



UNIT 2

General Issues

GENERAL ISSUES

2.1 Confidentiality in UNHCR RSD Procedures

2.1.1 The Applicant's Right to Confidentiality

- The confidentiality of UNHCR RSD procedures is essential to creating an **environment of security and trust** for asylum seekers who approach UNHCR. All UNHCR staff, including interpreters and security staff, as well as any implementing partners, counsellors or medical practitioners who provide services to asylum seekers and refugees under agreement with UNHCR, are under a duty to ensure the confidentiality of information received from or about asylum seekers and refugees, including the fact that an individual has registered or is in contact with UNHCR.
- **UNHCR standards regarding the confidentiality** of information about asylum seekers and refugees should be incorporated into RSD procedures in every UNHCR Office, and should be understood by all UNHCR staff and any other individuals who are responsible for implementing the RSD procedures. Specific recommendations for ensuring confidentiality in each stage of the RSD procedures are proposed in the relevant sections of this document.
- **Applicants for RSD should be informed of their right to confidentiality** in UNHCR procedures. Any limits on the right to confidentiality, including information sharing arrangements with host country authorities or resettlement countries where applicable, should be explained to the Applicant (see § 2.1.3 - *Disclosure to Host Country Authorities*). Applicants should also be advised that the UNHCR Offices may share information with UNHCR Headquarters or other UNHCR Offices.
- Applicants should be assured that UNHCR will not contact or share any information regarding the Applicant with the **country of origin**, unless expressly authorized to do so by the Applicant.



2.1.2 General Criteria for Disclosure of Information

- Disclosure of information about persons registered or in contact with UNHCR should be made **in accordance with applicable standards and procedures for confidentiality** issued by DIP. Wherever necessary, UNHCR Offices should seek the guidance of DIP in determining the appropriateness of disclosure of confidential information from individual UNHCR files.
- As a general rule, the **consent of the individual concerned** should be required before UNHCR discloses information from an individual file to a third party. In exceptional circumstances, the requirement for consent may be waived. Disclosure without the required consent should be subject to the approval of a Protection staff member designated under established confidentiality procedures in the UNHCR Office, and in appropriate cases DIP.
- Where **standard requirements for disclosure** can be anticipated in advance (i.e. requests by resettlement countries, international organizations, refugee serving agencies, etc.), the prior and informed written consent of the individual concerned should be obtained for the file. UNHCR Offices should take appropriate steps to ensure that the recipient of the information has adequate procedures in place to safeguard the confidentiality of information received.
- Information about persons registered or in contact with UNHCR should only be disclosed to third parties **if each of the following conditions for disclosure** are met:

Conditions for disclosure of Information from RSD Files

- Disclosure is required for a legitimate purpose;
- Disclosure would not jeopardize the security of the individual concerned, his/her family members, or other persons with whom the individual is associated;
- Disclosure would not compromise the security of UNHCR staff;
- Disclosure would be consistent with UNHCR's international protection mandate, including its humanitarian and non-political character, and would not otherwise undermine the effective performance by UNHCR of its duties.

If any of the conditions referred to above are not met, UNHCR Offices should obtain the **approval of DIP before disclosing** the information requested.

- All requests received from **international courts or tribunals** for information about persons registered or in contact with UNHCR should be forwarded to DIP.
- UNHCR staff should exercise discretion in **responding to requests by family members for information about an individual who is registered or in contact with UNHCR**. If it is not possible to obtain the consent of the individual about whom information is sought, UNHCR staff should determine the appropriateness of disclosure on a case-by-case basis, after careful consideration of the individual file. The legitimate interest of family members to seek family unity and to receive information regarding the whereabouts and well-being of another family member must be weighed against the right of the individual registered to maintain confidentiality regarding the refugee claim. As a general rule, disclosure of information to family members without the express consent of the individual concerned should be limited to confirmation of the fact that the person has registered or is in contact with UNHCR. Staff should carefully consider any age or gender issues, or any information on the file that would indicate that disclosure of this information would be inappropriate. Where compelling reasons to disclose additional information are presented, the request should be referred to the Protection staff member who is designated under established confidentiality procedures in the UNHCR Office to determine the appropriate scope of disclosure.
- Disclosure of any **information regarding a child** should be governed by the **best interests of the child**.
- **Individuals who seek information from their own UNHCR file**, should be permitted to receive originals or copies of all documents they provided to UNHCR, or of which they are the source. Disclosure of documents generated by UNHCR or a source other than the individual concerned should only be made where the conditions for disclosure set out in § 2.1.2 above are met, and should require the approval of a Protection staff member designated under established confidentiality procedures in the UNHCR Office. As a general rule, UNHCR interview transcripts and notes should not be disclosed, however the interview transcript taken directly from Applicant's own statements may be read back to the Applicant during the interview. Disclosure of the reasons for an RSD decision should be governed by the considerations set out in § 6 - *Notification of RSD Decisions* and § 4.8.6 - *Confidentiality in Exclusion Cases*.
- The **legal representative** of an individual who has a UNHCR file, or another third party duly authorized to act as representative of the individual, should have access to the same information as the individual from whose file information is sought. The person making the request should be required to establish his/her authority to represent the Applicant (see § 4.3.3 - *Participation by Legal Representatives*).

2.1.3 Disclosure to Host Country Authorities

- **Host country authorities** have a legitimate interest in receiving information regarding individuals who are registered by UNHCR on their territory. In principle, the information shared by UNHCR should be limited to **basic bio-data** and **final RSD decisions** (see § 6.3 - *Notification of RSD Decisions to Third Parties*). It may also be appropriate to notify the host country authorities that an individual has been determined by UNHCR to be **excluded** from refugee protection (see § 4.8.6 - *Confidentiality in Exclusion Cases*).
- Where UNHCR Offices conduct RSD on behalf of authorities in the host country, or where UNHCR is transferring functions related to RSD to the host country authorities, it may be appropriate to share certain information relating to the **substance of individual refugee claims**. Where this is the case, as a general rule, UNHCR may disclose edited summaries of RSD Interviews and RSD Assessments, but should not disclose the entire file. In all cases, the nature and scope of the information shared with host country authorities should be based upon the purpose for which the information is required. The conditions for disclosure set out above in § 2.1.2 - *General Criteria for Disclosure of Information* are relevant and should guide decisions regarding disclosure of information to host country authorities.
- Wherever possible, disclosure to host country authorities should be subject to **concise information sharing arrangements**, which should include appropriate undertakings to respect the confidentiality of the information received. Applicants should be informed of information sharing arrangements with the host country authorities.

2.1.4 Procedures for Responding to Specific Requests for File Information

- In the absence of or in addition to information sharing arrangements (i.e. with implementing partners or the host country authorities), each UNHCR Office should establish procedures for responding to specific requests for information from or about individuals who have registered or are in contact with UNHCR.
- **Requests for disclosure should be submitted in writing and should provide the following information:**
 - Proof of identity of the author of the request. Where the author of the request is an agency or organization, documentation supporting the authenticity and mandate of the agency or organization;
 - The precise information requested;
 - The purpose for which the information is sought.
- In exceptional circumstances, for example when the individual who is seeking information is illiterate, information requests may be submitted orally. UNHCR staff who receive oral requests should ensure that the information required to support the request is received, and should record the details of the request in writing on the individual file.

- **The scope of disclosure** of information from individual files should be limited to what is necessary to further the legitimate purpose for which the information is sought. UNHCR staff should exercise the utmost sensitivity regarding the release of any medical information, unless this is specifically authorized by the individual.
- **Methods of disclosure** of information should be carefully controlled. Unrestricted access to individual UNHCR files should not be permitted. Appropriate steps should be taken to minimize opportunities for misuse or adulteration of the information provided, including providing hardcopies rather than electronic copies of information wherever possible.
- Whether information regarding an individual file is shared with the individual concerned, a third party or another UNHCR office, UNHCR staff should identify and adopt an appropriately **secure method and form for transmitting the information**, taking into account the sensitivity of the information and the urgency of the communication request, as well as any factors regarding the reliability, security and expediency of the available methods.
- As a general practice, when a UNHCR Office receives a request from the government authorities of a country for which another UNHCR Office is responsible, the responsible Office should be copied, and where appropriate consulted on the response.
- The details of disclosure of information from individual RSD files should be noted on the RSD file in a **record of disclosure**:

The Record of Disclosure should include:

- The individual or agency to whom disclosure was made
- The precise information that was disclosed
- The reasons justifying disclosure
- The date and means of disclosure
- The name of the responsible staff member

2.2 RSD File Management Procedures

2.2.1 General

- Each UNHCR Office should **implement detailed file management procedures** for all aspects of the processing, organization and handling of RSD files. File management procedures in UNHCR Offices will vary depending on the scope of RSD operations and the technical systems and resources that are available in each Office, however, in every UNHCR Office file management procedures should **achieve the following objectives**:
 - Rational and internal organization of individual RSD files
 - Efficient filing and retrieval of RSD files and information
 - Regulated access to RSD files and respect for confidentiality of information
 - Secure physical storage of RSD files to prevent loss or damage
 - Efficiency and integrity in UNHCR RSD procedures

- All UNHCR staff who handle RSD files should ensure that the **information contained in the RSD file is complete and organized** so that other UNHCR staff who are required to take action on the file can quickly and accurately understand the history and status of the file.

- All documents should be filed in **chronological order**, based on the date they were generated or received in the UNHCR Office, with the most recent pages being added to the top of the file. All pages should be numbered as they are added to the file.

- File management procedures should **clearly define individual responsibilities** relating to management of paper and electronic RSD files including specific requirements for oversight and accountability (see § 2.2.7 - *Supervision and Oversight of RSD File Management*).

2.2.2 Procedures for Opening RSD Files

- An **individual file should be opened** for each Principal Applicant for RSD as early as possible in the RSD process, to ensure that all documents and developments relating to the Principal Applicant are duly recorded and retained on the individual RSD file. Where more than one member of the same household apply for refugee status as Principal Applicants, as a general rule, a separate linked RSD file should be opened for each Principal Applicant.

- As a general rule, documents and developments relating to individuals who are applying for derivative refugee status as **family members/dependants of a Principal Applicant** (see § 5.1 - *Derivative Refugee Status*) should be recorded and retained on the RSD file of the Principal Applicant. Where there is more than one Principal Applicant in a family unit, clear linkage of files will avoid unnecessary duplication of documents on RSD files. A separate linked RSD file may be opened for family members/dependants of the Principal Applicant, at any time in the RSD processing, where this would serve promote efficiency, confidentiality or other protection standards in processing the Applicants' claims.

- **RSD file should contain** a copy of all records received or produced by UNHCR regarding Applicants, including Applicants for derivative status.

The RSD File

- The RSD Application Form of the Principal Applicant
- The RSD Application Form of each accompanying adult family member/dependant who is applying for derivative refugee status
- Photographs of the Principal Applicant and each accompanying Applicant for derivative status
- Copies of all identity documents and other supporting documents
- All notes and memos by UNHCR staff members regarding the Applicant(s), including records of conversations with the Applicant(s) or third parties
- All correspondence relating to the Applicant(s)
- Relevant medical information
- Accounts of all formal decisions taken in the processing of the claim
- Copies of documents issued by UNHCR to the Applicant(s)
- Contact information for the Applicant(s)

- Each file should also include a **File Action Sheet**, which should be used by UNHCR staff to record a brief description of any activity relating to the processing of the claim, the date of the action, and the staff member involved.

The File Action Sheet should record:

- Interviews and appointments with, or relating to, the Applicant(s)
- The date of filing of appeal applications or submissions by the Applicant(s) in other related UNHCR procedures (cancellation / revocation, cessation file re-opening etc.)
- All decisions taken by UNHCR regarding the status or entitlements of the Applicant(s)
- Documents issued by UNHCR to the Applicant(s), including the date and manner of issuance

2.2.3 RSD File Numbering and Organization

- **Each UNHCR Office should establish a system for assignment of file numbers and file organization**, which should be designed to achieve the following:
 - Reflect the composition of the family unit and permit ready identification and cross referencing of linked files;
 - Permit designation and processing of more than one Principal Applicant in a family unit;
 - Reflect changes in the status of individuals who are in the family, including changes in an individual's status as a Principal Applicant or Applicant for derivative status;
 - Reflect changes in the composition of the family unit, including marriages, births, deaths, or other developments affecting the Principal Applicant and Applicants for derivative status;
 - Permit separate filing of the information provided by each member of the household so that the source of specific information is clear and the principle of confidentiality is not undermined.

- Every UNHCR Office should have a **file registry**, which can be electronic or manual. The file registry should include the RSD file number, the name of the Principal Applicant, the UNHCR registration number of the Principal Applicant, the date the file is opened, the name of the officer who opened the file and the date the file is closed. Each RSD file should be registered in the file registry as soon as possible after opening.

2.2.4 Access to RSD Files

- All information regarding Applicants, whether stored in physical or electronic form, should be subject to **restricted access by authorized UNHCR staff** and should be kept in a **secure location**.
- File management procedures in each UNHCR Office should address the following issues regarding access to RSD files:
 - Designation of UNHCR staff members who should have access to RSD files and the level of access authorized;
 - Procedures for storage and surveillance of RSD files in central storage areas;
 - Directions for secure storage of files that are not in the central file storage area, including security of files in archive storage areas, the offices of individual staff members, and in any area to which persons who are not UNHCR staff members may have access;
 - Procedures for removing files, including information relating to Applicants recorded on portable computers and diskettes from UNHCR premises and other storage areas;
 - Access by implementing partners or any other third party to RSD files, including the precise scope and conditions of access and the procedures that should be followed.
- UNHCR Offices that are using **electronic databases** to store information regarding individual RSD files, should implement appropriate safeguards to preserve the confidentiality and integrity of the information including differentiated access by UNHCR staff members and restrictions on what fields of information may be changed by defined staff members.



2.2.5 Movement of RSD Files

- UNHCR Offices should establish clear procedures to regulate and track the movement of RSD files within the Office. At a minimum, there should be a **central record** in or near each file storage area, in which the name of every staff member who removes a file must be recorded, with the date that the file is removed and returned. Transfers of files between staff members should also be noted in the central file record.
- To avoid loss or misfiling of documents UNHCR staff should, as a general rule, not remove documents or sections of documents from individual RSD files.

2.2.6 Storing and Archiving Closed RSD Files

- Closure of RSD files should be subject to established criteria and administrative procedures. The criteria for closure of RSD Files are set out in § 9.1 - *Closing RSD Files*.
- **Individual RSD files must be retained by UNHCR as Permanent Records.** The staff member who is responsible to supervise file management in the UNHCR Office should ensure that procedures for maintaining closed RSD files and for transferring individual RSD files to UNHCR Headquarters are developed and implemented in accordance with directives produced by the Archives Section in UNHCR Headquarters.

2.2.7 Supervision and Oversight of RSD File Management

- In each UNHCR Office, a **designated staff member** should oversee the implementation of file management procedures.

Oversight responsibilities for RSD File Management:

- Providing training and support to UNHCR staff on implementing file management procedures;
- Supervising UNHCR Office practice with respect to access to physical and electronic RSD files, as well as the movement and storage of individual files, to ensure the security and confidentiality of RSD files;
- Conducting **random monitoring** of physical and electronic RSD files to ensure that staff members are complying with established procedures for maintaining and updating RSD files and entering relevant data into central systems.

- The staff member who is responsible to oversee RSD file management **should report to the RSD Supervisor**. Problems with management of RSD files that may affect the fairness or efficiency of RSD procedures must be reported to the RSD Supervisor, who should be responsible to direct and monitor the effectiveness of measures to address the problem.

2.3 Physical Facilities for RSD Procedures

- UNHCR Offices should maintain **adequate physical facilities** for the reception of asylum seekers and conducting RSD procedures. The physical facilities used for UNHCR RSD operations have a direct impact on the ability of asylum seekers to present their refugee claim. The nature of UNHCR's mandate may require the establishment of RSD operations in emergency situations, and in adverse circumstances. However, in every UNHCR RSD operation, UNHCR staff should be guided by the recommendations that follow, and should take all available measures to ensure that facilities established for RSD promote the **dignity of asylum seekers and due process** in RSD procedures, as well as the **safety and security** of UNHCR staff, and all other individuals on UNHCR premises.
- Facilities used by UNHCR for RSD procedures should preserve the right of asylum seekers to **confidentiality**. The layout of UNHCR Offices should permit asylum seekers to communicate with UNHCR staff in private. There should be adequate partitions between meeting rooms and other office spaces to ensure confidentiality of counselling sessions and interviews.
- UNHCR Offices should establish **waiting areas** and should take all feasible steps to ensure that the conditions in the waiting area promote the health and well-being of the individuals who use it. Every effort should be made to ensure that waiting facilities in UNHCR Offices meet the following standards:
 - Adequate space
 - Sufficient number of chairs and benches
 - Access to bathrooms
 - Access to drinking water
 - Shelter from severe weather conditions
 - Adequate heating, air conditioning, lighting
- Whenever possible, **private areas** should be made available for breastfeeding women. Where cultural norms or individual circumstances make it appropriate, separate waiting facilities should be made available for women and children.
- Wherever possible, waiting areas should be established within UNHCR premises or another **location under the direct control of UNHCR**. This will help to promote the confidentiality of asylum procedures and minimize the risk or harassment, intimidation or arrest of asylum seekers.
- The layout and furnishing of reception and interview rooms and any other areas used for the RSD processing should comply with guidelines and recommendations from UNHCR Headquarters relating to security in UNHCR Offices (see § 2.4 - *Office Security*).



2.4 Office Security

2.4.1 General Security Procedures

- The risk of incidents involving violence against UNHCR staff members or other persons on UNHCR premises, or acts or threats of self-injury, must be taken into account and effectively managed in UNHCR RSD operations. All facilities and procedures for RSD in UNHCR Offices should **promote the safety and security of UNHCR staff and asylum seekers and refugees who approach UNHCR**.
- While in most UNHCR Offices, Protection staff will not be expected to play a lead role in the development and implementation of security procedures for the Office, such procedures **may have a direct impact on the quality of RSD procedures**. In particular, inadequate or inappropriately implemented security procedures may affect the ability or willingness of asylum seekers and refugees to have access to UNHCR Offices and staff. Lack of effective security procedures can also deter asylum seekers from approaching UNHCR.

Coordination is necessary between UNHCR Protection staff and other staff or individuals who are responsible for security to ensure that:

- UNHCR security policies and guidelines are fully implemented in the RSD procedures;
- Protection concerns are taken into account in the development and implementation of security procedures in each Office.

Security Provisions in RSD Procedures:

- Measures for crowd control and the orderly entry of individuals onto UNHCR premises;
- Security guidelines for conducting individual counselling and interviews, including direction on the lay out and furnishing of interview rooms;
- Procedures regarding the movement of asylum seekers and refugees in the UNHCR Office, and the areas and circumstances in which escorted access should be required;
- Effective measures for all UNHCR staff to alert security staff of potential security incidents and to obtain prompt assistance, including the installation of emergency call buttons at Reception and in spaces used for counselling and RSD Interviews;
- Procedures for reporting security incidents to the appropriate staff members in the Office, as well as any other requirements for reporting within the Region and to UNHCR Headquarters.

- It should be noted that in addition to specific security procedures, the procedures that ensure **fair, transparent and consistent processing** of individual claims throughout the RSD process and **effective channels of communication** between UNHCR staff and asylum seekers and refugees are also vital elements of the Office security strategy. Keeping Applicants informed, providing timely responses to inquiries and concerns, and establishing confidence in the integrity of the procedures will serve to reduce misunderstandings and diffuse frustration and tensions that could escalate into security incidents.

2.4.2 Protection Staff Oversight of Security Procedures

- The **RSD Supervisor** is responsible to ensure that security procedures in the UNHCR Office are developed and implemented in a manner that is consistent with UNHCR standards for the reception and treatment of asylum seekers and refugees, and for the integrity of RSD procedures.
- In each UNHCR Office, a Protection staff member should be designated to act as the **Protection focal point for security issues** in the Office. The individual who is assigned this role should, in principle, be the RSD Supervisor or another Protection staff member who is responsible for, or directly involved in activities relating to the reception of asylum seekers in the UNHCR Office. Where this function is assigned to a Protection staff member other than the RSD Supervisor, the designated Protection focal point for security issues should report to the RSD Supervisor.
- Complaints by asylum seekers or refugees, or observations by UNHCR staff relating to **improper conduct by UNHCR security staff or security guards** who are appointed by the host country, should without delay be directed to the Protection focal point for security issues. Security procedures should outline specific responsibilities for following up on complaints received regarding security staff and procedures and reporting on action taken, in accordance with the principles set out in § 2.6 - *Complaints Procedures*.

2.4.3 Staff Training on Security Issues

- **All staff in UNHCR operations should receive security awareness briefing, which should include:**

training

Security Awareness Briefing for all UNHCR Staff

- The procedures relating to security in the Office and plans of action in the event of an emergency. Where possible, training should include rehearsals on responding to specific emergencies and security incidents that may arise in RSD procedures;
- Briefings on the specific risks and relevant security factors in the particular environment in which the Office is operating;
- Techniques for effective communication to avoid and diffuse security incidents including:
 - Non-antagonistic interview techniques
 - Delivering bad news
 - Responding to threats
 - Diffusing anger
 - Responding to persons who are mentally ill or under the influence of drugs or alcohol

2.4.4 Security in Physical Facilities used for RSD

- UNHCR Offices should consult relevant UNHCR resources and responsible Field Safety Advisor in the region or UNHCR Headquarters as necessary to ensure the physical facilities and layout of the particular UNHCR Office is appropriate for the specific security environment.

Guidelines for Security in Physical Facilities for RSD

- The **entrance gate** for asylum seekers and refugees who are seeking RSD should be physically separate from the staff and visitors' entrance.
- **Areas used for reception and designated waiting areas** should be separated from the main Office space by a guarded door.
- The **layout of the Office** should permit a simple and direct routing between the waiting area and the rooms used for interviewing.
- All **spaces used for reception and interviewing** should permit easy unobstructed exit for UNHCR staff. To the extent possible, interview rooms should be cleared of breakable objects or any items that could be used as a weapon. All interview rooms should be equipped with panic buttons.

2.4.5 Physical Searches

- Physical searches should only be conducted where there is good reason to believe they are necessary to protect the security of UNHCR staff or other persons on UNHCR premises. Security staff should be briefed on the criteria for determining whether a physical search is appropriate, and the manner in which physical searches should be conducted. A decision to implement physical searches as a standard procedure for all individuals entering a UNHCR Office should be based on an informed assessment of the risks in the particular Office environment. The Protection focal point for security and the Head of Office should be consulted in this decision.
- Where physical searches are deemed to be necessary, they should be conducted in a **respectful and gender-sensitive manner**. Physical searches should be conducted by a security staff member of the same sex as the person being searched. When no female security staff are available, physical searches of female asylum seekers should be conducted by female UNHCR staff who are trained to conduct routine physical searches.

2.4.6 UNHCR Security Staff

- The Protection staff focal point for security issues should ensure that UNHCR security staff receive **appropriate training and direction**. All UNHCR security staff must receive training on the following issues:

training

Training for Security Staff

- Refugee protection principles and the mandate of the UNHCR Office
 - Rights of asylum seekers and refugees, including the right to have access to UNHCR Offices and Protection staff
 - RSD procedures in the UNHCR Office
 - Appropriate treatment and protection of persons with specific needs (i.e. relating to gender, age, disability etc.)
 - Non-confrontational responses to diffuse security incidents involving refugees and asylum seekers
 - Direction to use physical restraint or force as a last resort, and only to the degree required to prevent a refugee or asylum seeker from harming him/herself or other persons on the premises
- Every effort should be made to hire **female security staff** in UNHCR Offices, and to ensure that at least one female security officer is on duty during hours when asylum seekers and refugees are received at the UNHCR Office.
 - Security staff should not perform other tasks related to RSD unless the tasks are assigned in consultation with the Protection focal point for security issues, and the security staff member has received the necessary training and direction to carry out the tasks assigned.

2.4.7 Security Guards Assigned by Host Country

- Each UNHCR Office is responsible to ensure that where security guards are appointed by a host country to provide security to UNHCR premises, the guards **do not impede access to the UNHCR Office** and that they carry out their function in a manner that is consistent with UNHCR standards for the reception and treatment of asylum seekers and refugees.
- The Protection focal point for security issues should ensure that security guards who are appointed by the host country are briefed on the rights of asylum seekers and the international protection function of the UNHCR Office, and should monitor their activities to ensure that they are consistent with this function.
- UNHCR staff and host country appointed security guards should receive **clear directions regarding the appropriate scope of the involvement** of host country appointed guards in UNHCR operations.

Guidelines Regarding Host Country Appointed Security Guards

- ▶ Host country appointed security guards should not be involved in procedures for the reception of asylum seekers and refugees in UNHCR Offices.
 - ▶ Host country appointed security guards should not be used to disseminate information regarding the mandate or procedures of the UNHCR Office.
 - ▶ Under no circumstances should host country appointed security guards be used to receive or distribute UNHCR documents or any materials relating to individual asylum seekers.
 - ▶ Host country appointed security guards should not enter UNHCR premises without the invitation of UNHCR staff, unless their presence is required to respond to an immediate and compelling security incident involving a threat to UNHCR staff or other persons on the premises or to UNHCR property.
- The Protection focal point for security issues should be immediately advised if host country appointed security guards fail to observe the guidelines noted above, or engage in any other conduct that is inconsistent with the procedures established by the UNHCR Office, or UNHCR policies regarding the reception and treatment of asylum seekers and refugees.
 - **Local police or military services** should only be called as a last resort to assist with a security incident in a UNHCR Office. Wherever possible, the UNHCR Office should ensure that the relevant local security agencies are briefed in advance on UNHCR's mandate and operations, the types of security incidents likely to be encountered in UNHCR Offices and UNHCR's expectations regarding delivery of assistance.

2.5 Interpretation in UNHCR RSD Procedures

2.5.1 Access to Interpreters

- Applicants for RSD should have access to the services of **trained and qualified interpreters** at all stages of the RSD process.
- All UNHCR staff who conduct interviews in RSD procedures should receive training and direction on communicating effectively through interpreters.
- Interpretation services for UNHCR RSD procedures should be provided by **UNHCR interpreters**. Applicants should be permitted to use the services of their own interpreter only where no qualified UNHCR interpreter is available.
- Wherever possible, **female interpreters** should be assigned to interviews with female Applicants, and all Applicants should be given the option to communicate with interpreters of the sex they prefer. Each UNHCR Office should make every effort to ensure that a sufficient number of competent interpreters, of both sexes, is available to meet the RSD processing requirements.
- **Applicants who have concerns about the participation of an assigned interpreter** should have the opportunity to explain their concerns, in confidence, to a UNHCR staff member. Every effort should be made to ensure that interpreter assignments in RSD procedures anticipate and accommodate reasonable, or otherwise genuinely-held, concerns of Applicants.



2.5.2 Interpretation by Persons other than UNHCR Interpreters

- When no UNHCR interpreter is available and it is necessary to conduct an interview with the services of another interpreter, UNHCR staff should take appropriate measures to **assess and promote the effectiveness of the interpretation** provided, and to preserve the confidentiality of the RSD procedures. The UNHCR staff member who conducts the interview should undertake the following:
 - Briefly question the interpreter on his/her language background and interpreting experience;
 - Ascertain the interpreter's relationship with the Applicant;
 - Explain to the interpreter the character and purpose of the RSD Interview and type of interpretation that will be expected;
 - Explain the confidential nature of UNHCR RSD interviews and procedures;
 - Make a written note on the file of any other details that may be relevant to the quality or the reliability of the interpretation.
- Given the reluctance some Applicants may have to disclose facts that are relevant to their claim in the presence of another family member, and the difficulty of assessing whether the Applicant truly consents to the attendance of family members in RSD procedures, every effort should be made to find **alternatives to interpretation by family members** of an Applicant in RSD procedures.
- Persons acting as **advocate or legal representative** to Applicants should not provide interpretation services in RSD procedures.
- **Asylum seekers or refugees who are not qualified and trained UNHCR interpreters** should not be requested to provide interpretation in RSD procedures, unless there is no other means of communicating with an Applicant. Where the interpretation services of other asylum seekers or refugees are used, the interpretation should be limited to communication in initial reception procedures, and every effort should be made to obtain the services of a qualified interpreter for any necessary counselling as well as the Registration and RSD Interviews. The Applicant for whom the interpretation is provided should be asked whether he/she consents to this interpretation arrangement. UNHCR staff who communicate with Applicants under this arrangement should take all feasible steps to preserve the confidentiality of the Applicant's claim, including limiting the use of questions likely to elicit identifying bio-data or the details of the refugee claim.

2.5.3 Qualifications and Training of UNHCR Interpreters

- Interpreters who are engaged to provide services in RSD procedures should have **adequate language and interpreting skills** and the **necessary training**. Whenever possible, UNHCR should engage certified interpreters.
- As a general rule, persons who have files with UNHCR should not be hired to provide interpretation services in UNHCR RSD procedures. Where a UNHCR Office does not have an adequate number of interpreters who speak the languages required, UNHCR Offices may use the interpretation services of **recognized refugees**, provided that they have the **necessary training and skills**. Interpretation by refugees who do not have an established right of residence in the host country, including refugees who have been accepted for resettlement in a third country, should be used as an exceptional and temporary arrangement until UNHCR interpreter staff shortages can be addressed.
- UNHCR Offices may use the services of interpreters provided by arrangement with designated implementing partners, provided that such interpreters receive training on interpreting in UNHCR RSD procedures, as set out below, and the services provided are subject to effective monitoring and supervision by UNHCR Protection staff (see § 2.6.7 - Supervision and Oversight of Interpreters).
- UNHCR Interpreters should appropriate receive training on UNHCR and the RSD process.
- Every person engaged by UNHCR to provide services in mandate RSD procedures must sign the **UNHCR Interpreter Undertaking of Confidentiality and Impartiality (Annex 2-1)** before assuming their responsibilities.

Training for UNHCR Interpreters

training

- Refugee protection mandate and operations of UNHCR
- RSD procedures in the UNHCR Office
- Essential refugee terminology that is likely to be used in the refugee interview
- The kind of interpretation that will be required for RSD interviews
- The importance of faithfully interpreting what is said by the Applicant and the interviewer
- Impartial role of the UNHCR interpreter
- Gender, age and cultural sensitivity in carrying out interpretation responsibilities
- Possible indicators of trauma that could arise during the interview
- Obligation of confidentiality in all UNHCR procedures

2.5.4 Impartiality of UNHCR Interpreters

- The **impartial role of the interpreter** should be maintained throughout the RSD process. The following guidelines should be observed by all UNHCR staff and interpreters:

Guidelines to Preserve Interpreter Confidentiality

- UNHCR staff should not call upon interpreters to assess the credibility of Applicants, or to investigate or comment on the reliability of evidence provided by an Applicant, except as it relates to the use of language and dialect by the Applicant.
 - Interpreters should never engage in advocacy or intervene with UNHCR on behalf of Applicants.
 - As a general rule, UNHCR interpreters should not accept requests to meet with asylum seekers and refugees outside of the UNHCR Office, or engage in any other exchange that could affect their impartiality, or perceived impartiality, in UNHCR procedures.
 - Interpreters should be instructed to notify the UNHCR staff member to whom they provide services, or the RSD Supervisor if appropriate, of any factors which could be perceived to affect the interpreter's impartiality, including previous personal knowledge of an asylum seeker, or threats or offers of bribery received by the interpreter.
 - Interpreters should not select Applicants for whom they provide interpreting services, and should not be informed of the identity of the Applicants before the day on which they provide the interpreting services.
- As a general rule, UNHCR Offices should avoid using interpreters to provide counselling to Applicants or assigning other tasks unrelated to interpretation where this could undermine the impartiality, or perceived impartiality, of the interpreter in the RSD process.

2.5.5 Confidentiality of Interpreters

- Interpreters should maintain confidentiality regarding the information they receive when carrying out their responsibilities for UNHCR, and should not comment on or reveal this information to persons other than UNHCR staff who are involved in RSD. This obligation to maintain the confidentiality of information received during the course of their work with UNHCR extends beyond the length of their actual contract with UNHCR.
- All UNHCR interpreters should sign the **UNHCR Interpreter Undertaking of Confidentiality and Impartiality (Annex 2-1)**, in which they should confirm their understanding and acceptance of their obligation of confidentiality.

2.5.6 Access by Interpreters to RSD Files

- Interpreters should not have access to general file storage areas. As a general rule, interpreters should not handle individual RSD files. Where interpreters have exceptionally been assigned additional tasks related to RSD, access to individual files should be strictly limited to what is necessary to carry out authorized responsibilities, and should be closely supervised.

2.5.7 Supervision and Oversight of Interpreters

- The **RSD Supervisor** is responsible to oversee the quality of interpretation services in UNHCR RSD procedures. The RSD Supervisor, or a Protection staff member designated by the RSD Supervisor should be directly involved in the hiring, training, and supervision of UNHCR interpreters, and should ensure that UNHCR interpreters have the necessary skills and training, as well as the appropriate attitude to interpret effectively in RSD procedures.
- The Complaint procedures in each UNHCR Office should include **procedures for comment and complaint about the services of interpreters**, which should be clearly communicated to all Applicants and UNHCR staff. All complaints regarding the quality of interpretation, the impartiality or confidentiality of interpreters, or other matters relating to the conduct of interpreters, should be referred to the Protection staff member who is responsible to oversee the quality of interpretation in RSD procedures. Procedures regarding the services of interpreters in RSD should specify responsibilities for follow up on complaints received and reporting on action taken, in accordance with the principles set out in § 2.6 - *Complaint Procedures*.

2.6 Complaint Procedures

- Each UNHCR Office should establish **procedures to receive and respond to complaints** by Applicants or other individuals about the services provided in UNHCR RSD procedures. Complaints procedures are an essential managerial tool that can permit early detection of problems or potential areas of vulnerability in the procedures for individual case processing in UNHCR operations.
- **Information regarding the basic rights of asylum seekers** who approach UNHCR Offices, and the **procedures for reporting mistreatment or misconduct in UNHCR procedures**, should be disseminated to Applicants at the earliest stage in the RSD process. The complaint procedures, including relevant contact information, should also be posted clearly outside each UNHCR Office, in the main languages spoken by the asylum seekers received in the Office, and in pictorals as appropriate (see § 3.1.2 - *Dissemination of Information to Asylum Seekers*).
- Information on the complaint procedures should state clearly that the services of UNHCR and designated implementing partners are **free of charge**, and that any request by UNHCR staff or designated implementing partners for monetary compensation or other favours from Applicants should be immediately reported through the established procedures, and will be examined by UNHCR.
- Information on the complaint procedures should make clear that the complaint procedures are **distinct from appeal procedures** and should not be used to request a review of the correctness of the RSD decision. The complaint procedures should be used **to report serious misconduct** by UNHCR staff, security guards or implementing partners, **or procedural unfairness** (including complaints about the quality, availability or conduct of interpreters, or denial of access to UNHCR premises or staff or RSD procedures.)
- **To promote the proper use of the complaint procedures**, and to avoid overloading the procedures with requests and inquiries that are not related to the objectives of the complaint procedures, UNHCR Offices should ensure that asylum seekers and refugees have appropriate alternative channels of communication with the UNHCR Office, including necessary access to information and to UNHCR staff. Information on the complaints procedures should also be shared with implementing partners, so that they can advise asylum seekers and refugees on the nature and purpose of the complaint mechanism and can assist them in using the established mechanism to submit complaints.
- Applicants should be advised that reporting through complaints procedures **will not in any way prejudice or positively influence the consideration of their refugee claim** or other decisions regarding assistance or services to which the complainant would otherwise be entitled. At the same time, the seriousness of the complaint procedures should be emphasized and Applicants should be advised that **unfounded or malicious accusations against UNHCR** staff will be reported to UNHCR Headquarters, and may result in prosecution in the host country.
- Complaint procedures should incorporate a **standard Complaint Form** to encourage individuals to provide relevant and detailed information about the substance of the complaint, as well as their identity and their contact details. All complaints should be received and reviewed by the UNHCR Office, whether or not they are submitted in the requested format. Complaint procedures should permit individuals who are illiterate to receive assistance in submitting complaints from a staff member other than a staff member about whom the complaint is made.

- Complaint procedures should require that **persons submitting complaints identify themselves**, by file reference number alone if they prefer. Information on the complaint procedures should explain that UNHCR is not able to effectively investigate or follow up on anonymous complaints.
- Complaint procedures should include **safeguards to ensure that complaints submitted to the UNHCR Office are not intercepted by or referred for follow up to staff members about whom they are made**. As a recommended practice, complaints should be submitted by complainants directly into a secure complaint box, which should be opened on a regular basis, not less than once weekly, by the RSD Supervisor and the Head of Office, or another senior Protection staff member designated by the head of Office. Where an Office has established the appropriate relationship with an implementing partner, the Office should consider entering into formal arrangements under which the implementing partner would participate in the procedures for the receipt of complaints.
- The **RSD Supervisor**, or another senior Protection staff member designated by the Head of Office, should be responsible for reviewing all complaints received by the Office regarding the mandate RSD procedures, and referring them to the appropriate staff member for follow up. The date of the referral and the name of the staff member who is responsible for follow up should be noted on the complaint form.
- Staff to whom complaints are referred should be required to **report on the action taken**.
- Complaint procedures should set out responsibilities for **monitoring and assessing the timeliness and the adequacy of the response to complaints**.
- UNHCR Offices with limited Protection staff should make any necessary and appropriate arrangements for referral of complaints to the Representative or other senior Officers, or to the appropriate UNHCR Regional Office.
- Every complaint received by the UNHCR Office, and all responses and reports by UNHCR staff on action taken, should be **maintained on a central file**, which should be kept in a secure area and be accessible only to staff members who are designated to have such access by the Representative or Head of Office.
- The complaint procedures provide an important source of information regarding the quality and integrity of all aspects of the RSD procedures in UNHCR Offices. In each UNHCR Office, the **Representative or Head of Office** should monitor the nature and content of complaints received regarding the mandate RSD procedures, as well as the response by the responsible staff members, and should take all necessary measures to promote the effectiveness of complaint procedures as an oversight tool.
- Complaint procedures in the UNHCR Office should include effective measures for UNHCR staff to report misconduct by other UNHCR staff members, including supervisory staff or UNHCR managers, or by other individuals who have been engaged by UNHCR to provide services in UNHCR RSD procedures. All UNHCR staff should be aware of the procedures for reporting such misconduct, without delay, directly to the **Office of the Inspector General**, whenever it can be reasonably inferred from the information collected as a result of the complaint procedures that the accusations appear to be credible.