

REPORT OF THE ETHICS OFFICE

Organizational Oversight Reports

Additional documents for this item: UNAIDS/PCB (48)/21.4; UNAIDS/PCB (48)/21.5; UNAIDS/PCB (48)/21.7

Action required at this meeting—the Programme Coordinating Board is invited to:

Take note of the report of the Ethics Office

Cost implications for the implementation of the decisions: none

On some positions, cowardice asks the question, is it expedient? And then expedience comes along and asks the question, is it politic? Vanity asks the question, is it popular? Conscience asks the question, is it right? There comes a time when one must take the position that is neither safe nor politic nor popular, but he must do it because conscience tells him it is right.

– Martin Luther King, Jr.

INTRODUCTION

1. This report is presented to the UNAIDS Programme Coordinating Board (PCB) following a decision at the 45th PCB meeting, which welcomed and affirmed the commitment of the Executive Director to establish a regular stand-alone agenda item for appropriate independent functions, including ethics, to present reports directly to the PCB.
2. In 2009, the Executive Director created the ethics function in the UNAIDS Secretariat (UNAIDS). In 2020, the Executive Director approved the establishment of a new, distinct UNAIDS Ethics Office which is staffed by a Director of the Ethics Office. The mission of the Ethics Office is to help ensure that all UNAIDS staff members observe and perform their functions consistent with the highest standards of integrity, in accordance with applicable rules and regulations. While rules and regulations focus on what is "legal", values and ethical principles (conscience, in the words of Martin Luther King, Jr.) prompt the question "Is this right?" Both are essential for an ethical UNAIDS.
3. This report is in three sections. The first part of the report presents a summary of activities undertaken in 2020, under the mandated areas of work for the ethics function:
 - provide ethics advice and guidance;
 - administer the Declaration of Interests programme;
 - administer the UNAIDS whistleblower protection policy;
 - provide education and outreach on ethics and the standards of conduct; and
 - engage in standard-setting and policy support.
4. The second part of this report reflects on certain key, current ethical issues at UNAIDS. The third part of the report discusses efforts to strengthen the ethics function in response to the PCB request to the Executive Director "to ensure that the Secretariat Ethics function conforms to the Standards recommended by the Joint Inspection Unit" and related recommendations.¹

PART I: ACTIVITIES OF THE ETHICS FUNCTION

Advice and guidance

5. Public trust in UNAIDS is an immeasurable asset, which the organization must work hard to protect. Staff members contribute to UNAIDS' reputation through their daily decisions and interactions, which can either enhance or diminish both the organization's standing and its effectiveness in spearheading the global AIDS response. UNAIDS can, and must, demonstrate a strong commitment to ethics and integrity at the organizational and individual levels by providing all staff members with clear ethical standards and holding them to those standards.
6. The Ethics Office plays an important role in this organizational framework through its advisory function, which allows staff members to seek, in confidence, practical advice and guidance both on ethical dilemmas arising from their work or their private lives,

¹ Report of the 44th Programme Coordinating Board Meeting, UNAIDS/PCB (44)/19.22, pp. 41–42.

where there are implications for the organization, and on issues such as how to address misconduct. While the ethics advisory function can involve clarifying the standards of the organization concerning prohibited or restricted activities, it may also assist staff in addressing complex situations that are not specifically dealt with in existing regulations by applying the values of the organization and interpreting the regulatory framework.

7. In 2020, the Ethics Office responded to 124 enquiries regarding: outside activities (36); gifts and hospitality (8); speaking and publications (4); protection against retaliation (4); and other requests for ethics advice, guidance and general information, including regarding misconduct (72).

Declaration of Interests programme

8. The Ethics Office administers an annual Declaration of Interests programme as a means of helping to manage organizational risks, as well as maintaining and enhancing public trust in the integrity of the organization.
9. Pursuant to Staff Rule 110.7.2 and World Health Organization (WHO) eManual III.1.2., designated staff members, including all Headquarters and Regional Office staff with financial authority, all UNAIDS Country Directors, all heads of Liaison Offices, and staff members at G5 (or local equivalent) and above who are responsible for the procurement of goods and services, are required to file annual declarations of interests. As appointees of the United Nations (UN) Secretary-General, the UNAIDS Executive Director, the Deputy Executive Director (Programmes) and the Deputy Executive Director (Management and External Relations) file annual financial disclosures with the UN Ethics Office, which addresses any potential or perceived conflicts of interest with them, as appropriate. They are therefore excluded from filing the Declaration of Interests in UNAIDS.
10. In addition, the Ethics Office reviews the International Public Sector Accounting Standard 20 (IPSAS 20) related party disclosures, which are administered by the Department of Planning, Finance and Accountability. They are submitted annually as part of the financial requirements by "Key Management Personnel", comprising the Executive Director, Deputy Executive Directors and Directors at D1 level and above who have the authority for planning, directing, and controlling the activities of the organization.
11. During the reporting period, in the first quarter of 2020, the Declaration of Interests programme covering disclosures for the 2019 calendar year was launched. All 193 eligible staff filed their declarations of interests. Complete information on the programme launched in the first quarter of 2021 (covering disclosures for the 2020 calendar year) will be provided in next year's report. In the meantime, preliminary results show that 437 of 464 eligible staff (including 18 members of Key Management Personnel) have filed their declarations of interests, as of 26 May 2021. The number of staff eligible for the Declaration of Interests programme has increased substantially in the most recent cycle, as a result of an expansion of eligibility to (i) all staff members at G5 (or local equivalent) and above who have a Procurement Requestor Role, as well as (ii) Key Management Personnel (other than appointees of the UN Secretary-General). The Ethics Office has reviewed all completed forms. Any actual or potential conflicts of interest have been addressed with the staff members concerned.

Administering the UNAIDS whistleblower protection policy

12. The Ethics Office administers the policy on whistleblowing and protection against retaliation. The policy is designed to encourage the reporting, in good faith, of suspected wrongdoing without fear of retaliation. The policy provides protective

measures for staff who report wrongdoing that is harmful to the interests, reputation, operations or governance of UNAIDS, as well as for staff who cooperate with duly authorized audits or investigations.

13. The policy was revised in 2017 to introduce the Integrity Hotline, which is implemented in conjunction with WHO. The Hotline is a confidential, free, 24/7 service that is available in all six official UN languages via telephone, email or a web portal to help anybody raise concerns or report potential ethical and/or standard of conduct violations by a UNAIDS staff member. The Hotline does not replace or alter other existing UNAIDS reporting mechanisms, but complements them by making it easier for people to express concerns, including doing so anonymously, if desired.
14. Pursuant to the whistleblower protection policy, the Ethics Office conducts preliminary reviews of retaliation complaints to determine whether an individual has engaged in a protected activity and, if so, whether the protected activity was a contributing factor in causing the alleged retaliation. If the Ethics Office determines that a prima facie case of retaliation has been established, the matter is referred to the WHO Office of Internal Oversight Services for investigation. Pending the completion of the investigation, the Ethics Office may recommend interim protection measures to the Executive Director to safeguard the interests of the whistleblower. Upon completion of the investigation, the Ethics Office may recommend further measures be taken by the Executive Director to protect the whistleblower.
15. During the reporting period, no claims for protection against retaliation were filed with the Ethics Office, although concerns about potential retaliation were frequently shared with the Ethics Office and were a common reason for requests by those who approached the Ethics Office for protection of their anonymity.
16. During the reporting period, nine reports were filed through the Integrity Hotline. Eight of the reports were filed anonymously. They raised issues relating to harassment, financial management, resource management and human resources management. Two of those matters were referred to the WHO Office of Internal Oversight Services, one of which was referred back to UNAIDS for managerial review.

Education and outreach

17. The Ethics Office, in collaboration with other offices, conducted outreach, training and education to fulfil the mandate to identify and address ethics-related concerns, thereby strengthening a shared ethical culture.
18. Beginning in the fall of 2020, the Ethics Office conducted virtual "ethics re-introduction" sessions for all departments and regions, covering the entire Secretariat. Themed "Trust and Collaboration", these sessions acknowledged that, to become truly rules-based and values-based, a top-down approach does not suffice. The key is real engagement and dialogue on ethical principles, as well as consideration of what each staff member individually, and all staff members collectively, can do to act on those principles and underlying values. These virtual sessions provided space for engagement and dialogue, in addition to highlighting key ethical concepts and Ethics Office services.
19. In April 2020, the Ethics Office participated on the presenting panel for the all-staff webinar on staff support services, together with the Human Resources Management Department, the Dignity at Work Advisers, the Staff Well-being and Mental Health Counsellor, the Ombudsman and Mediation Services, and the UNAIDS Secretariat Staff Association. The webinar shared information on which offices staff members with

questions or in need of support could contact, and it highlighted the "no wrong-door" philosophy of staff support services.

20. With the support of many of the same entities featured in the webinar, the Ethics Office developed and published *The Compass*, a practical resource to guide UNAIDS staff members to various offices and mechanisms that are available to address questions or concerns related to terms of employment and well-being. *The Compass* is a living document, which will be updated as rules, regulations and policies change. The Ethics Office also redesigned and relaunched a more user-friendly and informative Ethics intranet page.
21. In normal years, the Ethics Office provides ethics training to first-time UNAIDS Country Directors, as part of their induction. These trainings focus on obligations to adhere to the highest standards of conduct; the specific roles of managers and their responsibility to ensure the well-being of staff members; as well as common ethical challenges that confront Country Directors and possible ways for addressing them. The Ethics Office also typically provides face-to-face training in various UNAIDS Country Offices. These trainings cover standards of conduct; preventing harassment, sexual harassment and abuse of authority; identifying and mitigating conflicts of interest; protection against retaliation; and preventing and addressing sexual exploitation and abuse. They also provide information on which offices to contact should staff members have questions or need support, and offer an opportunity for confidential discussions with each staff member. Due to the COVID-19 pandemic, these in-person trainings did not take place in 2020.
22. Among other individual trainings, staff are required to complete courses on the Prevention of Sexual Exploitation and Abuse (PSEA) by UN Personnel, as well as Ethics and Integrity at the UN. The PSEA training is designed to enhance staff awareness of behaviours that may constitute sexual exploitation and abuse, steps to take to prevent such behaviours, and how to report such abuses. The Ethics and Integrity training aims to enhance staff members' understanding of the concept of ethics, as well as their awareness of the standards of behavior that apply to UNAIDS staff members. As of 26 May 2021, 76% and 77% of staff members had completed the PSEA and Ethics and Integrity courses, respectively. Follow-up is currently occurring, so that all remaining staff members complete the courses.

Standard-setting and policy support

23. This mandate of the Ethics Office requires that it contribute ethical considerations to standard-setting in the organization, so that the policies, rules and practices of the organization reflect and promote the values of UNAIDS.
24. The Ethics Office provided advice and support to other departments and offices in developing policies and standards pertaining to ethics and standards of conduct. For example, during the reporting period, the Ethics Office provided the Human Resources Management Department with inputs for the new Policy on Preventing and Addressing Abusive Conduct, which UNAIDS shares with WHO.
25. As an Alignment Task Team observer, the Ethics Office provided independent ethics guidance on various alignment-related initiatives.
26. The Ethics Office collaborated with the UNAIDS Secretariat Staff Association, WHO Legal, the Human Resources Management Department, the Ombudsman, the Culture Transformation team, the Staff counsellor, and the WHO Office of Internal Oversight Services, among others, to ensure a common understanding of policies and practices

and to discuss other issues of common interest. Key issues discussed during these consultations included discrimination, abuse of authority, ill treatment, harassment, alignment, staffing decisions/hiring processes, the reclassification freeze, and confidence/trust in senior leadership, among others. Many of those issues were also highlighted in the staff survey results and other recent staff engagements (see Part II, below).

27. The Ethics Office also participated in the annual conference of the Ethics Network of Multilateral Organizations and meetings of heads of Ethics Offices of UN organizations based in Geneva. These activities continued to strengthen the quality of ethics advice and interpretation of policies common to UN System organizations.

PART II: REFLECTIONS ON CERTAIN KEY AND CURRENT ETHICAL ISSUES

28. A key purpose of the Ethics Office—as defined by the Joint Inspection Unit (JIU) of the UN—is to foster a culture of ethics, integrity and accountability, thereby enhancing the trust in, and the credibility of, the organization, both internally and externally.² Towards that end, per the JIU, an ethics director "helps ensure management does not mistakenly adopt policies that may impact negatively on the integrity and credibility of the organization". Like the HIV response, the ethics function is about both prevention and treatment—in this case focusing on ethical missteps. Hopefully, the more effective UNAIDS is at preventing ethical missteps, the less need there will be for "treating" them. Management is to be credited for facilitating this ethics function at UNAIDS by inviting the Ethics Office to participate as an observer, with the ability to contribute fully, in all meetings of both the Senior Leadership Team and the Alignment Task Team.
29. In this context, the Ethics Office offers reflections on the results of the recent staff survey—and their implications for a culture of ethics, integrity and accountability at UNAIDS. Management is to be commended for implementing the staff survey, which was conducted in late 2020 and which captures the views of nearly two-thirds of UNAIDS staff. Management is urged to implement such surveys at least annually.
30. Impressively, 88% of survey respondents said they felt proud to work for UNAIDS, among other positive results. However, the survey reflected several issues of concern.
 - Twenty-two percent of survey respondents reported that they have experienced discrimination, abuse of authority, ill treatment, harassment or sexual harassment in the last 12 months.
 - Less than half of respondents (47%) stated that they felt safe reporting a case of discrimination, abuse of authority, ill treatment, or sexual harassment in the organization—significantly lower than the benchmark median.
 - Only 40% of respondents reported feeling that the Leadership Group (Cabinet, Regional Directors and Directors of Headquarters Departments) leads by example, and only 58% of respondents reported trust and respect for the Leadership Group (significantly lower than the benchmark median).
 - Only 30% of survey respondents reported feeling that staffing decisions are made in a fair and transparent manner.
 - In addition, women were less positive than men on all topics, people with disabilities were less positive than people without disabilities on all topics, and people who are HIV-positive were less positive on six of the topics. People who identify as being multiracial, South Asian, or North African/ Middle-Eastern were all less positive, as

² Ethics in the United Nations System (JIU/REP/2010/3).

were people who self-identify as gay. People who identify as gender nonconforming were less engaged than other genders.

- Less than half of respondents (48%) felt staff at UNAIDS are treated equally irrespective of ethnicity and race.
 - Less than 60% of respondents felt staff at UNAIDS are treated equally irrespective of age, disability, and gender or gender identity.
31. These data (and others) from the staff survey are troubling, as UNAIDS management acknowledges. In a message to all staff earlier this year about the survey results, the Executive Director wrote: "I am particularly concerned about (1) abuse of power and harassment and concerns about reporting; (2) the transparency and effectiveness of the Senior Leadership Team; and (3) why some groups within UNAIDS (staff living with HIV, women, people of colour, those with disabilities and those who are gender non-conforming) are experiencing the organization in a more negative light."
 32. The survey results are significant, but not revelatory. As has been pointed out, the results are consistent in many ways with those of past staff surveys conducted by the UNAIDS Secretariat Staff Association. It has also been noted that the staff survey results echo the comments of staff made in the listening sessions and other engagement opportunities organized in recent months as part of the ongoing Culture Transformation initiative. Finally, views that are evident in the results of the staff survey are also reflected in a number of the requests for guidance and complaints received by the Ethics Office. The commonality of the concerns expressed by staff across these platforms makes the survey results even more significant as signposts for necessary change.
 33. The views of staff reflected in the survey results have implications for other major management initiatives, such as the ongoing alignment exercise which is intended to position UNAIDS to lead and coordinate effectively in the years ahead. Challenges inherent in alignment exercises are exacerbated when substantial percentages of staff do not trust senior leadership and do not believe that staffing decisions are made in a fair and transparent manner, as reported in the staff survey. For example, while management is to be commended for creating many opportunities for staff to provide input into the alignment process, there is the risk that unfavourable views of senior leadership and of the legitimacy of staffing decisions—as reflected in the staff survey—will translate into heightened staff skepticism about the rigour and value of the alignment process, especially given its compressed timeline. Ultimately, getting alignment right (both substantively and procedurally) is vital for UNAIDS. A new alignment that both situates UNAIDS to meet its objectives *and* is viewed as credible by staff will succeed because it both makes sense *and* builds trust.
 34. In considering the survey results, it is well worth reflecting on the meaning of harassment. The new and strengthened Policy on Preventing and Addressing Abusive Conduct states that "[f]or harassment to occur, it is not necessary that the offender actually intended the behaviour to be offensive or humiliating [...] Therefore, in their interactions with others, individuals should always consider the point of view of the other person in evaluating whether their conduct might be regarded as unacceptable under this policy." All staff must put themselves in the shoes of those with whom they interact and be guided in their actions by how those actions will be experienced by others.
 35. Management's launch of the Culture Transformation initiative, building on earlier efforts such as the development of the Management Action Plan and the establishment of the Dignity at Work Advisers programme, demonstrates an understanding by leadership—even before the survey results were published—of some of the serious issues that need

to be addressed, as well as a willingness to confront them. Management has also indicated that it is committed to the development of action plans to address weaknesses highlighted by the staff survey. These steps and commitments, too, are commendable. Ultimately, however, the question is whether UNAIDS will walk the talk.

36. This is clear: much work remains to be done. Members of senior leadership need not only to direct culture transformation in the Secretariat writ large, but to transform the culture of senior leadership itself. The personal commitments made by senior leadership at the end of 2020 were a step in the right direction, but a reading of the survey results and other inputs, including from the Culture Transformation initiative, suggests that the personal commitments (and, more importantly, actions to implement those commitments) need to go further.
37. Indeed, the new Abusive Conduct policy provides that senior leadership has a "special obligation to uphold standards of expected conduct" and shall "demonstrate their commitment to the prevention of and response to abusive conduct, act as role models by maintaining a high standard of personal conduct with consciousness of the power their position holds, and treat all colleagues with courtesy and respect." The "special obligation" of UNAIDS's senior leadership is substantially heightened, given the starting place in which, for example, less than half of survey respondents report feeling that the Leadership Group leads by example, less than half of survey respondents report feeling staff at UNAIDS are treated equally irrespective of ethnicity and race, and less than one-third of survey respondents report feeling that staffing decisions are made in a fair and transparent manner. This means that senior leadership needs to ensure that each one of its decisions and actions, individual and organizational, are both beyond reproach and perceived to be so.
38. Senior leadership's "special obligation" is reflected in the Executive Director's message to all staff earlier this year, in which she wrote: "I repeat my commitment, and that of colleagues in the Senior Leadership Team, to creating an equal, safe and empowering environment for staff. That is my number one priority for the year ahead and I will hold myself and my colleagues accountable for its success." The fact that the Executive Director is embracing accountability for herself and the Senior Leadership Team is laudable. It embodies the key purpose of an Ethics Office referenced above: to foster a culture of ethics, integrity and accountability. The next staff survey and other key indicators will help to provide that essential accountability and to demonstrate whether the necessary actions have been taken to make UNAIDS a fully inclusive workplace.

PART III: UPDATE ON STRENGTHENING THE ETHICS FUNCTION

39. The Ethics Office is pleased to provide an update on efforts to strengthen UNAIDS' ethics function and to establish its full independence. A progress report on implementation of the decisions and recommendations summarized below is provided in Annex 1.

A brief history of relevant reports and decisions

40. The PCB Working Group (Working Group) to strengthen the PCB's monitoring and evaluation role on zero tolerance against harassment, including sexual harassment, bullying and abuse of power at the UNAIDS Secretariat was established by the Board in December 2018. The Working Group took forward work initiated in 2018 in response to serious concerns around the ways in which harassment, bullying and abuse of power had been handled in the organization.
41. The Working Group's report was presented and discussed at the June 2019 PCB meeting. With respect to the Secretariat ethics function, the report stated:

"On the specific matter of the Ethics Office, the Working Group notes that the 2010 Joint Inspection Unit report on Ethics in the UN System set out recommended standards for the functioning of ethics offices across the UN system. Key among them are transparency in recruitment; professional background in ethics for ethics staff; term limits; reporting directly to executive head; and having both formal and informal access to the legislative body."³

42. The Working Group's report also noted: "Further, the Working Group recommends that the PCB: request the UNAIDS Executive Director to ensure that the Secretariat ethics function conforms to the Standards recommended by the Joint Inspection Unit".⁴
43. Based on the recommendations of the Working Group, the PCB took the following decisions, relevant to the Secretariat ethics function, at its June 2019 meeting:
 - 6.1 *Takes note* of the report of the PCB Working Group to strengthen the PCB's monitoring and evaluation role on zero tolerance against harassment, including sexual harassment, bullying and abuse of power at the UNAIDS Secretariat;
 - 6.2 *Requests* the UNAIDS Executive Director to ensure that the Secretariat Ethics function conforms to the Standards recommended by the Joint Inspection Unit.⁵
44. Most recently, the JIU issued a Review of the management and administration of the Joint United Nations Programme on HIV/AIDS (UNAIDS) in late 2019 (2019 JIU UNAIDS Review), which provided, in relevant part:

"The Inspectors note the efforts of the secretariat's management to strengthen its ethics function, as stated in the Management Action Plan for a healthy, equitable and enabling workplace for all UNAIDS staff and its updated progress report, as well as the decision taken at the 44th PCB meeting. **The Inspectors further encourage the Executive Director to review and strengthen the secretariat's ethics function and establish one that is fully independent by following JIU recommended best practices, as well as consider how to best support the office with appropriate staffing and/or backup. Additionally, the Ethics Office should submit an annual report, or a summary thereof, unchanged by the management, directly to PCB** [emphasis in original]."⁶
45. In addition, the 2019 JIU UNAIDS Review provided the following formal recommendation to the Executive Director: "By the end of 2020, the Executive Director in consultation with the PCB Bureau, should establish a regular stand-alone agenda item at a session of PCB that covers internal and external audits, ethics and other accountability topics presented by the appropriate independent functions with their respective reports to PCB".⁷
46. In its Management Response to the 2019 JIU UNAIDS Review, the Secretariat stated that it "recognizes the value of independent, standalone reports provided to the PCB and will work to implement this recommendation in consultation with the PCB Bureau".⁸
47. Among its decisions at the December 2019 meeting, the PCB "affirm[ed] its resolve to strengthen oversight and accountability", decided to establish a PCB working group to review and report on the relevant JIU recommendations addressed to the Programme

³ UNAIDS/PCB (44)/19.5, para. 64, referencing *Ethics in the United Nations System* (JIU/REP/2010/3).

⁴ UNAIDS/PCB (44)/19.5, para. 73.

⁵ Report of the 44th Programme Coordinating Board Meeting, UNAIDS/PCB (44)/19.22, pp. 41-42.

⁶ JIU/REP/2019/7, para. 103.

⁷ JIU/REP/2019/7, p. 34.

⁸ UNAIDS/PCB (45)/19.30, p. 8.

Coordinating Board, took note of the Management Response "with appreciation", and "[w]elcome[d] and affirm[ed] the commitment of the Executive Director to establish a regular stand-alone agenda item, in consultation with the Bureau of the Programme Coordinating Board, to cover internal and external audits, ethics, and other topics on accountability presented by the appropriate independent functions in their respective reports to the Board starting at the 46th Programme Coordinating Board meeting [...]"⁹

48. On 26 May 2020, the Executive Director issued a memorandum on the ethics function at UNAIDS (Executive Director Memorandum), including several important decisions to strengthen the independence of the UNAIDS Ethics Office.
49. At its December 2020 meeting, the PCB agreed to establish an independent, external oversight advisory committee, based on the proposal of the PCB working group to review and report on the relevant JIU recommendations addressed to the PCB. The new oversight advisory committee will have unrestricted and confidential access to the Ethics Officer, among others. The committee's role will include advising the PCB and the Executive Director on the ethics function, as well as the interaction and communication between the PCB, the Ethics Officer, and UNAIDS Secretariat management.¹⁰ The Ethics Office understands that the Executive Director and PCB Bureau have taken action to establish the new oversight advisory committee through the recruitment of a search firm that will support the identification and selection of expert members to serve on the committee for the subsequent two-three years.¹¹ The committee is expected to provide its first report to the PCB at the June 2022 meeting.
50. Finally, it is important to note that the JIU is working on an update (2020 JIU Ethics Report) to its 2010 report, *Ethics in the United Nations System* (2010 JIU Ethics Report),¹² to determine the current state of the ethics function across the UN system and to assess progress made. When the results of the 2020 JIU Ethics Report become available, UNAIDS should review the results and any associated recommendations to determine whether UNAIDS should take further action based on them.

⁹ UNAIDS/PCB (45)/19.38, pp. 46, 47.

¹⁰ Virtual 47th Session of the UNAIDS Programme Coordinating Board, Decision Points, p.8; and UNAIDS/PCB (47)/20.39, Annex 3, pp. 30-35.

¹¹ Meeting notes of UNAIDS PCB Bureau meeting (30 April 2021), pp. 2-3.

¹² Ethics in the United Nations System (JIU/REP/2010/3).

ANNEX 1: A PROGRESS REPORT ON IMPLEMENTATION OF DECISIONS AND RECOMMENDATIONS FOR THE FUNCTIONING OF THE ETHICS OFFICE

1. **The Inspectors [...] encourage the Executive Director to review and strengthen the secretariat's ethics function and establish one that is fully independent by following JIU-recommended best practices, as well as consider how to best support the office with appropriate staffing and/or backup.**¹³
 - a. The Executive Director approved the immediate establishment of a new, distinct UNAIDS Ethics Office which is staffed by a Director of the Ethics Office.¹⁴
 - i. Following the departure of the Senior Ethics Officer in August 2020, Charles Simon has served as Director of the Ethics Office on a transitional basis. Previously, Mr Simon served in senior posts at the United States Department of Justice and at the State of New York Department of Criminal Justice, and as General Counsel of a not-for-profit organization.
 - ii. The Ethics Office's proposal for a separate Ethics Office workplan and budget beginning in 2021 has been approved.
 - b. The Executive Director directed that administrative support and backup for the Ethics Office will be provided.¹⁵
 - c. As discussed in the 2019 JIU UNAIDS Review, the Ethics Office is staffed by only one person. An additional staff member would allow the Ethics Office to provide greater oversight and action on ethics and integrity issues.
2. **The executive heads should ensure that the post of head of the ethics office in their respective organizations has ethics qualifications and experience as a requirement, and this should be included in the job description for the post and in the vacancy announcement.**¹⁶

The executive heads should ensure that the vacancy for the appointment of the head of the ethics office in their respective organizations is open to both internal and external candidates on an equal basis, and that the vacancy announcement is widely publicized.¹⁷

 - a. As noted above, since August 2020, Charles Simon has served as Director of the Ethics Office on a transitional basis, pending a competitive recruitment process in 2021, which is currently underway.
 - b. Per the decision of the Executive Director, the competitive recruitment process is open to both internal and external candidates on an equal basis and a professional background in ethics is a requirement for the post, which is made clear in the vacancy announcement.¹⁸
3. **The executive heads should ensure that the vacancy announcement for the appointment of the head of the ethics office in their respective organizations is prepared in full consultation with the staff representatives.**¹⁹

¹³ 2019 JIU UNAIDS Review, p. 30.

¹⁴ Executive Director Memorandum, p. 1.

¹⁵ Executive Director Memorandum, p. 1.

¹⁶ 2010 JIU Ethics Report, p. 9.

¹⁷ 2010 JIU Ethics Report, p. 9.

¹⁸ Executive Director Memorandum, p. 2.

¹⁹ 2010 JIU Ethics Report, p. 10.

The executive heads should ensure that a staff representative serves on the appointment board for the selection of the head of the ethics office.²⁰

- a. The Executive Director directed that, following the transitional period, the vacancy announcement for the appointment of the head of the Ethics Office will be prepared in full consultation with the staff representatives, and staff representatives will continue to serve in their current capacity in the hiring process.²¹
 - i. Shortly before the final version of the vacancy announcement for the appointment of the head of the Ethics Office was posted, the UNAIDS Secretariat Staff Association was notified of the announcement and given an opportunity to comment. It is not clear that this constituted "prepar[ation] in full consultation with the staff representatives" as envisaged by the JIU or the Executive Director Memorandum.
 - ii. Under current policy, a staff representative, acting as a neutral party, is one of three members of the Selection Advisory Panel established in connection with all recruitments up to and including the D2 level for fixed-term positions and for all temporary positions longer than six months. The Selection Advisory Panel participates in and assesses the competency-based interview and prepares recommendations for inclusion in the selection report for review and verification by the Mobility and Reassignment Committee, of which the UNAIDS Secretariat Staff Association is a standing member.

4. The legislative bodies should direct their respective executive heads to apply term limits to the appointment of the head of the ethics office, which should be a non-renewable appointment of seven years, or no more than two consecutive appointments of four or five years, with no possibility of reemployment by the same organization.²²

- a. The Executive Director directed that term limits will apply to the appointment of the Director of the Ethics Office. The Ethics Office notes that the vacancy announcement for the Head of Ethics Office has a term limited to a fixed-term period of five years and may be extended for an additional two years, with no possibility of reemployment by UNAIDS, which is consistent with the JIU recommendation.

5. The head of the ethics office must report directly to the executive head.²³

- a. While the recommendation of the JIU is to have the head of the ethics office report directly to the executive head, the Executive Director directed that the Director of the Ethics Office reports to the Executive Director, through the Chief of Staff.²⁴ This reporting arrangement has not hindered the Ethics Office to date; however, it is a departure from the position of the JIU that "[d]irect reporting to the executive head is a necessary but not sufficient condition for the independence of the ethics function".²⁵

6. The legislative bodies should direct their respective executive heads to ensure that the head of the ethics office submits an annual report, or a summary thereof,

²⁰ 2010 JIU Ethics Report, p. 10.

²¹ Executive Director Memorandum, p. 2.

²² 2010 JIU Ethics Report, p. 1.

²³ 2010 JIU Ethics Report, p. iv.

²⁴ Executive Director Memorandum, p. 2.

²⁵ 2010 JIU Ethics Report, p. 12.

unchanged by the executive head, directly to the legislative body, together with any comments of the executive head thereon.²⁶

- a. The Executive Director directed that the Ethics Office will submit an annual report, unchanged by the Executive Director, directly to the PCB, together with any comments of the Executive Director.²⁷ This report is the first such annual report to the PCB.

7. The legislative bodies should direct their respective executive heads to ensure that the head of the ethics office has informal access to the legislative bodies which is enshrined in writing.²⁸

- a. As noted above, at its December 2020 meeting, the PCB agreed to establish an independent, external oversight advisory committee. The new committee will have unrestricted and confidential access to the Ethics Office, among others. While the committee has not yet been established, the Ethics Office expects that it will provide the type of informal access to the PCB envisioned by the JIU.

8. The legislative bodies should direct their respective executive heads to put forward proposals for an internal mechanism to be established that would set out the modalities for the ethics office and/or the internal oversight service to investigate or undertake reviews of allegations brought against the executive head of the organization, including reporting the outcome of the investigation or review directly to the respective legislative body.²⁹

- a. The Executive Director noted that allegations brought against the Executive Director should be reviewed and/or investigated pursuant to the Administrative Instruction on Unsatisfactory conduct, investigations and the disciplinary process (ST/AI/2017/1), dated 26 October 2017.³⁰
- b. Pursuant to Administrative Instruction (ST/AI/2017/1), a report of misconduct against the Executive Director is made to either the UN Office of Internal Oversight Services (UN OIOS) or to the Secretary-General, who, if UN OIOS declines to investigate, can conduct a preliminary assessment and take action under ST/AI/2017/1, which includes the possibility of an investigation conducted separate from UN OIOS. Note that this Administrative Instruction does not address the JIU recommendation that the outcome of an investigation or review be reported directly to the legislative body.

9. By the end of 2020, the Executive Director in consultation with the PCB Bureau, should establish a regular stand-alone agenda item at a session of PCB that covers internal and external audits, ethics and other accountability topics presented by the appropriate independent functions with their respective reports to PCB.³¹

- a. As noted above, at its December 2019 meeting, the PCB "affirm[ed] the commitment of the Executive Director to establish a regular stand-alone agenda item [...] to cover internal and external audits, ethics, and other topics on accountability presented by the appropriate independent functions in their respective reports to the Board starting at the 46th PCB meeting [...]"³² Indeed, such

²⁶ 2010 JIU Ethics Report, p. 12.

²⁷ Executive Director Memorandum, p. 2.

²⁸ 2010 JIU Ethics Report, p. 13.

²⁹ 2010 JIU Ethics Report, p. 2.

³⁰ Executive Director Memorandum, p. 3.

³¹ JIU/REP/2019/7, p. 34.

³² UNAIDS/PCB (45)/19.38, pp. 46, 47.

an agenda item was established, beginning with the 46th PCB meeting in June 2020, with ethics added as a topic to the agenda of the 48th PCB meeting in June 2021.

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