Danmission

# The right to complain and the duty to respond.

Danmission's Complaints Handling and Investigation Guide

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## Introduction

This document should be read in conjunction with the Anti-Corruption policy and Code of Conduct and the Danmission Code of Conduct. The guidelines reflect the CHS Alliances'[1], ACT Alliances'[2] and Transparency International's principles for effective complaints mechanisms and gives direction on how to complain and how the complaint should be handled.

These guidelines provide an overview of the key steps and issues Danmission should consider when responding to serious complaints including corruption, discrimination, sexual exploitation, harassment and abuse.

Corruption can have many forms. The most well-known might be fraud, embezzlement, extortion and bribery, but corruption also involves issues around conflicts of interest, nepotism, favouritism, large gifts or offers of hospitality.

The principles of these guidelines can be equally used and adapted for handling all kinds of complaints received[3]. They summarize the 'who, what, when, why, where and how' of managing and investigating complaints and reporting on findings. They also identify potential difficulties and offer practical responses and solutions. These guidelines do not address every possible scenario which could arise during an actual investigation. Rather the guidelines give tools and structure to secure a fair and transparent complaints process. When in doubt of a response please refer to the CHS alliance guidelines on complaints handling.

**Danmission's complaints package**

Danmission's anti-corruption package consists of; an anti-corruption policy and code of conduct, a mandatory e-learning course, a complaints handler at our Headquarters, a number of anti-corruption focal point persons in our partner countries (most often the country representative) and a complaint mechanism where corruption and abuses can be reported. The e-learning course can be supplemented by a workshop with one of our anti-corruption focal points. The workshops give an opportunity to ask questions and discuss dilemmas. Individual capacity development of partners and dissemination of information on the anti-corruption package to beneficiaries will be planned in accordance with Danmission's capacity development and learning policy. Danmission acknowledges that partner organisations already might have complaint mechanisms and where relevant multi-agency mechanisms can be agreed upon. Unless otherwise agreed upon all complaints which implicate the work of Danmission must be reported to Danmission through the Danmission complaints system, via the designated email or our website.

Updated information on who is anti-corruption focal point in which country and who is complaints handler will also be available to the public on the Danmission website.

**How to submit a complaint?**

[1] https://www.chsalliance.org/files/files/Investigation-Guidelines-2015_English.pdf
[2] http://actalliance.org/wp-content/uploads/2015/11/Complaints-and-Investigation-Guidelines-July-2010-1.pdf
[3] https://consultations.worldbank.org/Data/hub/files/ti_document_-_guide_complaint_mechanisms_final.pdf

If Danmission staff, Danmission volunteers in Denmark and abroad, interns, external consultants connected to Danmission's work, employees in partner organisations or communities supported by Danmission have encountered corruption, discrimination, sexual exploitation, harassment or abuse, or have substantial suspicion about one of these issues, they are obliged to report this to Danmission. All complaints must be submitted through the global complaints handling system, which is managed at Headquarters where only a designated person has immediate access to the system. It is possible to file a complaint on behalf of someone. Investigation of the complaint will be coordinated by Danmission's complaints handler. Some of Danmission's partners have local complaints handling systems, which can also be used to file complaints – this complaint will then be sent to the Danmission complaints system. All complaints must be referred to the global complaints handling system as soon as a suspicion of violation arises. Danmission's global complaints handling system is open to all reports on violations or substantial suspicion of violations from payed and non-payed employees in Danmission, volunteers, employees in partner organisations, beneficiaries, Danmission volunteers, the general public or other stakeholders. If the complaint filed falls outside the scope of the mechanism, the person who complained will simply be informed about this.

Danmission has two primary ways of filing a complaint.

1. By filling out the complaints formula on the Danmission website
2. Or by writing an email to anticorruption@danmission.dk
3. Relevant channels of communication for beneficiaries will be announced on the Danmission website and communicated to Danmission's beneficiaries

Other localized contact solutions can be available. For more information see the Danmission website. All complaints are handled in confidentiality by the designated complaints handler at Danmission headquarters. In Danmission we take the complaints handling system very seriously, and we will not accept or tolerate false accusations. A staff member who purposely makes false accusations about another staff member, will be subject to disciplinary action (warning/dismissal). All questions about the global complaints system can be raised with the designated Complaints Handler in Danmission's Resource and Capacity Department.

**What kind of complaints?**

We have set up a system for handling complaints that are within the scope of Danmission i.e.:

- Our work in Denmark
- Implementation of projects, Danmission supports or implements in partner countries
- Behaviour of Danmission staff or staff supported by Danmission donations
- Behaviour of Danmission volunteers

All internal employment conditions like salary level, performance evaluations, working area etc. will not be handled within this system. These types of complaints will be dealt with via the relevant channels in the organisation.

## Overall principles for handling a complaint

- **Safety** - the complaint mechanism will assess potential dangers and risks to all parties and incorporate ways to prevent injury and harm.
- **Impartiality** – the investigation will be conducted in a fair and equitable manner
- **Confidentiality** – this is an ethical principle that restricts access to and dissemination of information but also a principle which follows the EU general data protection regulation. It may entail that you are not able to share certain information with the complainant.
- **Transparency** – The complaints mechanism is based on a principle of transparency, is freely available to communities and contains clear procedures for handling complaints to ensure transparency in the handling of the complaint.
- **Timeliness and thoroughness** – We deal with complaints in a timely manner but at the same time strive at thoroughness.
- **Legality** – All investigations are conducted in such a way that it is legally enforceable, demonstrating fairness and reason, and based on clear and convincing evidence.
- **Cultural awareness** – Cultural sensitivities will be considered and factored into the investigation process.
- **Reporting and learning** – The outcomes of the investigation will be shared with relevant donors / parties. Learnings from the complaints and investigations will be integrated into programs, policies and practices. With due consideration of privacy, confidentiality and safety.

**The Complainant should:**

- Receive confirmation of receipt of complaint and information on how Danmission has responded to the complaint and what it plans to do next (for example, the plan may be to investigate)
- Receive timely medical attention if /he is the survivor of abuse and requires medical attention
- **<u>Once the investigation begins, at no stage during the investigation should the complainant be informed about the status of the investigation</u>**
- Be informed on a need to know basis about the outcome of the investigation, they have no automatic 'right' to know the outcome. The identities or the evidence of other witnesses should never be disclosed.

**The Subject of Complaint should be**

- Treated the same as any other witness
- Informed of the process and potential consequences of the investigation and any internal avenues of appeal
- Have the allegation(s) explained to her/him during the interview, without divulging the identity of the complainant or witnesses
- Allowed, in her/his own words, to address every piece of evidence in support of the allegation(s) and to raise new evidence in support of her/his account

- Given a clear breakdown of why the allegation equates to a breach of Danmission policies or principles
- Advised that the investigation may lead to disciplinary and/or law enforcement action, if relevant
- Advised that it is best for her/him to cooperate as it is her/his opportunity to present all evidence in her/his favour
- Allowed to withhold documents from the investigators if they were created in their private capacity using their own equipment
- Be informed, in writing (when possible), of the outcome of the investigation
- Again, the names of witnesses or complainant should not be disclosed no matter what the outcome of the investigation

**should NOT be…**

- Told the name of the complainant even if s/he asks. If s/he persists, reiterate the importance of confidentiality for the process
- Told the sources of evidence during the interview
- Informed if the allegation has referred to the national authorities for criminal prosecution as further action will be taken by the national prosecuting authority.

## Step 1: Receiving a complaint

**Anonymous complaints**

Danmission does not (in compliance with the Danmission Anti-Corruption Policy and Code of Conduct) accept anonymous complaints. For safety reasons it is possible to complain through someone else, thus staying anonymous to the third-party complaints handler but being known to the "mediator". Thus, making it possible for the complaints handler to get in touch with the complainant.

**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.

**TO DO**

- Record all complaints with an identifier (e.g. complaint number), date of complaint, first actions to be considered and a timeline for response
- Acknowledge receipt of the complaint as soon as possible, and inform the complainant on potential follow-up and timeline
- Identify complaints that are out of the scope of the complaint mechanism
- Two staff conduct independent reviews of the complaint ("four eyes principle") for decision-making
- If necessary, inform complainants when their request is out of scope, provide them with reasons necessary for this decision and possible alternative channels to pursue their grievance
- Prevent that the complaint be referred or disclosed to any person accused or potentially involved in the alleged malpractice without the explicit consent of the complainant, unless required by law.

**Important regarding confidentiality**

In order to address Danmission's commitment to confidentiality in relation to complaints handling, and to protect witnesses, the following measures should be taken when maintaining a file.

**TO DO**

- Develop predetermined codes for the complainant, survivor(s) if not the complainant, Subject of Complaint and other witnesses, e.g. Witness A, for the Complainant; and Subject A for the SoC, etc., and do not use their names on any witness statements (testimonies) or investigation reports
- All records must be saved on a secured drive with restricted access
- The investigation team (for description of the investigation team see page Step 3) should not take files out of the office and try not to make copies of files. If copies of files have to be made for any reason, note the number of the copy on the file and destroy it when it is returned; and
- Documents should not be shared with anyone outside the investigation team.

## Step 2: Deciding on whether to investigate

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

- Does this concern constitute a potential breach of organizational policy?
- Is there an identified victim and Subject of Complaint?
- The type of complaint: sensitive, non-sensitive, for referral
- Is further information required to determine either of the above?

In this case, Danmission may decide to look for further information to provide sufficient information to take forward the complaint. This needs to be done extremely carefully, following the same principles as an investigation. Information gathering should be done in a way that does not jeopardize a potential investigation (for example by making the potential Subject of Complaint, witnesses or other stakeholders aware that a complaint has been made) or present a protection risk to anyone concerned.

Danmission 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.

Questions to ask yourself on suspicion of false complaints:

- Is it a false email address?
- Does the complaint support or dispute previous reports?
- Is it a complaint to damage the reputation of the accused?
- What is the motive of the complainant?

## Step 3: Appointing the investigation team and informing the Donor

When the decision to investigate has been made a complaints committee is established. An optimal constellation is a committee comprising of an uneven number of participants. As a standard three people on the committee is a minimum requirement. The standard composition could be:

1. Investigator X (complaints mechanism handler which is also controller)
2. Program consultant and/or country representative (if relevant one of these will function as investigator Y)
3. A relevant manager

The investigation team which comprises of one or two investigators functions under the complaints committee. The complaints mechanism handler is the manager of the investigation team. Major decisions such as to terminate the partnership will be the responsibility of the complaints committee.

The investigation team's Terms of Reference must clearly define the roles and responsibilities of each team member. Terms of Reference for the investigation team should be outlined and shared with the complaints committee. Also, an oath of confidentiality should be signed by the investigators declaring that divulging confidential information to persons who are not authorised to receive it may amount to misconduct and lead to sanctions.

After constituting the investigation team, a local legal advisor and/or local auditor (if relevant) should be found. The legal advisor and/or auditor is to guide the team on issues relating to local labor laws, criminal laws, etc.

**Informing the Danmission board (FU – Forretningsudvalget)**

As soon as a decision to investigate a case has been taken, the Danmission board through forretningsudvalget, must be informed. The information given should be on a strictly need to know basis.

**Informing the Donor**

As soon as Danmission has decided to conduct an investigation the relevant donor must be contacted.

For cases referring to Danida a c-file form (Annex 6 to the strategic partnership guidelines) must be filled in. The form and adjoined appendixes are requested sent to the granting department in the Ministry of Foreign Affairs and the respective head of section. All cases of corruption are published on the website of the Ministry of Foreign Affairs very soon after the c-file form is submitted. Consider whether it is relevant to ask the Ministry of Foreign Affairs for anonymity as long as the investigation is ongoing. If the publishing of the case on the Ministries website will compromise personal security, it is possible for the Ministry not publish the case on their website.

If Danmission pays the financial loss up front it is possible to close the case very quickly. If Danmission does not wish to pay upfront but to pursue further investigations and criminal trials the case cannot be concluded before all possible roads to financial resolution have been explored. This can take 1-2 years and be financially costly. It is very important to keep Danida informed of developments in the case and to include the case in the annual Danida report. For more information on relevant Danida guidelines contact the Danmission controller in charge of Danida funds.

When it comes to reporting cases of sexual exploitation, abuse or harassment please see the Danida guidelines. It is also relevant to talk about a media and communication strategy with the communication department on these types of cases.

For cases referring to the EU we refer to the relevant EU guidelines. These guidelines depend on the grant so please consult the EU responsible person at Danmission.

## Step 4: Planning the investigation and undertaking a risk assessment

A step by step plan must be made which includes a process plan describing, whom to involve/interview in the investigation e.g. witness', complainant, accused, etc. The plan must include a risk assessment focusing on both personal safety, issues of organizational safety and safety of evidence.

Please consult the head of administration on securing evidence from a Danmission computer, if relevant. Questions that are relevant to ask are: Who can give permission to freeze content on a Danmission computer, who is allowed to open the content on the computer, and which type of content can be accessed, etc.

When planning which documents are relevant to collect focus on finding facts. Fact-finding differs from investigations: while collecting evidence for criminal investigation is the responsibility of relevant authorities (e.g. police and prosecutors), fact-finding supports collecting relevant information, mapping patterns and presenting documents obtained to relevant authorities. Please keep in mind that your fact-finding (also called an administrative investigation) can be used in a criminal investigation at a later stage. Avoid causing damage to evidence or influencing witnesses and considering the views and rights of defendants.

**TO DO**

- Collaborate, when applicable, with law enforcement bodies or other competent institutions or interested parties
- Record and log activities and findings chronologically and establish a chain of custody for potential later criminal trials
- Set a reasonable time limit until a decision is taken on whether the case will be referred to relevant authorities or handled internally.

## Step 5: Gathering background material and documentary evidence

When Danmission talks about "investigation" in conjunction with the anti-corruption policy and code of conduct it is referring to an "administrative", not criminal investigation. If, however, an investigation is conducted effectively and professionally, it is legally enforceable. Therefore, it is imperative to understand the significance, value and level of professionalism that is required in an investigation process for complaints.

Throughout the investigation, investigators will need to consult documents – in hard copy and electronic form – to identify documentary evidence.

**TO DO**

- Log all documents with an identifier number
- List all documents in an inventory list with title and identifier number
- Name all electronic documents with their identifier number first
- Scan all hard copy documents so you have an electronic version
- Store all hard copy documents in a locked cupboard
- Store all electronic data on a secured server with restricted access

**Investigative audit**

If possible and relevant it is possible to evoke an investigative audit in which case the auditor will collect all relevant evidence instead of the investigation team. An investigative audit is a good and important tool in an investigation process. In the case of Danida the cost of the investigative audit in some cases can be put on the Danida budget. This must be discussed with Danida.

**What is documentary evidence?**

Documentary evidence is all information that is relevant to the complaint and that is recorded in some way in physical or electronic form. It includes:

- staff records
- rosters
- diagrams
- handwritten notes
- Employment contracts
- Project documents
- Staffing structure organizational chart
- Any correspondence related to the complaint
- annual reports
- audits
- legal documents
- receipts
- ledgers
- financial statements
- Emails
- telephones
- etc.

Also, social media posts and photographs can be collected.

**Why is documentary evidence important to investigations of complaints, specifically complaints on sexual exploitation and abuse?**

Documentary evidence will vary in importance between investigations. Generally, and particularly when investigating complaints about sexual exploitation and abuse, it does not prove that the Subject of Complaint sexually exploited or abused the victim. However, it may establish the age of the survivor or the role of the Subject of Complaint in the organization (e.g. employee, contractor, employee of contractor etc.). Moreover, it can corroborate witness' accounts, provide leads for questioning, support witness testimony and/or give investigators a better understanding of the background to the complaint. In regard to suspicion of corruption accounts and other financial documents are important to secure.

**Who has relevant documentary evidence and who can access it?**

The organization and its related entities will hold most relevant documents on their premises. If investigators cannot find relevant materials there, they should check whether documents have been moved, destroyed or archived. Otherwise, if they have good reason to believe documents are in the possession of a staff member, the investigators may ask for access to those materials.

**When to collect documentary evidence**

You should begin collecting documentary evidence as soon as possible in the investigation as it can help guide you about whom to interview and what questions to ask.

**Where to collect documentary evidence**

Whenever possible, documents should be reviewed on site. If this is not possible, have a copy produced which can be sent to the investigator. If original materials are removed from the premises, the Head of the Office should be told and given a signed inventory and receipt for the materials. A copy of the inventory should be kept in the investigation file.

**How to review and manage documentary evidence**

It must be ensured that no documents are lost, and that all documents have been reviewed and validated. By validated we mean that all relevant documents can be regarded as reliable. For every document, it should be possible to establish how it was collected and who provided the document. This is relevant for both physical and electronic documents. Let only computer literate handle electronic data. If seizing a computer to avoid the destruction of evidence, make a list of the computer's components, including the make, model and serial number of the monitor, computer, disk drives, cables and speakers. Store the seized computer in a safe and secure location. Only ever log onto or browse the computer with another investigator / or member of the complaints committee present.

**What to look for when reviewing documents?**

When reviewing the documents, investigators should be alert to internal inconsistencies and to reference to other relevant evidence. It is particularly important to check dates, addressees (check if they exist), copies and attachments.

Investigators should look for postdating and consistency with other dates in the investigation. If the document refers to attachments, investigators should make sure they are enclosed or can be located.

Other signs of corruption could be:

- Abnormal cash payments
- Pressure exerted for payments to be made urgently or ahead of schedule
- Payments being made through 3rd party country (eg. goods or services supplied to country 'A' but payment is being made, usually to shell company in country 'B')
- Abnormally high commission percentage being paid to a particular agency. This may be split into two accounts for the same agent, often in different jurisdictions
- Private meetings with public contractors or companies hoping to tender for contracts
- Lavish gifts being received

- Individual never takes time off even if ill, or holidays, or insists on dealing with specific contractors him/herself
- Making unexpected or illogical decisions accepting projects or contracts
- Unusually smooth process of cases where individual does not have the expected level of knowledge or expertise
- Abusing decision process or delegated powers in specific cases
- Agreeing contracts not favourable to the organisation either with terms or time period
- Unexplained preference for certain contractors during tendering period
- Avoidance of independent checks on tendering or contracting processes
- Raising barriers around specific roles or departments which are key in the tendering/contracting process
- Bypassing normal tendering/contractor's procedure
- Invoices being agreed in excess of contract without reasonable cause
- Missing documents or records regarding meetings or decisions
- Company procedures or guidelines not being followed
- The payment of, or making funds available for, high value expenses or school fees etc. on behalf of others.

It is helpful to write down the elements of the allegations.

**Returning documents after the review**

Investigators should return original documents to their owner as soon as possible.

**Investigating the complaint – gathering physical evidence and conducting site visits**

Site visits are inspections of the place/s where the alleged incident or its component parts occurred. Site visits are useful, especially at the beginning of the investigation, to determine whether the alleged exploitation or abuse was possible in the manner described and to gather physical evidence relevant to the witnesses' accounts.

Before conducting site visits or searching for evidence, investigators should review their Terms of Reference to ensure that they have the relevant authority. They should then arrange a time to visit each site and conduct the search in the company of at least one other investigator or an independent observer. After the visit, they should write a file note recording who was present, in what condition they found the site, what objects (if any) they gathered there and the date and time of the visit. If possible, they should attach photographs or sketches of the site or relevant objects.

**Validating evidence**

As information is collected, it should be evaluated for consistency and reliability. Investigators determine consistency by comparing each new piece of evidence to each piece of existing evidence. If there are inconsistencies, the investigators seek further evidence or make a judgement as to which source is more reliable. There are no particular rules about reliability in workplace investigations. However, investigators should avoid relying solely on hearsay or testimony from people who are obviously biased.

**Medical evidence**

It is rare to use medical evidence in administrative investigations as is will often not help establish whether exploitation or abuse has occurred. It is more common for the initial contact person to note any obvious physical signs of abuse when he/she meets the witness for the first time and to record these in a file. Only, if it is absolutely necessary, the investigators may ask the witness whether they have seen a doctor or other medical personnel and seek permission of the witness to talk to that medical officer. Investigators should never speak to a medical officer without the permission of the witness.

## Step 6: Interviewing the witness

The investigation team conducts interviews with the witness. Interviews are never conducted one-on-one but always with two investigators present.

No witness has no automatic right to a third party, lawyer or otherwise, accompanying them at the interview. It is not advisable to have a third party at the interview. The third party can only attend if Danmission consents or if there are specific national legal labor rights specifying differently.

Consider whom to interview – keep the interview list to the most essential people. It is good practice to interview witness' in the following order:

1. Complainant
2. Survivor(s) of violations, if different from the complainant
3. Other witness
4. Subject of complaint

It is useful for investigators to do a profile of each witness in advance of interviews to identify their special needs and to ensure modification of interviewing techniques to suit the individual. Consider where to conduct the interview. Find a place where the interviewee will feel safe and the interview can remain confidential.

It may be necessary to use an interpreter during the interview. Make sure that the interpreter does not have any affiliations to the person being interviewed or to the organization. Also consider clan relations and other affiliations which could compromise the interview.

If interviewing children, please consider whether a trained child expert should conduct the interview instead of the investigator as an interview can be a traumatic experience for a child who is to share sensitive information. Always consider whether the child needs follow-up sessions with a psychologist depending on the nature of the interview.

**How to interview a witness**

When a witness arrives (the complainant, SoC, or other witnesses), after thanking them for attending the interview, be courteous and provide the following opening information:

*Introductions*

Introduce investigators, experts and interpreters (make sure that the witness has been introduced to everyone in the room and their roles as the witness may feel nervous or vulnerable);

*Honesty and Accuracy*

Inform Danmission staff that they have a duty to respond and an obligation to tell the truth. For witnesses who are non Danmission staff, simply thank them for their time and explain it is important for them to be accurate.

*Confidentiality*

Inform Danmission staff that for the purpose of confidentiality, they must refrain from communicating with other persons interviewed in this investigation process. Explain that as a staff witness, breaching confidentiality can result in disciplinary measures. Non-staff witnesses should also be aware of the need for confidentiality (of course, compliance cannot be enforced, instead, emphasis should be made on ensuring a fair investigation)

*Purpose of note-taking*

Explain who will be taking notes (if there are two investigators, it is best if one leads on questioning and one focuses on taking detailed notes) and that the purpose of taking notes is for accuracy. Explain that at the end of the interview, the witness will be provided with a verbal summary of the interview and s/he will be given the opportunity to read the content of the notes and to sign that they agree with the record. Note the date, start and end time of the interview on the statement. Also note if the interview is face-to-face or by other means.

If you would like to record the interview this can only be done with the permission of the interviewee and cannot be shared outside of the complaints committee. You should always specify the use of the recording to the interviewee and do this on tape.

*Acceptable to state when answer is not known*

Clarify to the witness that it is ok when they genuinely cannot remember a particular piece of information or do not know the answer.

*Right to ask for a short break*

Tell the witness where the bathroom facilities are. Offer them water/tea/coffee and explain they can ask for a short break if they need it. Follow local traditions for hospitality.

## Step 7: Write investigation report and take action

When the investigation has been concluded a report must be written and submitted to Danmission management and board.

The report will follow the beneath table of content[4]:

- Table of contents
- Executive summary
- Introduction and preliminary remarks
- Methodology
- Investigative findings
- Conclusions and recommendations
- Management implications report
- Possible actions and sanctions
- Annexes

**i. Executive summary**

The Executive summary provides the reader with a concise overview of the investigation from the time the organisation received the allegation, through to the writing of the report. It should not contain any information, which is not in the main body of the report.

**ii. Introduction**

The Introduction contains:

- the name/s or case reference number of SOC/s
- date of the report
- a confidentiality-statement
- information about the nature of the complaint and references to the standards allegedly breached
- information about the scope of the investigation (number of complainants, witnesses, SOCs, etc)
- brief contextual information (e.g. country, refugee camp etc)

**iii. Methodology**

The Methodology sets out:

- the process used during the investigation
- the evidence required / collected
- the interviews conducted
- any impediments to the investigation (i.e. lack of co--operation or unwillingness by any witness to be interviewed)

[4] Originally an extract from BSO guidelines, Pg, 28 & 29 used by ACT Alliance in the publication "Complaints handling and investigation guidelines, ACT Alliance, 12 July 2010.

### iv. Investigative findings

The Investigative findings summarise the evidence relevant to each alleged complaint; they will be used to draw conclusions.

### v. Conclusions and recommendations

The conclusions and recommendations tell the reader whether or not the evidence supports each complaint as alleged. It is important that the conclusions are clearly stated for each alleged complaint.

The investigation will result in one of the following three conclusions:

- "found by reasonable inference"
- "not found due to insufficient or unclear evidence"
- "not found based on evidence to clear the SOC or to establish a malicious complaint"

### vi. Management implication report (MIR)

Finally, investigators may decide to make other recommendations regarding training, supervision, or organizational policies. The MIR will be especially relevant if the investigation findings are that the organisation's practices are substandard with respect to protecting people of concern from SEA. The MIR should also record any concerns about possible reprisals against witnesses or other participants. The Report should attach documents that support the conclusions of the investigation, and which are in the investigation.

### vii. Possible actions and sanctions

If an allegation is substantiated, when considering disciplinary measures, Danmission management must follow national employment laws. In some countries there is a legal obligation to report cases of child abuse or sexual assault in others it is voluntary.

Possible actions to be taken and sanctions to be imposed in such cases as mentioned above will be decided in consultation with the partner involved and/or in consultation with the Ministry of Foreign Affairs on consideration of the following points:

a) The specific context of the case
b) The level of fraud and corruption or misuse of funds and serious irregularities in question; and
c) The will, determination and result of efforts on behalf of partners involved to rectify evident misuse of funds and assets.

## Examples of breaches and sanctions

The below are examples of breaches and the type of sanction which might apply. Every case should be reviewed individually thus sanctions must be outlined according to the severeness of the breach of policy and code of conduct.

**Example 1: Petty theft of funds or assets**

In the case of reported petty theft of funds or assets by an employee or an outsider (possibly working with an insider) Danmission or the partner organisation involved are expected to:

a) With great effort and determination, try to recover losses inflicted through appropriate internal disciplinary or civil and legal steps
b) Take appropriate action as deemed necessary and without delay to prevent similar cases in the future.

*If such measures are implemented, documented and reported to Danmission's complaints mechanism within a reasonable time period no further action will be taken by Danmission. However, the partner may, for a period of time, be under strict surveillance.*

**Example 2: Proven overcharging by a supplier and facilitation payment**

In the case of proven overcharging by a supplier (possibly in cooperation with a staff member) and facilitation payments, Danmission or the partner organisation involved are expected to:

a) With great effort and determination, try to recover losses inflicted
b) Take appropriate internal disciplinary action as deemed necessary.
c) Tighten the internal control measures as deemed necessary without delay; and
d) Cease dealing with the supplier in question for at least one year.

*If such measures are implemented, documented and reported to Danmission's complaints mechanism within a reasonable time period no further action will be taken by Danmission. However, the partner may, for a period of time, be under strict surveillance. All acts of corruption will be reported to the relevant donor.*

**Example 3: Proven conflict of interest, oversized gifts and hospitality**

In the case of proven conflict of interest, receiving oversized gifts and hospitality, Danmission or the partner organisations are expected to:

a) With great effort and determination, try to recover losses inflicted
b) Take appropriate internal disciplinary action; and
c) Tighten internal control procedures in order to avoid similar cases in the future.

*If such measures are implemented, documented and reported to Danmission's complaints mechanism within a reasonable time period no further action will be taken. However, the partner may, for a period of time, come under strict surveillance. All acts of corruption will be reported to the relevant donor.*

**Example 4: Serious irregularities and mismanagement**

In the case of exposure of serious irregularities and mismanagement of funds and assets, Danmission or the partner organisation is expected immediately to:

a) Take appropriate measures to rectify the situation without delay and ensure future cost-effective and efficient use of available financial, material and human resources.

*If such measures are implemented, documented and reported to Danmission's complaints mechanism within a reasonable time period no further action will be taken. However, the partner may, for a period of time, come under strict surveillance. All acts of corruption will be reported to the relevant donor.*

**Example 5:**

In the case of documented deliberate, systematic bribery, extortion, fraud and embezzlement organised by volunteers, individual staff members, departments or management teams or end beneficiaries Danmission or the partner organization and the responsible bodies are expected to:

a) Act immediately to rectify the situation without delay
b) With great effort and determination try to recover the losses; and
c) Adopt necessary measures including the tightening of internal control mechanisms to avoid similar cases in the future.

*All cases must be reported to Danmission's complaints mechanism. In such cases Danmission will decide on appropriate actions and possible sanctions in consultation with the relevant donor.*

If a partner organisation fails to inform Danmission about such cases immediately or does not within a reasonable time period take appropriate action and/or deliberately tries to conceal such cases in violation of the project or funding agreement; Danmission will take the following steps:

a) Support to the project or activity in question will be suspended and so may be support from Danmission to other development project and activities of the partner organisation.
b) Furthermore, applications to Danmission for support to new development projects and activities may be put on hold, until the leadership of the partner responsible has intervened and taken the necessary actions to re-establish accountable management in the partner organisation; and proved during a certain period that the new leadership and management is trustworthy.
c) For Danmission staff and volunteers involved in a breach of policy or illegal acts relevant sanctions will be decided upon by management or the Danmission board.

The same rules, procedures, regulations and sanctions will of course also apply if corruption, abuse, etc. is suspected or proved to have taken place in Danmission. Danmission management can decide on other sanctions than described above.

## Step 8 - Handling appeals

There should be an appeal process whereby a review by an independent panel can verify the result of a complaint or of a decision on a complaint being out of the scope of the complaint mechanism. In some organisations the appeal panel consists of the general secretary and two members of the board. In other organisations an external panel is used.

The Complainant or Subject of Complaint may lodge an appeal (in writing, where possible) within 30 days of receipt of outcome of the investigation. The circumstances may relate to the following (this list is not exhaustive):

**The Complainant**

Disagrees with the findings of the investigation.

*Reasons may include:*

- witnesses that s/he thinks could have supported the allegations were not interviewed by the investigators;
- some important parts of the complaint were not investigated;
- more evidence was available but not gathered;
- the organisation has not done enough to prevent the same thing from happening again.

**The Subject of Complaint**

Disagrees with the findings of the investigation.

*Reasons may include:*

- witnesses that s/he thinks could have refuted the allegations were not interviewed by the investigators;
- some important parts of the Complaint were not investigated;
- the evidence gathered does not support the investigation conclusions.

**TO DO**

- Inform complainants on the option to submit an appeal
- Establish an independent appeal panel and criteria on its independence and operations
- Handle the appeal timely and objectively based on a set of pre-defined criteria and procedures
- Respect the result of an appeal and follow up accordingly.

## Step 9: Conclude the investigation, submit to Donor

When applicable, provide complainants with information that their complaint helped to identify a problem with larger impact on society and/or development and therefore actions could be taken to achieve lasting change of relevant policies and practices.

- Collect evidence that the corrective actions have been taken (e.g. photos or documents, a record of resolution, an agreement with the complainant, a confirmation from the complainant).

A timeline of following up on management recommendations should be outlined.

Step xx: support to PSEAH survivor, whether investigation or not

## STEP 10 - Compliance monitoring

Compliance monitoring is vital to determine whether the complaints mechanism is in line with the principles defined and assesses the level of effectiveness and efficiency of the complaint mechanism. It is a constant process of proper reviews and amendments and offers an opportunity to discover deficiencies in a timely manner and correct them accordingly. Reports provide valuable information for feedback reports to the organisation's management, communities and other stakeholders.

**TO DO**

- Establish and implement a compliance mechanism monitoring schedule and related requirements. This includes yearly reporting at an organisational level.
- Comply with the findings in the monitoring report.
- Share the reports and findings with main stakeholders with due consideration to confidentiality.