

(DRAFT)
Guidelines on the application of ST/SGB/2003/13

1. As international civil servants entrusted to realize the noblest aspirations of the international community, United Nations staff members have the duty and the obligation to perform their responsibilities in a manner that is fully consistent with the fundamental principles of human dignity and human rights. Service with the United Nations is a privilege which imposes on staff members the obligation to conduct themselves in accordance with the highest standards of integrity at all times. Secretary-General's bulletin ST/SGB/2003/13, entitled "Special measures for protection from sexual exploitation and sexual abuse", clarifies the Organization's standards relating to sexual exploitation and sexual abuse and outlines the duties and obligations of staff, and particularly of managers and heads of offices and departments, to prevent and address such abuses. These guidelines address some frequently asked questions regarding the implementation of the bulletin:

To whom does ST/SGB/2003/13 apply?

2. The bulletin applies to all internationally-recruited and locally-recruited staff of the United Nations, including staff of separately administered organs, funds and programmes of the United Nations.

3. The bulletin also applies to all categories of UN peacekeeping personnel, as affirmed by General Assembly resolution 59/300 of 22 June 2005, such as:

- Military members of national contingents
- Experts on mission, including police officers, members of national formed police units, corrections officers and military observers
- Personnel or employees of non-United Nations entities or individuals who have entered into a cooperative arrangement with the United Nations, including interns, international and local consultants, and individual and corporate contractors
- United Nations Volunteers

4. The categories of persons to which ST/SGB/2003 applies shall be referred to in these guidelines as "UN staff and UN-related personnel".

Where and when does ST/SGB/2003/13 apply?

5. The bulletin is not location-specific and applies to all UN staff and UN-related personnel at all times, including while they are off duty or on leave.

6. UN staff and UN-related personnel are obliged to comply with the standards of the bulletin as well as with local laws. Where the bulletin establishes a higher standard than local laws, the standards of the bulletin will prevail.

- Example: A staff member engaging the services of a prostitute – whether in a peacekeeping mission, in New York (where prostitution is illegal) or in the Netherlands (where prostitution is legal) – is in violation of ST/SGB/2003/13 which prohibits the exchange of money, goods, or services for sex.

What is the difference between sexual harassment vs. sexual exploitation and sexual abuse?

7. In the UN Secretariat, ST/AI/379 (Procedures for dealing with sexual harassment) defines "sexual harassment" as any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature, when it interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. Similar definitions exist in the UN Funds and Programmes.

8. ST/SGB/2003/13 defines the term "sexual exploitation" as 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. It defines the term "sexual abuse" as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

9. There is often confusion about whether a particular action or conduct would constitute sexual harassment, sexual exploitation or sexual abuse. If an action or conduct is believed to fulfil the definition of sexual exploitation or sexual abuse, it should be treated as such, even if it may also constitute sexual harassment. Since sexual harassment, sexual exploitation and sexual abuse are all prohibited, all concerns or suspicions should be reported.

Do sexual exploitation and sexual abuse constitute serious misconduct?

10. Yes. Sexual exploitation and sexual abuse are considered acts of serious misconduct (section 3.2(a) of the bulletin) and constitute a basis on which:

- All staff members, whether internationally or locally recruited, may be summarily dismissed by the Secretary-General (staff regulation 10.2 and ST/AI/371 (Revised disciplinary measures and procedures), paragraph 9(c)).
- A cooperative arrangement with a non-United Nations entity or individual, including contractual arrangements with an intern, international or local consultant, or individual or corporate contractor, may be terminated.
- A military member of a national contingent, an expert on mission (including police officers, corrections officers and military observers), a member of a national formed police unit or a United Nations Volunteer may be repatriated.

Are there any exceptions to the prohibition on sexual activity with children?

11. Sexual activity with persons under the age of 18, regardless of the age of majority or age of consent locally is prohibited (section 3.2(b) of the bulletin). Mistaken belief in the age of the child does not constitute a defence.

12. [The prohibition on sexual activity with children does not apply where the member of the United Nations staff or UN-related personnel is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship (section 4.4 of the bulletin). The legality of a marriage for the purposes of ST/SGB/2003/13 is to be

determined by reference to the law of nationality of the member of the United Nations staff or UN-related personnel.][*subject to OLA advice*]

- Example: A UN staff member is married to someone under the age of 18. According to the law of the UN staff member's nationality, the marriage is legal. Sexual activity in such a relationship would not be prohibited by ST/SGB/2003/13.

What does it mean to "strongly discourage" sexual relationships with beneficiaries of assistance?

13. Sexual relationships between United Nations staff or UN-related personnel and beneficiaries of assistance are "strongly discouraged" (section 3.2(d) of the bulletin). The interpretation of the term "beneficiaries of assistance" should be guided by and adjusted according to the particular mandate of the United Nations office, peacekeeping operation, political or peace-building mission or humanitarian operation in question. Where a UN peacekeeping operation has a mandate to serve the population at large, "beneficiaries of assistance" should be broadly interpreted to cover the local population.

14. The bulletin does not impose a blanket prohibition on all sexual relationships with beneficiaries of assistance. By discouraging such relationships, the bulletin does require vigilance on the part of a member of UN staff or UN-related personnel to ensure that a relationship with a beneficiary of assistance is not sexually exploitative or abusive. Any relationship that is sexually exploitative or sexually abusive is prohibited by the bulletin. The determination of whether a relationship with a beneficiary of assistance is sexually exploitative or sexually abusive is made by the employing organization on a case by case basis.

When are staff members and UN-related personnel obliged to report sexual exploitation or sexual abuse?

15. Staff members and UN-related personnel are obliged to report concerns or suspicions regarding sexual exploitation or sexual abuse to the appropriate office within their organization or to OIOS. It is for the appropriate UN authorities, and not the individual, to investigate and confirm those concerns or suspicions.

16. The submission of allegations with knowledge of their falsity constitutes misconduct. Persons who report allegations which subsequently prove to be untrue will not face repercussions where the reports were made in good faith.

