

TOOL 4

STEPS TO SET-UP A COMMUNITY-BASED COMPLAINT MECHANISM¹



NOTE

This guidance forms part of the PSEA/SH Project in the Americas region and should be used in conjunction with the Regional Inter-Agency Complaint Referral Mechanism and SOPs for Complaint Handling at national and operational levels. It is intended this tool be used as part of the process any service provider undertakes to set-up and monitor feedback and complaint mechanisms. This tool is designed for PSEA Focal Points and/or other personnel who have specific experience and expertise in protection of vulnerable persons as part of their role.

KEY DEFINITIONS

SEXUAL EXPLOITATION AND ABUSE (SEA)

Particular forms of gender-based violence that have been reported in humanitarian contexts, specifically alleged against humanitarian workers/personnel.

Sexual Exploitation: *“Any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.”*

Sexual Abuse: *“The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.”*

SEXUAL HARASSMENT VERSUS SEA

SEA occurs against a refugee, migrant or other member of the community receiving services. Sexual harassment occurs between personnel and involves any unwelcome sexual advance or unwanted verbal or physical conduct of a sexual nature. Sexual harassment is not covered by these SOPs although agencies’ internal procedures for reporting sexual harassment allegations may be the same as for reporting SEA complaints. The distinction between the two is important so that agency policies and staff trainings can include specific instruction on the procedures to report each.

1. The Oxfam resource, “Setting up Community Feedback Systems in Oxfam Programmes” was used in developing the content for this guidance document .

PERSONNEL

For the purposes of this guide, “personnel” is a broad and inclusive term and refers to any person engaged by a participating agency to provide support, services and protection to concerned populations, whether internationally or nationally recruited, whether as an employee, volunteer, contractor or service provider, or formally or informally engaged from the community (e.g., community volunteers).

COMPLAINT

A complaint is an expression of dissatisfaction about the standards of service, actions or lack of action, or misconduct by the organisation or its staff, personnel, 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 change.

Serious misconduct includes (but is not limited to) the following: fraud and corruption; bullying and harassment; SEA/protection incidents; actual or potential harm or risk in programming.

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.

1. INTRODUCTION AND BACKGROUND

This guidance is part of a package of tools developed to support the delivery of commitments outlined in the Regional Inter-Agency Community-Based Complaint Referral Mechanism (the Mechanism) in the Americas. The Mechanism was developed as part of collective efforts in the region to ensure adequate safeguards and appropriate actions are established on protection from sexual exploitation and abuse (SEA) and sexual harassment (SH).

THE KEY AIMS OF THE MECHANISM ARE TO:

- improve prevention and reporting of sexual exploitation and abuse and sexual harassment;
- facilitate inter-agency referral of complaints at a regional and national level, i.e., within and across borders;
- increase transparency around these issues in the region.

To achieve this, it is essential that all agencies have robust community-based complaint mechanisms in place, and which are fully accessible to concerned populations in all locations.

2. PURPOSE OF THIS GUIDANCE

The purpose of this document is to support service providers to set-up community-based complaint mechanisms in their areas of operations. It covers the most important principles and steps required to ensure that complaint mechanisms are established and can fulfil their functions in a safe, effective and culturally appropriate way. This tool can support service providers to establish national and operational Standard Operating Procedures (SOP) for PSEA/SH complaint handling mechanisms in conjunction with Regional Community-Based Complaint Referral Mechanism and Model PSEA SOPs (**see: TOOL 1: Template Model PSEA SOPs (country/operational level) and Regional Inter-Agency Community-based Complaint Referral Mechanism**).

3. WHAT IS A COMMUNITY-BASED COMPLAINT MECHANISM?

The goal of a community-based complaint mechanism is to allow concerned populations to report issues to service providers in a safe, effective, and culturally appropriate manner. It should account for practical concerns, such as the local context, cultures, languages, and literacy levels, and must be accessible to all members of the concerned population. It should be based on the needs and priorities of concerned populations.

An Integrated system: A complaint mechanism should be set-up as an integrated system, whereby it can receive and manage programmatic complaints e.g. about the services, assistance, support provided, and about sensitive issues and allegations against the behaviour of personnel e.g. PSEA/SH, fraud or corruption, serious misconduct by personnel. The complaint mechanism should be simple for people to understand and to access safely.

Individual or joint system: The complaint mechanism can be a system established by an individual service provider or it can be a joint effort involving multiple providers working together in one location. In either case, the design of the complaint mechanism should take account of the perspectives of all relevant stakeholders: concerned populations, service providers, agencies, implementing partners, local authorities and other community members.

Inter-agency referrals: provide an integrated complaint mechanism to make it easier for people to understand and to safely access. It should deal with all complaints and not be solely focussed on receiving SEA/SH allegations; it should include any issue in relation to assistance, support and services, based on the needs and priorities of concerned populations. In being part a wider system of complaint referral, the CBCM offers the complainant the option of reporting SEA/SH to an agency which does not itself employ the alleged perpetrator of the misconduct, reducing fear of reprisal. Complaints relating to SEA/SH should be clearly established as a specific type of complaint that can be made.

4. KEY CHARACTERISTICS OF AN EFFECTIVE COMPLAINT MECHANISM

At all stages of the process of setting up a community-based complaint mechanism it is important to follow and assure these essential points are met:

RIGHT TO COMPLAINT 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.

CONFIDENTIALITY

Restricts access to, and sharing of information, ensuring that information is only available to a limited number of people as necessary or as authorised. This is particularly important in cases of PSEA/SH and fraud and corruption. Confidentiality helps create an environment in which people are more willing to raise complaints, recount their versions of events and it build trust in the system and service providers.

SAFETY

Considers the potential risks or dangers to all parties; incorporates ways to prevent injury or harm to people. Includes ensuring confidentiality, offering physical protection when possible and addressing the possibility of retaliation against all parties. Is considered in line with case management systems for SGBV and Child Protection.

ACCESSIBILITY

Can be used by as many people as possible, from as many groups as possible, in all locations

TRANSPARENCY

Members of concerned populations know it exists, have input into its development, and possess enough information on how to access it and ensure it is adhered to. Consultation with and participation by concerned populations will help ensure that your complaint mechanism is confidential, accessible, safe and transparent.

TIMELINESS

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

REPORTING

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

5. VISION FOR EFFECTIVE COMPLAINT MECHANISMS

For complaint mechanisms to be effective and to be trusted by concerned populations, and personnel, complaints must be responded to and complainants should be kept informed of the outcome of action taken, within an appropriate timeframe. This is known as ‘closing-the-loop’ – if feedback is not provided, then the loop is not considered ‘closed’ and the system cannot be truly effective or accountable to all parties involved.



6. KEY STEPS IN ESTABLISHING A COMMUNITY-BASED COMPLAINT MECHANISM



CONSULTATIONS

Consult with the stakeholders of the mechanism to decide the most appropriate method to channel feedback and complaints.

CONSULT WITH CONCERNED POPULATIONS

A complaint mechanism is most effective when it is based on and is appropriate to the needs of the populations of concern, communities and users of the mechanism. It is important when designing a community-based complaint mechanism to first consult with concerned populations to gain an understanding of their needs and risks, and the vulnerabilities and capacities of different groups. It is important to gain their perspective: on their preferred ways to discuss sensitive issues safely, such as SEA, child protection, SGBV; of their preferred ways to raise and resolve issues of concern within their population group or community; and how they would want to report to and communicate with service providers and personnel on such issues. (**See: Tool 2 – Consultations with concerned populations & Tool 8 – Risk Assessment template**).

Consultation with concerned populations will help ensure the complaint mechanism:

- Is appropriate for the needs and priorities of the local context
- Takes account of relevant safety and security issues
- Reduces the risk of building an overly complicated and bureaucratic system
- Facilitates identification of appropriate translation and terminology for the local context.

Aside from understanding issues related to the effective design and operation of the complaint mechanism consulting with concerned populations is also an opportunity to:

- Raise awareness about issues related to PSEA/SH
- Create understanding of the expected behaviors of personnel in accordance with their service provider Code of Conduct and helps reduce risk of SEA/SH
- Builds confidence and trust amongst the population and with service providers.

Consultation with concerned populations provides you with answers to specific questions about the design of the mechanism such as;

- How will highly mobile people/people on the move be able to give feedback/raise complaints?
- How will people in remote locations be able to give feedback/raise complaints?
- How will people with different disabilities and vulnerabilities be able to share their feedback?
- Can complaints be received verbally or only in writing?
- Can complaints be received through online platforms?
- Can anonymous complaints be received?
- Is it possible to give feedback / raise a complaint on behalf of somebody else (owing to their illiteracy, disability, fears for their personal safety, inability to travel, etc.)?
- How can the confidentiality/anonymity of a complainant or any other party involved i.e. witness, be protected when using the mechanism?

CONSULT WITH PERSONNEL AND PARTNERS

A complaint mechanism needs to be designed in consultation with personnel and partners, and anyone else, involved in the operation of a complaint mechanism to ensure that:

- All stakeholders understand the purpose and scope of the mechanisms (internal, inter-agency referrals)
- They are aware of their responsibilities, in relation to standards of behaviour (Code of Conduct) and mandatory reporting
- Can fulfil any specific responsibilities for the operation and administration of the mechanism
- They fully understand the key characteristics and know how to put these into practice in their day to day work
- They can offer ideas and suggestions that will increase the efficiency, effectiveness and sustainability of the complaint mechanism.

CONSULT WITH OTHER SERVICE PROVIDERS AND KEY STAKEHOLDERS E.G. LOCAL AUTHORITIES

Consultation with other service providers and stakeholders is important to ensure that:

- There is understanding and support for the complaint mechanism, its purpose and scope
- That the mechanism is designed in accordance with local laws and is aligned with existing support and services in the area e.g. local SGBV, child protection referral pathways
- That any service providers to whom the complainant may be referred for survivor/victim assistance can do so in accordance with requirements (e.g., members of the Regional Safe Spaces Network (RSSN))
- Contributes to transparency and openness

DESIGN THE SYSTEM FOR RECEIVING, HANDLING AND RESPONDING TO COMPLAINTS

Develop Standard Operating Procedures (SOPs) for the complaint mechanism using Tool 1: Template Model SOP for PSEA complaint handling mechanisms, for guidance (**see Tool 1: Template Model SOPs**). This guide can support you to operationalise the principles, processes, roles and responsibilities and the practical administration, processing, investigation and referral of complaints within your agency and operation / programme.

To get a baseline of the systems and processes that already being used by service providers a number of tools within the Regional Toolkit can be used (**see Tool 2 – Guidance – Discussion Guide for Partners, Tool 7 – PSEA/SH Self-Audit Checklist, Tool 9 PSEA/Complaint System Mapping Survey**). These tools can be used at the agency and operational levels to gain a good picture of what systems are already in place and working, to receive, respond to and investigate complaints from concerned populations and service providers in each response area. Gaps can be identified through these processes and an action plan to address the gaps can be put in place.

In the design phase involve concerned population groups in designing and testing the system of receiving complaints. It is advisable to use more than one channel to ensure that different groups of the concerned population 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. It may be necessary to try out different ideas until it is clear which channels are most effective and which ones concerned populations consider safe and accessible.

The following are ideas for ways to receive complaints which can be tested depending on the context:

- Help Desks / Designated information kiosks in key locations
- Dedicated telephone lines (preferably free)
- Online platforms
- SMS/WhatsApp
- Suggestion boxes
- Community meetings, committees
- Social media
- Face to face in service provider's office through PSEA or protection focal points.

Each of these may have certain advantages or disadvantages but through consultation and testing it will be possible to establish which are most effective for the context. It is preferable to have more than one route through which concerned populations can give feedback and raise complaints. It is equally important that the service provider is able to adequately manage, and resource whichever options are selected.

RAISE AWARENESS

It is important to continuously raise awareness about the complaint mechanisms to ensure concerned populations, and personnel, understand their purpose and know how to use them. Example templates and ideas (posters, leaflet) for use in the Americas region are included in the toolkit (**see Tool 6: Visual information Materials on PSEA/SH Reporting**).

It is important to highlight that: people have a right to raise a complaint and that service providers have a duty to respond; that there would be no retribution for complaints submitted; that complaints can be given/received anonymously; that confidentiality will be maintained; and that support will be provided for survivors/victims in need of services. It is essential to:

- Regularly tell concerned populations (through a variety of media) how they can complain and that it is their right to do so
- Communicate the behaviours concerned populations should and shouldn't expect from any personnel (e.g. representatives, staff, contractors, collaborators, mobilisers, etc.)
- Be clear about the scope of the complaint mechanism and that complaints can be referred to other agencies (through the Regional complaint referral Mechanism)
- Ensure procedures for dealing with complaints relating to SEA/SH are understood.

RECEIVE, ACKNOWLEDGE AND RECORD COMPLAINTS

It is important to provide the complainant with an acknowledgement of the receipt of a complaint (in line with the agreed SOP) and provide an indication of the next steps to be take, and when a response might be expected. Having and respecting set timeframes for responses for different categories (e.g. programme, sensitive, financial, misconduct etc.) of complaints and feedback is desirable.

- Ensure complaints are logged and processed according to agreed internal procedures (SOPs) or referred to other agencies for processing (in line with the regional Mechanism), as required
- Consider data security and who should have access to the complaint system and ensure data protection elements meet relevant standards and regulations
- Set standard timeframes for feedback on complaints e.g., ranging from immediate - 48 hours/72 hours [to be discussed and agreed] for straightforward issues, while longer may be required for more complicated cases such as SEA/SH complaints. It is important that complainants are fully aware of the timeframes.

RESPONSE AND CLOSE-THE-LOOP

Clear communication with complainants, and other parties e.g. witnesses as appropriate, is essential. In consideration of populations on the move and potentially crossing border, coordination and communication between service providers is key to being able to respond to complaints and 'close-the-loop' within reasonable timeframes. If this does not take place confidence in the system is lost.

Updates to the complainant on the process being followed, of how your agency will respond and of appropriate action being taken is important. Communication helps build trust amongst concerned populations, especially when populations are on-the-move, and shows they are being listened to, and that service providers are responding to them. Even in cases where no action is taken in response to a complaint, it is important and helpful to explain why. Make sure each complainant receives a response and/or appropriate action is taken:

- Be consistent: ensure similar complaints and feedback receive a similar response
- Where an issue affects more than one person, it may be worth giving aspects of the response in a public forum so that everyone is aware the issue has been managed.
- Sensitive referrals pathways for victim/survivor support, including SGBV and SEA/SH, should be handled according to agency specific guidance and standards, and in line with the regional SGBV and Child Protection Referral Pathways (see <https://www.arcgis.com/apps/MapSeries/index.html?appid=ae15aa2fe0c4469b83ea10f0925e8625>)

ANALYSE, REFLECT, AND LEARN FROM FEEDBACK AND COMPLAINTS

Analyzing complaint data, identifying statistics, tracking trends and collectively discussing these with other service providers, e.g. in within the Regional and National PSEA Network or the RSSN, helps identify ways to improve work, particularly in relation to PSEA/SH.

- Share analysis with relevant outside service providers and agencies i.e. including the Regional and National PSEA Networks and RSSN members
- If use of the complaint mechanism is limited, i.e. not many complaints are received over time, this should be analyzed to discover why people aren't using it (e.g. this could be due to a lack of understanding of its purpose, a feeling that it is not safe to use, it is not confidential etc.)
- Accept and acknowledge that complaints can be difficult, they may reveal problems which can be uncomfortable, time-consuming, and politically challenging to address. Avoid finger-pointing and placing blame; focus on improvement and next-steps, either internally or for other service providers.

ENGAGE AND ADAPT

To fulfil the objective of establishing adequate safeguards and appropriate actions on PSEA/SH it is essential that service providers constantly improve on the support, services and protection for concerned populations. Evidence (the nature of complaints, learnings from complaints received etc.) from the community-based complaint and referral mechanisms should influence the improvement to service provision for concerned populations, and personnel. Sharing reflections and learning from complaints, with concerned populations, and personnel, helps to validate the learnings, that can then be translated into action by adapting and improving support and services that affect them.

- Translate reflection and learning into action by adapting support, services and protection to meet needs of concerned populations
- Data analysis should be routinely shared and validated with the concerned populations, they will have ideas for solving any commonly raised issues
- Share information on complaints, learnings and statistical data with personnel to engage them in adapting and improving the provision of services.

7. REFERRING SEA/SH ALLEGATIONS FOR INVESTIGATION AND FOLLOW-UP

The process of referring SEA/SH allegations to the service provider employing the alleged offender for potential investigation and follow-up, is one of the most important roles of the complaint mechanism. Clear procedures for communication between personnel responsible to manage SEA/SH complaints within the agency and with the designated investigative body during referrals must be agreed upon and clearly outlined in the Standard Operating Procedures (SOPs) and in line with the Regional complaint referral Mechanism.

In the referral of complaints, the complaint mechanism must assure accountability to both the affected concerned population(s)/individual and the service providers engaged in the Regional inter-agency complaint referral Mechanism. This is because incomplete or mismanaged referrals will result in an ineffective system, leaving the concerned provider unable to fully investigate SEA/SH allegations against its own personnel, and the concerned parties of the complaint unable to receive an appropriate response. A strong referral system is necessary in order that all participating service providers can receive SEA/SH allegations so they can take appropriate action, and to strengthen collective accountability.

If a referral system is not in place:

- The concerned population(s) will lose faith in the system and cases will go unreported
- Reported cases/complaints will go unaddressed and no disciplinary/prevention action will be taken
- Service providers/agencies cannot be accountable to affected populations, or to each other.

After a complaint is referred it is the sole responsibility of the concerned service provider to carry out further action, including assessing the actionability of the complaint, investigating if warranted, and providing feedback to the survivor/complainant according to its internal policies.

- The Regional inter-agency referral Mechanism supports referrals and investigative capacity and should be referred to for further guidance. It may play a supportive role for the concerned provider, if requested, and may act as a liaison for continued communication with the complainant/survivor.
- The concerned provider will make the initial assessment to decide whether an investigation into the allegation is warranted and conduct such an investigation according to its own procedures or in-line with investigation procedures as outlined in the Regional Mechanism.

The service provider operating the complaint mechanism does not conduct investigations.

CRIMINAL OFFENCES:

When an incident of SEA/SH constitutes a criminal offense, it is the decision of the investigating agency to refer cases to the proper law enforcement authorities in conformity with the service provider's internal procedures. The decision of the provider to refer a case to the national authorities should take into account the consent of the survivor/complainant, who may not wish to involve the local authorities. However, in some instances, the state and local governments in which the complaint mechanism operates may also have mandatory reporting laws related to SEA/SH incidents. It is the responsibility of the PSEA focal points and protection personnel to be up to date on relevant national laws and to incorporate them into the complaint mechanism SOPs and in line with the Regional Mechanism.

HANDLING ANONYMOUS COMPLAINTS:

Where the complainant or survivor is not known or disclosed, these should be treated seriously and can be investigated, despite being more difficult to do. Likewise, anonymous complaints should be sent to the service provider concerned in the complaint/allegation or to the most relevant and appropriate body e.g. in the Americas the UNCHR Country Representative, relevant Protection actor, UNHCR Regional PSEA Focal Point.

8. REFERRAL PATHWAYS FOR SURVIVOR SUPPORT

The design of any complaint mechanism must be linked to competent services to provide appropriate support for survivors, including survivors of SGBV, Child survivors and SEA/SH.

- Design of the community-based complaint mechanism should be coordinated with existing services for referral and support for survivors including, as appropriate, SGBV; child protection; mental health and psychosocial support; legal assistance.
- Design of the complaint mechanism should be carefully coordinated with existing efforts to address and mitigate sexual and gender-based violence (SGBV) and child protection risks.
- PSEA/SH is an important aspect of preventing SGBV and PSEA/SH efforts should link to SGBV and child protection expertise and programmes and to the SGBV and Protection Working Groups.
- Because SEA/SH is a form of SGBV, agencies establishing complaint mechanisms should promote a common understanding of the different responsibilities within the PSEA Network, SGBV coordination mechanisms and Regional Safe Spaces Network (RSSN) in the Americas.

<https://www.arcgis.com/apps/MapSeries/index.html?appid=ae15aa2fe0c4469b83ea10f0925e8625>

9. MANAGING AND TRANSFERRING NON-SEA/SH COMPLAINTS:

Within the mechanism procedures must be clear to respond to and refer complaints regarding programme delivery and services programme complaints to other service providers concerned. A system for transferring non-SEA/SH complaints to the relevant own internal programme or operations department or to another provider need to be in defined. The mechanism should expect to receive complaints on a wide variety of issues and from people not directly involved in the complaint or the operation. A response to these complaints, is still necessary and relevant.