, as well as her/his Director, should be informed in general terms about the investigation, as soon as this can be done without prejudicing the investigative process. Staff members informed under this provision are expected to respect the confidentiality of the investigation process.

5.12.7. The confidentiality of the investigative process is intended, *inter alia*, to protect the interests of a staff member subject to a preliminary investigation. Responsible Officers who are staff members of the IGO are bound by an Oath of Confidentiality relating to the investigation process. Other staff members who are designated as Responsible Officers, or requested to assist with an investigation, will be required to sign a statement obliging them to maintain the confidentiality of the investigation(s) in which they participate. No staff member will release publicly the details, or the fact itself, of an ongoing investigation. Any exception in the interests of the Office will have to be expressly authorized by the High Commissioner. Breach of confidentiality in the context of an investigation conducted under the overall authority of the IG may amount to misconduct.

5.13. Redeployment and suspension

5.13.1. While a staff member who is alleged to have committed misconduct normally should continue her/his official functions, circumstances may require that she/he not continue exercising these functions. In such cases the IG can recommend to the Director of DHRM a temporary redeployment of the staff member. If a temporary redeployment within the same office is not possible or appropriate and/or the circumstances require barring the staff member from further access to the office, it may be recommended to temporarily redeploy the concerned staff member on mission. The reasons for redeployment should be clearly set out by the IG in each instance.

5.13.2. If the possible misconduct is of such a nature or gravity that redeployment would not sufficiently protect the interests of UNHCR, the IG may recommend to the Director, DHRM the suspension of the implicated staff member(s) in accordance with Staff Rule 110.2 and paragraph 4 of ST/AI/371. As a general principle, suspension may take place if the continued presence of the concerned staff member poses a danger to other staff members, to UNHCR or the United Nations, or if there is risk of evidence being destroyed or concealed. Suspension does not constitute a disciplinary measure, should normally not exceed three months and shall be with full pay unless, in exceptional circumstances, the Director, DHRM decides, upon the

recommendation of the IG, that suspension without pay is appropriate.

5.14. Investigation findings

5.14.1. Reports of investigation findings will be prepared following IGO Guidelines on Conducting Investigations and Preliminary Investigation Reports.

5.14.2. Where the IG, in his/her view, determines that an investigation reveals sufficient evidence to conclude that an allegation of misconduct is well founded, the IG will transmit the Investigation Report² to the Director, DHRM for further action. When appropriate and necessary, the transmission memorandum from the IG may include:

- Recommendations for the recovery of monies or other assets of the Organization which were lost as a result of the misconduct;
- Recommendations on measures to refer the case to competent national law enforcement authorities for prosecution if the investigation has uncovered evidence of criminal conduct or serious civil offence.

5.14.3. The Director, DHRM takes action on investigation reports sent to him/her by the IG in accordance with IOM 38 – FOM 36 of 30 May 2002 on “Disciplinary Proceedings and Measures.” If needed for the purposes of initiating or effectively pursuing disciplinary proceedings she/he may request the IGO to provide additional information or clarifications on the findings contained in the report, including through further fact-finding, in the form of a supplementary report.

5.14.4. Where the IG, upon reviewing investigation findings, determines that an allegation of misconduct has not been sufficiently established, or that the facts do not amount to misconduct, she/he shall close the case. In these cases, a clearance letter will be sent to the staff member(s) who might have been the subject(s) of investigation. The latter have the right to have this letter placed in their personal files upon request to the Director, DHRM.

5.14.5. Cases that involve the loss of UNHCR monies or assets will be brought to the attention of the Controller, whether or not the loss is related to misconduct, so as to enable the latter to either write off the loss or seek reimbursement from the staff member concerned, in accordance with applicable procedures.

5.14.6. If investigation findings reveal weaknesses in administrative or operational policies, guidelines, procedures or practices, the IG may send to the High Commissioner/Senior Management a memorandum on management implications that need to be addressed. This may include recommendations that actions, or failures to take action that, while not amounting to misconduct, have damaged the Office’s credibility or image or caused financial or material losses to the Office are appropriately reflected in the Performance Appraisal Reports of the concerned staff member(s).

5.14.7. If investigations lead to findings or allegations of misconduct against personnel of governments, partner agencies or other UN entities, these may be communicated by the IG to the relevant employer for the latter’s appropriate action.

5.14.8. The IG keeps the High Commissioner informed of all investigation reports sent to the Director, DHRM as well as all other actions taken on investigation findings through periodic summary reports or, exceptionally, by case-specific communications, while preserving appropriate confidentiality.

² This report constitutes the “preliminary investigation report” stipulated in ST/AI/371 of 2 August 1991.

5.15. *Ad hoc* inquiries

5.15.1. Whenever an attack on UNHCR staff, operations or premises causes fatalities, serious injuries or large-scale damage involving major financial or material losses to the Office, the IG will initiate an *ad hoc inquiry* on his own authority. Such an inquiry, which will be conducted by staff working under the supervision of the IG, will (1) establish the sequence of events leading to the fatalities, injuries or losses and the context in which those events unfolded; (2) ascertain and analyze actions and decisions taken within UNHCR prior, during and after those events; and (3) draw conclusions and make recommendations accordingly. Staff are expected to cooperate pro-actively, promptly and fully with the IG for this purpose. The inquiry report will be submitted by the IG to the High Commissioner.

5.15.2. If so requested by the High Commissioner, the IG will also undertake *ad hoc inquiries* into other types of incidents or situations if they pose a risk to the Office's mandated responsibilities, interests or operations.