

# EFFECTIVE COMPLAINTS MECHANISMS:

setting up systems and responding appropriately



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## CHAPTER 1

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# CHAPTER 1

## PUTTING SYSTEMS IN PLACE: designing and implementing an effective complaint mechanism

This chapter will look at how to set up the systems that will enable organisations to receive and follow up complaints.

### 1. WHAT IS A COMPLAINT MECHANISM?

A complaints mechanism comprises 'simple procedures and mechanisms that give users access to safe means of voicing complaints on areas relevant and within the control of the agency'<sup>1</sup>. A complaints mechanism has two components – the means by which users can complain, and the procedures internal to the agency whereby the complaints are followed up.

Many organisations adopt a mechanism which enables users to submit both feedback and complaints. The difference between feedback and complaints is defined as follows:

**Feedback:** Feedback is any positive or negative statement of opinion about someone or something – an opinion shared for information. It may be expressed formally or informally and may or may not require a response.

**Complaints:** A complaint is an expression of dissatisfaction about the standards of service, actions or lack of action by the organisation or its staff, volunteers or anybody directly involved in the delivery of its work. It is a criticism that expects a reply and would like things to be changed.

Complaints could include the following (which is not an exhaustive list):

- Concern from someone we work with about the quality of programme delivery;
- Concern from a member of the public or supporter about a particular fundraising approach, campaign or statement made by the organisation;
- Concern about fraud, corruption or misuse of funds;
- Concern about the behaviour of staff, volunteers or contractors (including sexual exploitation and abuse).

A complaint has to be about an action for which the organisation is responsible or is within their sphere of influence.

All complaints need to be reviewed and addressed, but not all will require a formal investigation process.

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<sup>1</sup> Danish Refugee Council's Complaint Mechanism Handbook 2008

There is an important distinction between feedback and complaints that managers and practitioners should remember. People affected by crisis have the right to complain and to seek redress for any wrongdoing. Those receiving a complaint have a responsibility to effectively respond to the complaint and/or refer it to the correct entity for action, etc. At the planning stage of any project or programme, any potential risk to people affected by crisis should be adequately assessed and addressed, to effectively minimise grievances.

*Organisations that meet the Core Humanitarian Standard on Quality and Accountability have procedures for handling all types of complaints including those related to sexual exploitation and abuse of people we seek to assist by staff.*

Complaints mechanisms are most effective when implemented as part of an overall accountability framework – which addresses organisational policy, transparency and information sharing, community participation and staff competency. An analysis of complaints received should feed into an organisation’s strategy review and positively influence future management decisions.

## 2. WHY IS AN EFFECTIVE COMPLAINT MECHANISM IMPORTANT?

Complaints present organisations with significant opportunities to improve services and strengthen relationships with stakeholders, as well as to test assumptions about community needs. Good complaints handling systems also allow beneficiaries to enforce agencies’ claims about quality and accountability. On the other hand, mishandled complaints can undermine community confidence in agencies and even compromise security.

## 3. CHARACTERISTICS OF AN EFFECTIVE COMPLAINTS MECHANISM

### Characteristics of an effective complaints mechanism

#### Right to complain and duty to respond

All parties need to be informed that they have a right to complain and that the organisation has a duty to respond.

#### Safety

A safe complaints mechanism will assess potential dangers and risks to all parties and incorporate ways to prevent injury or harm. This will include ensuring confidentiality, offering physical protection when possible, and addressing the possibility of retaliation against all parties.

#### Confidentiality

Confidentiality is an ethical principle that restricts access to and dissemination of information. In investigations on sexual exploitation, abuse, fraud and corruption, it requires that information is available only to a limited number of authorised people for the purpose of concluding the investigation. Confidentiality helps create an environment in which witnesses are more willing to recount their versions of events and builds trust in the system and in the organisation.

**Transparency**

A mechanism is 'transparent' when all parties including members of the affected community have had input into its development, know it exists, possess sufficient information on how to access it, how it works and its limitations. The organisation needs to have transparent processes in place to ensure procedures are followed. For example, people we seek to assist should be able to speak to agency staff regularly about the operation of the complaint mechanism. Information about the complaint mechanism should be freely available and all communities should know who in the agency is responsible for handling complaints and communicating outcomes.

**Accessibility**

A mechanism is accessible when it is available to be used by as many people as possible from as many groups as possible in all places where an agency is operational. Communities must be told how to complain and be actively encouraged to make complaints when problems arise.

**Timeliness**

An effective mechanism will deal with complaints in a timely manner. The timeline for acknowledgment and response should be stated in the complaints policy.

**Reporting and learning**

The outcomes of an investigation should be reported to the relevant parties. Learning from complaints and investigations need to be integrated into adjusting programmes, policies and practices.

## 4. STEPS FOR SETTING UP A COMPLAINTS MECHANISM<sup>2</sup>

### 1. Secure organisational commitment to seek and act on complaints.

If you do not get management commitment, you will not be able to follow up on the feedback and complaints you receive. Not doing so will let the community down, and probably affect your relationship with them, and the running of the project.

### 2. Consult with the community to decide the most appropriate method to channel feedback and complaints.

It is advisable to use more than one mechanism to ensure that different groups in the community are being reached, including people with specific needs. Don't be afraid to try different approaches – not all of them will be successful, it will be a learning process.

### 3. Design a process for handling feedback and complaints and identify who will carry out the role.

If you are implementing through partners, you will need to decide how they will be involved. Will they set up their own mechanism? Will you set one up together? If it is your organisation's mechanism, how will you process feedback about the partner?

### 4. Set up the infrastructure for handling feedback and complaints in the community and train staff.

There are many different types of mechanisms that programmes have used. These include telephone hotlines, SMS (short message systems), community meetings, appointing community focal points, providing help desks at distributions, having an office 'open door' day – and many more.

<sup>2</sup> Adapted from Save the Children's 'Ten Steps to Setting Up Complaints and Response Mechanisms'

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5. Raise awareness in the community about how they can feed back and complain, and what about.

6. Receive and record feedback and complaints in a logbook or complaints database.

7. Acknowledge the feedback/complaint either verbally or in writing.

8. Resolve: feedback can be resolved informally, whereas serious misconduct will require management follow-up and possible investigation.

Serious misconduct includes (but is not limited to) the following:

- Fraud and corruption
- Bullying and harassment
- Safeguarding incidents
- Actual or potential harm or risk in programming

These will need to be dealt with by senior management, following the appropriate policy.

9. Respond to the person who complained.

With complaints, confidentiality may mean that you are not able to share certain information with the complainant. In this case, you will need to explain this and let them know that their complaint was followed up without providing any confidential details.

10. Record the response in your complaints database and share what you learnt.

It is important to analyse and share trends so you can learn as an organisation.

#### **Complaints brought by someone other than the affected person**

A complaint can be made by anyone who is concerned that a staff member has breached policies including engaged in sexual exploitation or abuse of a person of concern. The complaint does not have to be made by the affected person. Indeed, in some cases the affected person will not agree to provide testimony or may want the investigation to be discontinued. While these wishes should be considered, particularly when there is risk of physical, emotional or social harm, s/he does not 'own' the allegation. S/he is a witness just as others are witnesses.

Ultimately, it will be a question for the investigation management team whether and how to proceed, considering issues such as the wishes of the survivor, the potential for future abuse and harm, the reputation of the agency, the agencies' responsibility to protect and create a safe and abuse-free environment, national law and the ability of the investigators to reach a conclusion on the available evidence.

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## 5. POINTS TO CONSIDER SPECIFICALLY FOR STAFF

Staff members will also learn of exploitation, abuse, fraud and corruption when working with people we seek to assist. And they too experience barriers to reporting, such as lack of knowledge about policies, SEA, fear of criticism from colleagues and fear of damage to their careers.

**i. Raise staff awareness of sexual exploitation, abuse, fraud and corruption and abuse of power** Organisations cannot assume that staff members are any more aware of sexual exploitation, abuse, fraud and corruption than other members of the community. Staff induction manuals should contain the agencies' policies, including specific policies covering sexual exploitation and abuse, fraud and corruption and abuse of power. Those policies should then be discussed in inductions sessions and be available in all duty stations. Staff should also be reminded of standards of conduct, complaint procedures and early-- warning signs regularly during their service. Those issues should be included in their annual appraisal process, exit interviews and end of mission reports.

**ii. Make reporting mandatory**

Many organisations have a mandatory requirement for their staff to report concerns relating to SEA. It should be made clear to staff

- when to report
- to whom to report
- how to report
- what will happen if they do not report (including possible disciplinary measures)

**iii. Institute policies to protect whistle--blowers (and disciplinary measures to deal with malicious or vexatious complainants)**

Mandatory reporting mechanisms work best in conjunction with whistle--blowing policies which enable organisations to discipline staff members for retaliating against a colleague who reports concerns of sexual exploitation, abuse, fraud and corruption, or otherwise cooperates with an investigation. Effective whistle--blowing policies clearly identify the type of prohibited conduct and the consequences of engaging in conduct that breaches the policy. They also make clear that deliberately reporting false or misleading allegations is itself misconduct and grounds for dismissal.

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## 6. COMPLAINTS MECHANISMS TO ADDRESS PSEA

Agencies can either create separate complaints mechanisms to pick up allegations of SEA, or adapt existing ones. Many practitioners now recommend that adapting your existing mechanisms as stand -- alone systems is hard to maintain, and may discourage users. However if you wish to adapt your existing mechanism, you will need to take the following points into consideration:

- You will likely need additional entry points designed for picking up complaints of SEA. Complainants are unlikely to use 'visible' entry points such as community meetings or complaints boxes due to the sensitive nature of the complaint.
- You are most likely to pick up complaints of SEA if you proactively seek them out. Small focus group discussions separated by age and gender are more likely to elicit discussions on SEA. If you are discussing SEA and gender--based violence (GBV) issues with communities, you will need a facilitator who specialises in this area.
- You could use existing activities to pick up concerns regarding SEA – such as work with women's groups, or outreach work on GBV.
- If you open up the possibility of SEA complaints with the community, it is absolutely vital that you follow them up. Raising concerns of SEA can be distressing for the complainant, and we have a duty of care to take it seriously. Additionally, not following up such serious concerns will likely lead to a breakdown of trust between your organisation and the community raising the concerns.

## 7. MULTI-AGENCY COMPLAINTS MECHANISMS

### What is a multi-xagency complaints mechanism?

A mechanism where two or more organisations have an agreement with the community on the way to receive and deal with complaints received from the community or other stakeholders in a specific location that they work.

### Why develop a multi-xagency complaints mechanism?

In humanitarian operations, many organisations with different mandates work in the same location, providing assistance to the crisis affected population. The community might be unable to distinguish between different organisations and this can create confusion. A joint mechanism will ensure that all stakeholders will be able to complain through the same channels and using a single mechanism. This contributes to a better use of resources and a better response. A joint mechanism will also help addressing complaints involving staff from more than one organisation. It helps to pool resources and set minimum standards for response on complaints handling.

Multi--agency complaints mechanisms require a great deal of commitment and input to develop and maintain. If organisations are considering it, they need to be sure that the management commitment of all organisations is clear, and that resources have been allocated from each organisation to put into the mechanism. Organisations also need to plan for staff turnover, to ensure that this commitment is sustainable. Finally, it is fundamental that before seeking to establish a multi--agency complaints mechanism, each agency must have an internal reporting and management system already in place that is established, accessible, consistent, and most importantly understood by all levels of staff.

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## Different models of multi-agency complaints mechanisms

Broadly speaking, multi-agency complaints mechanisms fall into one of two 'models' – referral and clearing house mechanisms<sup>3</sup>.

### i. Referral mechanism

A referral model allows reports made to any participating agencies to reach the appropriate agency. Common entry points may be developed through which communities can lodge a complaint against any participating member – otherwise, agency specific complaints mechanisms can be used to capture complaints against other members. Once the complaint is lodged, it is referred to the relevant agency. Participating agencies agree a set of common protocols for receiving, handling and investigating complaints to ensure a consistent response.

### ii. Clearing house mechanism

In this model, an independent clearing house entity, not affiliated with a single agency, is tasked with the responsibility of receiving and referring reports to appropriate agencies. This helps reduce the time and even subjectivity with which agencies may process incoming reports. It can reinforce the neutrality and the perception of independence or objectivity of the complaints mechanism.

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<sup>3</sup> Inter-Agency Standing Committee (IASC) Task Force on Protection from Sexual Exploitation and Abuse December 2011, PSEA Compendium of Practices on Community-based Complaints Mechanisms – Abridged version

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## CHAPTER 2

# FROM COMPLAINT TO INVESTIGATION:

## Ensuring an appropriate initial response effective complaint mechanism

### STEP 1: RECEIVING AN ALLEGATION

The initial complaint to the organisation may be made in writing<sup>4</sup>, by phone (including SMS), social media or in person. In either case, it should give basic information about who the complainant is and what they allege, i.e. what happened (roughly), who did it, when, where, who else was there and how the complainant can be contacted again.

Sometimes, a concern regarding SEA does not come in the form of a complaint. Staff or community members may hear rumours, or witness behaviour that concerns them, but they are not sure if it relates to misconduct. In these instances, the staff or community member should be encouraged to voice their concerns confidentially to an appropriate staff member of the organisation. The appropriate staff member should then document the concerns in the form of a potential complaint. If an investigation is later conducted, the staff or community member who raised the concern will be considered the 'complainant', even if they are not the alleged victim in the case.

### STEP 2: DECIDING WHETHER TO INVESTIGATE

#### 1. Is there sufficient information to form a complaint?

All complaints need to be reviewed and addressed, but not all will require a formal investigation process.

The organisation will need to determine:

- Does this concern constitute a potential breach of organisational policy?
- Is there an identified victim and Subject of Complaint<sup>5</sup>?
- Is further information required to determine either of the above?

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<sup>4</sup> An example is a complaint made via a complaints box, or a letter addressed to the office.

<sup>5</sup> In SEA investigations, the term Subject of Complaint refers to the staff member(s) against which the complaint, allegation or concern has been raised – i.e. the alleged perpetrator of sexual exploitation or abuse.

The organisation usually decides to undertake an investigation when:

- a) there is sufficient information to constitute a complaint and
- b) evidence is required to determine whether or not the complaint can be upheld.

Note that at this stage, immediate health and protection concerns regarding those involved should be assessed and dealt with. A more detailed protection risk analysis should also take place when the investigation team is in place (see 'Identifying and responding to immediate safety risks').

### **Anonymous complaints**

Anonymous complaints are complaints in which the victim/complainant is not known. It is good practice to investigate anonymous complaints, if there is sufficient background information and/or good leads to witnesses who can give strong testimony about the alleged abuse. It is important to treat anonymous complaints seriously because of the potential for future abuse and harm, and your organisation's responsibility to create a safe and abuse-free environment.

## **2. Does the complaint allege a criminal offence?**

It is possible that the complaint alleges a criminal offence. In this case, the organisation will need to make a decision as to how to proceed.

When considering whether to refer an allegation to the authorities, the primary consideration should be the safety of all concerned – including the victim, witnesses and the Subject of Complaint. The organisation should undertake a risk assessment of the protection concerns before making a decision of this kind. In operating environments where rule of law has broken down, or where the authorities cannot be relied upon to protect those involved – or may even cause them harm, it may be necessary to decide not to refer the allegation.

If the organisation does decide to refer the allegation, it needs to decide whether to go ahead with its own internal administrative investigation. There are several points that could affect this decision:

- What is the law in the organisation's jurisdiction regarding carrying out administrative investigations where a criminal offence is suspected?
- What is the organisation's own internal policy?
- Would continuing to carry out an administrative investigation cause protection concerns for those involved? For example requiring the victim to be interviewed twice.
- Is the organisation's evidence gathering likely to jeopardise a criminal investigation? For example alerting the Subject of Complaint that s/he is under suspicion.

It is also possible that a criminal offence is identified in the course of the investigation, or upon its completion. In these instances, the same process applies in deciding both a) whether to refer the case, and b) if so, whether to continue with the administrative investigation once the case has been referred.