



Market in Bangui, July 2018

Independent Panel Review of the UNICEF Response to PSEA

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United Nations Children's Fund
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New York, New York 10017, USA

September 2018

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Preface

The Executive Director of UNICEF in March 2018 requested the Evaluation Office to undertake an independent review of the UNICEF response to Protection from Sexual Exploitation and Abuse (PSEA). The objectives of the independent review were to: examine what is working as well as areas that need improvement; identify ways of deepening management accountability; and improve the organization's policies, systems, and responses, as well as its culture.

The Evaluation Office was responsible for the management of the review and established an independent panel of three experts for this purpose. The work of the panel builds on previous work by a team of consultants.

This report reflects the views of the independent panel following key interviews, field visits and a document review.

The UNICEF Evaluation Office would like to thank all those who contributed to this independent review. I wish to express our full appreciation to the three independent panel members, Kathleen Cravero, Yasmin Sooka and Susanne Frueh for their time and expertise, and for sharing deep insights on the subject. Sincere thanks also to Eleanor O'Gorman, the consultant to the panel, for her hard work. In addition, I would like to thank the review manager, Mathew Varghese, and Laurence Reichel, who provided managerial support; as well as Geeta Dey, Celeste Lebowitz and Dalma Rivero, who provided strong administrative support.

Finally, I wish to acknowledge the invaluable assistance of UNICEF colleagues and their partners in headquarters, regional and country offices, whose insights, knowledge and comments made this report possible.

George Laryea-Adjei
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Executive Summary

Following mounting concerns over the UN's handling of sexual exploitation, abuse and harassment, the incoming Executive Director of UNICEF requested the Evaluation Office to establish an Independent Panel of Experts in late May 2018 to undertake a Review of UNICEF's approach to Protection from Sexual Exploitation and Abuse (PSEA). The Members of the Panel are Yasmin Sooka, Kathleen Cravero and Susanne Frueh. The Independent Panel built on research work undertaken by an earlier team of consultants between March and May 2018.

This independent review on PSEA needs to be put in the context of two parallel, relevant reviews that were commissioned during this period: (1) a review by a law firm of how UNICEF has investigated sexual harassment in the last five years was launched in February 2018 and completed its work by August 2018; (2) an Independent Task Force on Workplace Gender Discrimination and Harassment at UNICEF launched in June 2018 and is due to complete its work by February 2019.

This report reflects the view of an independent expert panel formed following key interviews, field visits and document review. It is not an evaluation. At the core of the review is the need to assess what UNICEF has put in place for PSEA and to what extent this is known, applied and funded, and to ask how could UNICEF improve on this to ensure that what is in place is applied or to improve what is in place if it is not up to standard?

The lens applied by the Panel to its work reflected five necessary conditions for effective PSEA; Accountability, Leadership, Organisational Culture, Coherence (within UNICEF and UN system-wide), and Connected Impact of these conditions on the ground. The report is structured across four pillars of management and coordination, community engagement, prevention and response in line with the 2012 IASC Minimum Operating Standards for PSEA.

Within this frame, this review examines all five areas of UNICEF's work on PSEA:

- i. Reporting mechanisms;
- ii. Victim assistance;
- iii. Investigation and accountability and governance;
- iv. Capacity strengthening and coordination; and
- v. Prevention including safeguarding.

The Panel considers UNICEF to have a unique role in the UN system as advocate for the protection of children's rights, guided by the Convention on the Rights of the Child. It is particularly important that, as an organisation protecting and helping children and adolescents, that UNICEF have relevant policies and mechanisms against SEA in place. The Panel agrees that UNICEF alone cannot ensure protection from SEA; it is a system-wide responsibility. Effective PSEA is about the wider UN System, and indeed the still wider international humanitarian, development and peace support communities of aid and assistance. The Panel encourages the potential for UNICEF to be more strategic in bringing its unique role to ensuring that system-wide PSEA policies, practices, and processes are child-friendly and treat children appropriately as rights-holders.

The Panel feels the time for more action is overdue and that the UN has caught itself up in an over-emphasis on structures and guidance and a lack of focus on making them work better. This report is one in a series of existing, planned or ongoing reviews related to SEA and need to be taken together to learn practical lessons for more accountability and action.

Summary Key Findings

The Panel sets out Key Findings under each of the 4 core chapters and provides 32 Action Points across the report responding to these. In summary these address the following:

Management and Coordination of PSEA

- The IASC PSEA Minimum Operating Standards (2012) need to be updated to operate more fully as a system-wide accountability and benchmarking framework.
- Too many separate policy and guidance papers signal the lack of a coherent 'whole of organisation' strategy for UNICEF on PSEA; there is an information overload and strategic deficit on PSEA, and need for support on operational implementation.
- Need to establish a systemic (whole of organisation) approach, upgraded leadership structure, and sustained resources for PSEA.
- Need for enhanced UN coherence on PSEA to help system work together better.

Community Engagement

- A paradigm shift is needed in treating communities and victims as rights-holders rather than labelling them as beneficiaries.
- Need for fuller engagement with communities at earlier points for prevention and to consider this beyond humanitarian settings only.
- Community Based Complaints Mechanisms (CBCMs) are a necessity in high risk countries and need to be fully tested, as part of the overall need to establish One UN reporting systems at country level in all settings.

Prevention

- A need to move beyond fragmented compliance measures and build a more systemic approach to preventing SEA that includes more active promotion of deterrence.
- Organisational culture is the enabling environment of PSEA and needs a long-term perspective with ongoing proactive measures and tracking of change; this includes promoting a 'speak out' culture.
- The transfer of money to implementing partners does not transfer the risks of SEA.
- PSEA is not yet embedded in risk management at headquarters and field level.

Response

- Chronic under-reporting is a systemic concern and stumbling block to accountability and prevention of SEA.
- The approach, management and outcomes of investigations involving SEA need significant improvement and coherence.
- Victim Assistance needs to be urgently reviewed with a right-based lens to clarify support to victims, as well as UNICEF roles, responsibilities and resources in the context of system-wide accountability.

Key Messages and Way Forward

The core message of the Panel is that UNICEF needs a whole of organisation strategy and an action plan for PSEA. Both of these must reflect the five necessary conditions required for UNICEF to improve fundamentally the prevention of SEA: Accountability, Leadership, Organisational Culture, Coherence (within UNICEF and UN system-wide), and Connected Impact of these conditions on the ground.

The panel finds that while elements of these conditions exist they are not yet sufficient, at scale, or strong enough to constitute a fully effective system for PSEA.

Accountability must be at the heart of such a system. This requires a paradigm shift in how UNICEF engages with SEA along the following lines.

- The individuals and communities with which UNICEF works must be viewed as rights-holders rather than beneficiaries. UNICEF is a duty-bearer in relation to these rights.
- Ad hoc fragmented actions across the many levels of UNICEF must be replaced by a clear and compelling whole of organisation strategy.
- PSEA must be seen as a management responsibility rather than the extension of child protection or GBV programmes.
- The emphasis must move from a maze of policy documents on PSEA to operational reality. UNICEF staff need practical, user-friendly guidance on PSEA. They need to understand their accountability as duty-bearers towards children and the communities in which children live.
- PSEA must be seen as relevant in all UNICEF operations, not only in humanitarian settings. UNICEF must be pro-active in identifying and managing PSEA risks, not only responding to crisis. The root causes of and risks for SEA must be identified in all contexts, across all programme areas and in every setting that UNICEF works.
- Implementing partners should be seen as potential allies in PSEA and, as such, given support, guidance and resources to ensure PSEA within their operations. While implementing partners must be held accountable in this regard, UNICEF cannot transfer its own risk and responsibilities to these partners.

- A culture must be created that rewards speaking up on PSEA, eliminates fear of retribution and inspires confidence that the “system works”.
- Deterrence contributes to the prevention of SEA and reinforces the presence of accountability. To this end, consequences for SEA need to be communicated and backed up by credible sanctions.
- UNICEF must embrace its role as lead advocate for children’s rights and needs in all system-wide policies, mechanisms and actions on the ground.
- SEA and preventing it, are not problems for UNICEF alone. They are system-wide issues and thus require system-wide accountability and action. UNICEF cannot and should not allow the rest of the system to abdicate its responsibility for prevention or for victim assistance. It has two key and reinforcing roles: push the system to do more and better to prevent SEA; and ensure that whatever system-wide action is taken has the rights and needs of children at its center.

The Panel concludes that the Action Points set out in this report need to be implemented, guided by the strategic following directions.

1. Continue the persistent tone at the top aiming at culture change at all levels through various means – including ensuring the centrality of accountability in all of UNICEF’s actions on PSEA.
2. Shift the focus on reporting, policy development and guidance materials to prevention and ensuring accountability both at global and country level.
3. Develop a concise, strategic, three-year whole-of-organisation strategy, accompanied by a theory of change and an accountability framework.
4. Develop a clear communications approach to PSEA that is adaptable to the country-specific context.
5. Using a risk-based approach, provide support (including through additional resources) for full PSEA roll out throughout UNICEF in both humanitarian and development contexts.
6. Put accountability at the centre of detection, investigation and sanctions for cases, as well as the treatment of victims as rights-holders at all stages of reporting, investigation, assistance and outcome.
7. Use the chairpersonship of IASC SEA/SHA to promote inter-agency accountability and learning, pooling of resources to maximise in-country impact, rolling out of a rights-based approach to community engagement on PSEA, simplifying and centralising reporting at the country level to a single focal point responsible to the SRSG/RC/HC who in turn should be held accountable for ensuring sustainable PSEA systems.

This report reflects the views of the independent expert panel based on four months of intense review of the work done by UNICEF and by extension of the UN system at large. Given the extent of activities on PSEA and SEA at various levels, the Panel takes responsibility for any perceived shortcomings in the report. The findings reflect extensive desk review, field visits, interviews and discussions in the time available to the Panel within a condensed four-month period. The conclusions and recommendations are based on the Panel's experience as well as the joint analysis of the information collated by the Panel.

It is by no means an exhaustive report, and was not intended to be given the timeframe. However, in the view of the Panel this report should enable UNICEF to step up its commitment and engagement on protecting those the organisation endeavours to assist, and protect them from the risk of becoming victimised through SEA, recognising that they are rights-holders as well as beneficiaries of services. The Panel also recognises that this first and foremost requires an all-of-organisation approach and sustained commitment and leadership by management at all levels. It requires real action and concrete follow-up, building on what already has been done. PSEA cannot be addressed as a project or a programme – PSEA must become part and parcel of the organisation's DNA.

Throughout the review the panel and the consultant supporting its work met many committed UNICEF staff and is reassured by the commitment of UNICEF staff to address the risk and trauma produced by SEA. The panel welcomes the openness and commitment of the UNICEF Executive Director to address PSEA by commissioning an independent review that will be made public.

The panel thanks the UNICEF Executive Director Ms. Henrietta Fore for the trust placed in the Panel and the full access provided to the Panel on sometimes sensitive information. The report could not have been accomplished without the strong support of the UNICEF Evaluation Office, its director George Laryea-Adjei and the Review Manager, Mathew Varghese and Evaluation Officer, Laurence Reichel. The Panel also appreciates the time and effort given by UNICEF Staff, UN Staff from other agencies, offices and programmes, and NGO and government partners, at country, regional and headquarters levels to exchanges with the Panel and for freely sharing their experiences. Interviews with UNICEF staff were immensely insightful to help ground the findings of the report in the realities of UNICEF's mission. Finally, the Panel wishes to express its gratitude and sincere thanks to Eleanor O'Gorman, the consultant to the Panel without whom this report would not have been possible.

KC YS SF

Acronyms

AAP	Accountability to Affected Population
CAR	Central African Republic
CBCM	Community Based Complaints Mechanism
CMT	Country Management Team
CO	Country Office
CP	Child Protection
C4D	Communications for Development
DED	Deputy Executive Director
DHR	Division of Human Resources
ED	Executive Director
FRG	Field Results Group
GBVie	Gender Based Violence in Emergencies
HC	Humanitarian Coordinator
HCT	Humanitarian Country Team
HR	Human Resources
IASC	Inter-Agency Standing Committee (humanitarian assistance)
IDP	Internally Displaced Persons
IP	Implementing Partner
JIU	UN Joint Inspection Unit
MOS	Minimum Operating Standards
MINUSCA	United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic
OED	Office of the Executive Director
OIOS	Office of Internal Oversight Services
PCA	Programme Cooperation Agreements
PSEA	Protection from Sexual Exploitation and Abuse
RO	Regional Office

SC	UN Special Coordinator on Improving UN response to SEA
SEA	Sexual Exploitation and Abuse
SHA	Sexual Harassment and Abuse
SIR	Significant Incident Report
SRSR	Special Representative of the Secretary-General
TF	Task Force
UNCT	United Nations Country Team
UNHCR	United Nations High Commission for Refugees
UNFPA	United Nations Population Fund
UNDP	United Nations Development Programme
UNRIS	UN Representatives of Investigations Services
VA	Victim Assistance
VRA	Victims' Rights Advocate
WASH	Water, Sanitation and Hygiene

Introduction - The centrality of accountability

Context of Review

Following mounting concerns over the UN's handling of sexual exploitation, abuse and harassment, the incoming Executive Director of UNICEF requested the Evaluation Office to establish an Independent Panel of Experts in late May 2018 to undertake a Review of UNICEF's approach to Protection from Sexual Exploitation and Abuse (PSEA)¹. The Members of the Panel are Yasmin Sooka, Kathleen Cravero and Susanne Frueh². The Independent Panel on PSEA built on scoping and research work undertaken by an earlier team of consultants between March and May 2018. The overarching consideration for the Panel was to produce an independent, credible and useful report for UNICEF that contributes to accountability, learning and adaptation of responses to PSEA.

The Terms of Reference state the purpose of the Independent Review as follows:

'The Executive Director has requested the Evaluation Office to undertake an independent review of the UNICEF response to PSEA with the overarching objective of examining what is working and areas that need improvement; identifying ways of deepening management accountability; and improving the organisation's policies and systems, and its responses, as well as its culture... [UNICEF] decided to establish an independent panel of three subject matter experts to advise on the way forward and to produce a comprehensive assessment with actionable recommendations.'

The Panel was further requested to provide views to the Executive Director on what actions to prioritise in her new role as the IASC champion for SEA and SHA.

The review is designed to meet the terms of reference within a focused and tight timeframe of 12 weeks. It is, therefore, not a comprehensive review of best practices across the system, but rather, a taking stock of current trends and practices to identify steps forward that build on UNICEF work to date and can underpin a more systemic response to sexual exploitation and abuse. SEA in this review refers to existing UN definitions covering the conduct of UN personnel with respect to the communities and people they are mandated to assist, serve and support.³

This independent review on PSEA needs to be put in the context of two parallel, relevant reviews that were commissioned by UNICEF during this period. A review of how UNICEF has investigated

¹ See Annex 1 for full Terms of Reference for the Panel

² The Panel was supported in its work by a senior consultant, Eleanor O'Gorman. See brief biographies of the Panel in Annex 2.

³ For the purposes of the Review, the understanding of SEA is the widely adopted definition (also, used by UNICEF) arising from the UN Secretary-General's 2003 Bulletin (ST/SGB/2003/13): 'The term "sexual exploitation" means 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.' 'The term "sexual abuse" means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions'.

sexual harassment in the last five years was launched in February 2018 and was being undertaken by a law firm that completed its work in August; the panel was able to interact with the law firm and review the draft report. Also, an Independent Task Force on Workplace Gender Discrimination and Harassment at UNICEF launched in June 2018 and is due to complete its work by February 2019. The Panel welcomes the decisive action of UNICEF's new Executive Director in commissioning in full transparency the three reviews while also wishing to emphasise the interrelatedness between SEA and SHA in particular regarding organisational culture and response.

Considerations of the Panel

The Panel considers UNICEF to have a unique role in the UN system as advocate for the protection of children's rights, guided by the Convention on the Rights of the Child. It is particularly important that, as an organisation protecting and helping children and adolescents, that UNICEF have relevant policies and mechanisms against SEA in place. The focus of the organisation on PSEA and getting it right is therefore welcome.

The Panel also considers that UNICEF alone cannot ensure protection from SEA; it is a system-wide responsibility. Effective PSEA is about the wider UN System, and indeed the still wider international humanitarian, development and peace support communities of aid and assistance. The Panel sees potential for UNICEF to bring its unique role to ensuring that system-wide PSEA policies, practices, and processes are child-friendly and treat children appropriately as rights-holders.

The Panel considers the time for more action is overdue and that the UN has caught itself up in an over-emphasis on systems and guidance and a lack of focus on making them work better. This report is one in a series of existing, planned or ongoing reviews related to SEA and need to be taken together to learn practical lessons for more accountability and action.

Five Necessary Conditions for PSEA

The lens of this review is reflected through five 'necessary conditions' that the Panel advises need to be present for UNICEF's system of PSEA to be credible and effective. They framed the Panel's deliberations, as well as identification of key findings and recommendations set out in this report.

1. **Accountability** is at the heart of PSEA and needs to drive all existing and proposed actions and processes. The Panel understands this to operate at three levels:
 - Organisational accountability (responsibility of UNICEF as an institution and as part of system-wide UN)
 - Accountability of the perpetrator (criminal or/and disciplinary process and sanctions)
 - Accountability vis a vis community and victims (possibility to report, receive follow-up on a complaint, impartial investigation, proportionate sanction and reparation).



2. PSEA requires **leadership** from the top and the new Executive Director has moved to quickly establish the positive tone and championing role that are needed. Leadership, however is not only person specific, it needs to be embedded in the structures of management and reflected in a shared sense of values throughout the organisation that actively demonstrate zero tolerance for SEA.
3. **Organisational culture** is fundamental to creating the environment of openness and transparency that is required for PSEA to take root. It enables and rewards speaking up and speaking out, promotes difficult discussions, addresses risk and 'bad news' head on, and demonstrates zero tolerance in consistent and sustained actions. It recognises, seeks to understand, and mitigate power relations and dynamics that are reflected in how international assistance operates. This includes roles and functions of the workplace and in communities (for example, aid workers and beneficiaries) as well as the operational structures of aid in crisis settings, and, cultural tensions and assumptions that interact in positive and negative ways.

Getting organisational culture right is where humanitarian and development contexts meet in viewing PSEA as a core responsibility and not just a concern in high-risk operational settings or a programmatic risk. It is also where SEA and SHA meet in terms of sharing an underlying environment of zero tolerance, compliance with non-negotiable standards of conduct, lived values of human rights including child rights, and awareness of the structural drivers of power relations, gender, and protection.

4. PSEA is a **whole of organisation** challenge for UNICEF. It requires an organisation-wide approach that promotes coherence - internally in UNICEF and at inter-agency level across

the UN system. Such vertical and horizontal coherence is challenging and requires heavy investment but is necessary for an effective PSEA system. It requires defined, shared understanding of PSEA as an operational concept and set of behaviours, actions, roles and responsibilities. It is first and foremost a matter of organisational leadership and management that is grounded in the UN Code of Conduct and associated policies for all UNICEF staff and implementing partners that can extend to contractors, volunteers and all persons that are part of UNICEF's work.

5. These conditions need to **work together** – to connect – if they are to create sustained impact and outcomes that can truly be regarded as protection from sexual exploitation and abuse. This connected impact of the PSEA system needs to be visible and tangible on the ground in operations, in terms of prevention and deterrence, in terms of how cases are reported and addressed, what visible sanctions follow, and how victims are treated as rights-holders.

Background of PSEA at the UN

The UN has wrestled for many years with the issue of sexual exploitation and abuse, most notably since the 2002 reports⁴ (UNHCR, Save the Children, and OIOS) on sexual exploitation of refugees by humanitarian aid workers and peacekeepers in West Africa. In 2002 the Inter Agency Standing Committee (IASC) adopted six core principles intended to set forth standards to prevent SEA which were subsequently incorporated into the Secretary-General's bulletin on 'Special Measures for Protection from Sexual Abuse and Exploitation' (ST/SGB/2003/13, October 9, 2003). The Bulletin became the de facto zero tolerance policy for the entire UN system but was not accompanied with specific guidance at the time. In 2004, a position of Special Adviser on sexual exploitation and abuse was created. The Zeid report of 2005 set out a series of measures to address SEA in peace operations with a comprehensive approach⁵. In 2006, the Department of Peacekeeping Operations (DPKO) started to keep records and track data on allegations of misconduct and subsequent actions, and in 2008 launched a misconduct tracking system. In 2009, DPKO introduced a module on the prohibition of SEA in its core pre- deployment training materials.

In 2010, the IASC took a critical look at how the UN was performing on PSEA⁶. The review found that while progress had been made on the establishment of PSEA policy, this had not translated into managerial and staff understanding and acceptance of these policies; that the policies and technical guidance had not been communicated to the field with sufficient authority or clear direction and the guidance, in itself, had not been accessible, that implementation of PSEA was either patchy, poor or non-existent and that the most critical gap in organisational support to PSEA

⁴ A/57/465 Note of the Secretary-General, Investigation into Sexual Exploitation of Refugees by Aid Workers in West Africa, 11 October 2002. <http://www.un.org/news/dh/infocus/a-57-465.pdf>; UNHCR and Save the Children-UK (2002) *Note for Implementing and Operational Partners on Sexual Violence & Exploitation: The Experience of Refugee Children in Guinea, Liberia and Sierra Leone*. Available at: https://www.savethechildren.org.uk/content/dam/global/reports/health-and-nutrition/sexual_violence_and_exploitation_1.pdf

⁵ UN (2005) 'A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations', A/59/710, 24 March 2005

⁶ IASC Global Review of Protection from sexual exploitation and abuse, IASC, 2010.

was that of visible senior management leadership to actively promote PSEA policies and to proactively support PSEA activity while holding field managers accountable. The report also speaks to the low levels of complaints being received and that if appropriate awareness raising and complaints mechanisms were put in place, then complaints levels may rise sharply and overwhelm existing capacities and resources to respond. In response, in 2012 the IASC adopted the Minimum Operating Standards (MOS-PSEA) modelled after the well-known Minimum Operating Security Standards for Staff Safety (or MOSS) compliance mechanism, which is mandatory for the UN System to ensure there is a common set of requirements that all agencies follow in order to ensure staff safety. Unlike the MOSS, the MOS-PSEA appears to be voluntary and not formally approved⁷.

Yet it took another dramatic crisis – the SEA violations emerging between December 2013 and June 2014 in the Central African Republic (CAR) - for the UN system to yet again to step up to the plate. In 2015, as he approached the end of his tenure, the Secretary-General appointed a High-Level Independent Panel on Peace Operations (HIPPO) to conduct a wide-ranging review of peacekeeping operations. The central message from this assessment was that ‘immunity must not mean impunity.’ In October 2015, the Security Council passed a resolution (2242) urging, ‘robust pre-deployment training on sexual exploitation and vetting of peacekeeping personnel.’ In addition, an Independent Review Panel was appointed by the SG in 2015 to investigate the abuses in Central African Republic. The report⁸ released in December 2015 described the allegations as ‘heinous violations of the human rights of some of the most vulnerable people on earth – children in a displaced persons camp in the midst of an armed conflict and humanitarian crisis – by those mandated to protect them.’ It also found that ‘the manner in which UN agencies responded to the allegations was seriously flawed’ and detailed the manner in which UNICEF failed to meet its obligations to protect its core constituency. The report also recommended new measures to ensure prompt and effective investigation, transparency, coordination, and screening of troops among key actors.

The report propelled renewed attention of the UN on PSEA and the UN Secretary General established the position of Special Coordinator on Improving the Response to Sexual Exploitation and Abuse in February 2016. In January 2017 the Secretary-General announced a Task Force on UN Response to Sexual Exploitation, and in February 2017 identified ‘Special Measures for Protection from Sexual Exploitation and Abuse: A New Approach’ UN Doc A/71/818 (February 28 2017). In August 2017, the SG appointed the first Victim Rights Advocate for the UN to support an integrated, strategic response to victim assistance in coordination with UN system actors.

The ‘new approach’ launched by the Secretary-General in February 2017 presents a strategy to improve the Organisation’s system-wide approach to preventing and responding to SEA. The strategy has four main areas of action: (1) putting victims first; (2) ending impunity; (3) engaging

⁷ The document with a 2016 date on the IASC site is footnoted as follows: “These MOS have been discussed among IASC PSEA TaFo Members; the document is work in progress and reflects the status of the Task Forces’ current thinking”.

⁸ Deschamps, Jallow, and Sooka. “Taking Action on Sexual Exploitation and Abuse by Peacekeepers: Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic.” 17 December 2015.

civil society and external partners; and (4) improving strategic communications for education and transparency. To fulfill this strategy, the report contains 49 specific proposals for action of which 23 envisage involvement by UNICEF and other system-wide actors.⁹

While it is beyond the scope of the review to detail and review the actions undertaken by the UN the Panel wishes to highlight the following: (i) the flurry of activities to tackle and prevent SEA is quite recent; (ii) many of the 49 specific proposed actions are still being developed or being piloted and it is too early to assess their effectiveness; (iii) there is a multitude of task forces and initiatives and (iv) most of the focus has been on peacekeeping and humanitarian contexts.

Overview of UNICEF and PSEA

UNICEF, like the rest of the UN system, has also significantly stepped up its activities on PSEA in the past two years building on earlier efforts and the work done as part of the IASC since 2002. By way of background and to guide the reader, a short overview of most if not all relevant ongoing work on PSEA by UNICEF is set out here to provide context for findings and recommendations of the Panel that are set out in the remainder of the report. Most of UNICEF's work on PSEA can be found within the context of the IASC and the Task Force on the UN's Response to SEA.

<i>UNICEF agency-specific actions on PSEA</i>	<i>UNICEF engagement in UN-wide action on PSEA</i>
<ul style="list-style-type: none"> • In terms of internal complaints and investigation procedures, UNICEF has an internal 'Notification Alert' protocol in place that for reporting SEA to senior management and the most-senior UN official in-country within 36 hours. • Child Safeguarding Policy in July 2016. In 2018, a dedicated child safeguarding function and unit was added to the Office of the Executive Director • Training of investigators in the OIAI on forensic interviewing of minors (2016) and SEA in 2017. • 16 high-priority countries and 3 regional offices have designated PSEA focal points who are responsible for supporting UNICEF's work on PSEA. • Mandatory PSEA online training development together with UNHCR, UNDP, UNFPA and UN Women, rolled out in August 2017; • UNICEF allocated human and financial resources to provide and monitor assistance to SEA victims in priority countries of West and Central Africa Region and East and South Africa Region including the development of office-wide PSEA Action Plans 	<ul style="list-style-type: none"> • The Executive Director of UNICEF (as of June 2018) has been appointed IASC Principals' Champion on SEA and SHA. • UNICEF is actively engaged in the IASC AAP/PSEA Task Team. • UNICEF participates in UN SEA Working Group under the auspices of UN Special Coordinator • It has contributed to inter-agency workstream of Strengthening PSEA Networks and Community-Based Complaint Mechanisms through roll out of Best Practices Guide and follow up training carried out with IOM. • UNICEF and IOM, under auspices of Task Team carried out joint mission to Bangladesh as part of Rohingya response, which included the development of a draft PSEA risk assessment framework, PSEA training for partners, and support for establishing the PSEA Network. • UNICEF co-chaired with UNFPA a Task Force to develop a 'Uniform' Protocol on SEA allegations involving UN implementing partners. Finalised in February 2018 and being rolled out;

⁹ A/71/818 Special measures for protection from sexual exploitation and abuse: a new approach, Report of the Secretary-General, 28 February 2017, p. 21-24

<i>UNICEF agency-specific actions on PSEA</i>	<i>UNICEF engagement in UN-wide action on PSEA</i>
<ul style="list-style-type: none"> Field Results Group issues SEA tools and training package (2018) based on UN uniform protocol. 	<ul style="list-style-type: none"> Under the SEA WG, UNICEF and the Conduct and Discipline Unit/ UNDPKO have led the development of a UN Victim Assistance Protocol to strengthen a common approach to victim assistance. The Protocol was field-tested in four countries in 2017, for broader roll-out in 2018. UNICEF participated in the development of a UN Incident Reporting Form (IRF), and is engaged in piloting it in Democratic Republic of Congo, as part of the effort to strengthen a common approach to reporting allegations of SEA.

Structure of the Report

The report is structured according to the analytical framework established by the Panel, reflected in the graphic below. This places accountability at the heart of analysing the evolution and effectiveness of a UNICEF 'system' to prevent and respond to past, existing or potential sexual exploitation and abuse of beneficiaries. Around the hub of accountability, are placed the pillars of action established under the IASC minimum operating standards for PSEA set out in 2012. The four main chapters of this report reflect these pillars.



Note on Methodology

Methods and Work of Panel

This report reflects the view of an independent expert panel formed following key interviews, field visits and document review. It is not an evaluation. *At the core of the review is the need to assess what UNICEF has put in place for PSEA and to what extent this is known, applied and funded, and to ask how could UNICEF improve on this to ensure that what is in place is applied or to improve what is in place if it is not up to standard?*

Within the framework of the pillars of action indicated in earlier graphic, this review examines all five areas of UNICEF's work on PSEA:

- i. Reporting mechanisms;
- ii. Victim assistance;
- iii. Investigation and accountability and governance;
- iv. Capacity strengthening and coordination; and
- v. Prevention including safeguarding.

The report draws from work undertaken by the earlier team of consultants during March-May 2018. This included documentary review, interviews, as well as two field visits to Bangladesh and Lebanon, and a desk study of Iraq. The Panel acknowledges and is grateful to the earlier team for this work.

The Panel reviewed a significant amount of existing and emerging material, with particular focus on the acceleration of developments since 2015. It undertook a range of interviews, and initiated two further case studies to add to the learning and evidence base of the review. There is an extensive repository of documents which, indeed, is one of the challenges for operationalisation¹⁰. Additional targeted research undertaken by the Panel includes:

- **Engagement with stakeholders:** The Panel undertook additional interviews at international and regional level within UNICEF and with other UN and IASC entities. This was to fill information gaps and add to the range of perspectives on UNICEF and PSEA. Overall, the total interviews drawn on for the review included:

31 in HQ (Executive Director, Deputy Executive Directors, Division Directors, Section Chiefs and staff involved in managing PSEA)
4 ROs (Regional Directors from ECAR, ESAR, MENA, WCAR and some key staff from the Regional Office)
50+ UNICEF staff from country level
20+ Staff members of implementing partners.
10+ Government officials.
10+ leaders and managers from the system-wide network and UN Secretariat.

¹⁰ See Annex 3 for bibliography.

- **Documentary review, analysis and collation for evidence base of Review:** The Panel reviewed the extensive database of over 30 folders collated by the Evaluation Office to assess and focus the issues to be raised. Additional documentation was gathered in course of interviews, follow up requests, and field visits. The panel was also able to review and discuss the draft report by the law firm commissioned to review 26 sexual harassment investigations conducted by UNICEF's Office for Internal Audit and Investigations (OIAI) from 2013 to 2017.
- **Case Studies:** Two case studies were carried out in the Central African Republic (CAR) over June 25-July 1 and in Kenya over July 2-6, to contribute to the Panel's deliberations. These included interviews, focus group discussions and site visits, as well as additional data collection. The CAR visit focused on assessing developments in the evolution and implementation of PSEA frameworks by UNICEF since the groundbreaking 2015 report on SEA by UN peacekeepers. In Kenya, the focus was on non-humanitarian settings (though where the country faces occasional upheavals and risks of violence) and what can be learned, adapted and applied in terms of setting up or strengthening PSEA systems and actions more widely.
- **Panel Meetings and Workshop:** The Panel and consultant held regular on-line meetings and shared information in real time to advance the research phase within a tight timeline and to build the necessary synthesis for deliberations of the Panel to agree overall findings and recommendations. This culminated in a workshop by the Panel in Paris on July 31-August 1 to review and discuss research and drafts for the finalisation of analysis and recommendations to shape the final draft report.

Limitations and Constraints

The Panel was commissioned to review the work of UNICEF. However, it is difficult to assess UNICEF's performance in isolation of the broader UN system. As the Panel notes throughout the report, PSEA is a shared responsibility. Many of the actions embarked upon by UNICEF were triggered by system-wide developments. However, the limited time available for undertaking this review, did not permit the Panel to review more deeply the fuller range of activities undertaken by the UN. The many documents produced by UNICEF and the UN amounted to hundreds if not thousands of pages and could not be reviewed in detail.

While the benchmarking requested in the ToR would have been ideal, including with the private sector, this was simply not possible as benchmarking assumes that it is well understood what "best practice" means. Finally, while the Panel decided to use the IASC MOS as the overall basis for this review, it became clear that the MOS is limited in application and requires serious updating as it misses important aspects, notably accountability, as well as ambition of scope for actions and indicators for performance.

In the view of the Panel more time would have been desirable, as well as possibly making this a truly system-wide exercise as many of the lessons learned for this review are shared lessons with other UN organisations.

1.0 Management and Coordination of PSEA

This chapter assesses the overall policy, management and operational guidance that has grown up around PSEA as an architecture of its own, and calls for simplification as well as a focus on implementation.

The Panel finds that an ebb and flow of crisis and response has marked the evolution of PSEA policies and responses at the UN including within UNICEF. SEA has been on the radar of international affairs for some time whether involving peacekeeping personnel or civilian aid workers. One can date reports back to the mid-late 1990s, arising from conduct in peace operations by military personnel in Cambodia, Bosnia and Herzegovina, and also humanitarian aid workers in the refugee camps of Guinea, Liberia and Sierra Leone¹¹. The Zeid report of 2005 set out a series of measures to address SEA in peace operations with a comprehensive approach¹². Zero tolerance of SEA has been a UN commitment since the Secretary-General's 2003 Bulletin on the subject¹³.

The Panel also observes that reports and recommendations from various internal and external reviews over the past decade, converge and repeat around the same types of recommendations¹⁴. They all tend around themes of reporting pathways and confusion; policy guidance and lack of clarity and focus; investigations and sanctions; victim assistance and justice; governance and coordination in terms of UNICEF's own approach and a UN system-wide approach. Most recently, in particular following the appointment of a Special Coordinator on SEA at the UN, there has been new momentum and a new drive and progress on many fronts. While this is laudable, the Panel finds the overall UN and UNICEF approaches to PSEA to be prolific, fragmented, *ad hoc*, sporadic and often dependent on individuals or structures that are well managed in certain places at certain times.

¹¹ UN (2002) Report of the Secretary-General 'Investigation into sexual exploitation of refugees by aid workers in west Africa', A/57/465, 2002

¹² UN (2005) 'A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations', A/59/710, 24 March 2005

¹³ ST/SGB/2003/13.

¹⁴ For example, see recommendations/ actions from IASC (2010) 'Global Review of Protection from Sexual Exploitation and Abuse by UN, IOM and IFRC Personnel'; Marie Deschamps, Hassan B. Jallow, and Yasmin Sooka (2015) *Taking Action on Sexual Exploitation and Abuse by Peacekeepers*, Report of an Independent Review on SEA by International Peacekeeping Forces in the Central African Republic, 17 December 2015; UNICEF (2016a) 'The UNICEF Multi-Country Gender-Based Violence in Emergencies Programme Evaluation', Final Synthesis Report; UNICEF (2016b) Recommendations from a joint HQ-WCARO Child Protection mission to CAR CO undertaken by UNICEF's global Chief of Child Protection, the WCARO Regional Child Protection Advisor and a PSEA consultant from CP HQ during 17 – 24 June 2016. The key findings and recommendations, are focused in the areas of 1) reporting and information sharing on SEA; 2) victim assistance; 3) investigations and informed consent; 4) governance and coordination; 5) prevention; UNICEF (2017) 'Meeting on PSEA, Dakar, 21-22 September 2017'; UNGA (2008) A/RES/62/214 'United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel';

Key Findings

1.1 Key Finding: The IASC PSEA Minimum Operating Standards (2012) need to be updated to operate more fully as a system-wide accountability and benchmarking framework

In using the framework of the IASC MOS during this review, it is the consensus of the Panel that it does not sufficiently reflect the underlying organisational accountability of the UN system in relation to SEA. This accountability deficit reflects similar discussions and findings regarding UNICEF's application of the PSEA MOS in this review though the discussion of the pillars. An overall understanding of accountability needs to be reflected throughout the framework in terms of organisation, perpetrator and community and victims. This requires a rights-based approach to PSEA that is taken up throughout this report.

Each pillar of MOS PSEA comes with associated indicators from the IASC in the 2012 framework. The Panel finds they are too narrowly focused and procedural in approach.

- **PILLAR 1 – MANAGEMENT AND COORDINATION** (IASC key performance indicators: *effective policy implementation; adequate personnel time is explicitly committed to PSEA, commitment and engagement of senior managers*). The Panel notes that the indicators for this pillar need to be expanded in particular to include inter-agency work, engagement and coherence as a key system-wide issue for PSEA involving all humanitarian and development entities and operations.
- **PILLAR 2 – ENGAGEMENT WITH AND SUPPORT OF THE LOCAL POPULATION** (IASC indicators: *effective and comprehensive communication from HQ to the field on what to do regarding raising beneficiary awareness of SEA; effective Community complaints mechanism*). The Panel finds these indicators need to include views and feedback from communities on understanding and engagement of UN entities and partners on information, awareness and use of reporting. More fundamentally, the focus of community and national engagement needs rethinking in terms of placing accountability towards individuals and communities at the heart of PSEA.
- **PILLAR 3 – PREVENTION** (IASC indicators: *effective recruitment and performance management; effective and comprehensive mechanisms are established to ensure awareness raising amongst HQ-based personnel*). The Panel finds the indicators do not reflect a sufficiently ambitious and robust expectation of prevention of SEA. Prevention goes beyond training and performance management. Effective SEA prevention must be broader and must be built on a clear understanding of the underlying risk factors for SEA as well as an appetite for deterrence and sanction. It must also be global and local and not focused simply on headquarters.
- **PILLAR 4 – RESPONSE** (indicators: *effective personnel complaints mechanisms are in place; effective field-based complaints handling and follow-up*) The Panel finds that these indicators for SEA response pillar need to more properly address reporting, investigation, victim assistance, and accountability.

Action Point: The Panel suggests that the Executive Director in her new role as IASC Principals' Champion on SEA and SHA lead a time-limited, focused updating of the 2012 MOS to reflect the central obligation of accountability, and make the MOS more fit for purpose in terms of the ambition of scope for PSEA actions and intended impact. It could then better function as an accountability framework to benchmark the humanitarian system.

1.2 Key Finding: Too many separate policy and guidance papers signal the lack of a coherent 'whole of organisation' strategy for UNICEF on PSEA

1.2.1. Information overload and a strategy deficit

The Panel finds a plethora of policies and guidance on aspects of PSEA is leading to information overload and a strategy deficit. The various crisis-response cycles of PSEA have led to the UN, IASC and individual agencies, funds and programmes developing many tools and guidance to implement basic standards of PSEA. Among these are the following¹⁵:

- Guidance for implementing CBCMs – Global Standard Operating Procedures (IASC) 2016
- Ongoing testing and finalisation of the *Protocol on Victim Assistance* (global), UN SEA Working Group (2017/18)
- SIR at UNICEF (Significant Incident Report) and Notification Alert System for reporting all UN SEA allegations involving minors and children within 36 hours
- Completion of *UN Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners*; within UNICEF, the Field Results Group has been charged with rolling this out alongside an extensive toolkit of checklists, training support and guidance
- Information Sharing Protocol in CAR was finalised following 2 years of work and was signed on September 3, 2018 by UN entities, mission and NGOs; the SRSG signed on behalf of MINUSCA and the DSRSG/RC/HC on behalf of the Humanitarian Country Team
- PSEA online training course rolled out in 2017
- Single Incident Reporting Form (IRF) reinforced by office of Special Coordinator (2017/18) being piloted and tested for wider roll out
- UNICEF Child Safeguarding policy 2016 has 30 reference documents, instructions, guidance, and standards alone supporting its commitments.

This is just a select run through of *some* of the commitments, reports and follow up on PSEA in recent years. A number of key protocols and tools remain in draft or being piloted. UNICEF has also issued various separate instructions on tools, protocols, and directives regarding PSEA reporting, training, and engagement with implementing partners. The Panel observes a busy, sometimes frantic focus on getting papers out, and issuing instructions and guidance to staff.

¹⁵ A fuller list of documentation can be found in Annex 3

The Panel finds that while UNICEF has developed elements of PSEA strategy, it does not yet have an overall coherent framework that is focused, operational and easy to grasp for UNICEF staff, partners, inter-agency counterparts, donors, and not least the communities, individuals and children that UNICEF serves.

The elements of a framework are siloed and fragmented across UNICEF with different driving factors – ranging from GBVie, child protection, legal affairs, human resources, field results group, programme management, and communications. This makes for a complicated set of actions that risk becoming technocratic. The edifice of PSEA (as was described in one interview) risks ‘functioning like a two-storey house to which various floors and rooms have been added with no sense of the foundations to accommodate them’. A more proactive, systemic and practical approach is needed. The key word is simplify. It requires an overall simplified coherent guiding framework or strategy that can be easily measured and tracked in terms of changes to culture, operations, and accountability to victims. A specific theory of change on PSEA is needed to drive both UNICEF and system-wide efforts.

Action Point: The Panel suggests that UNICEF consolidate a more strategic framework on PSEA with specific objectives and aims that is no more than 10 pages. It would also set out explicit operational understandings of what constitutes SEA, zero tolerance, and the principles for action by UNICEF. This would be the guiding document for the whole of UNICEF and be coordinated and overseen by a dedicated leadership structure on PSEA. This updated strategy would be accompanied by a theory of change to be implemented through a phased action plan for the next 3 years starting with year 1; this would seek to focus, prioritise and track the strategic and operational direction and impact of an enhanced whole-of-organisation PSEA system.

1.2.2. Need to reinforce robust understanding of SEA to drive zero tolerance

The Panel is concerned about the disconnect that emerged in some quarters regarding the definition of SEA in policy and practice. There was some confusion in discussions concerning prostitution and transactional sex. The 2016 edition of the UN Special Coordinator survey found that 22% of UNICEF respondents ‘thought transactional sex is ok if legal in the country of the duty station, or were not sure’; this has decreased to 8% in the 2017 survey though the reason for the drop was not indicated. The 2017 Survey of UN personnel by the Office of the Special Coordinator, found that 6% of UNICEF respondents did not believe that those who engage in an act of transactional sex, rape or sex with minors will face disciplinary actions. While this may be considered a low percentage, it does highlight the importance of reinforcing values, standards of behavior and criminal responsibility.

UNICEF policy in relation to the rights and protection of minors and children is based on in terms of upholding the Convention of the Rights of the Child. This also is reflected in the 2003 Secretary-General Bulletin on PSEA, including the Six Core Principles Relating to SEA that were part of the

IASC 2002 plan of action, and subsequent staff rules in 2014 which all explicitly state that sex with a minor is prohibited and it is not allowed for the perpetrator to claim they did not know age¹⁶.

The uncertainty about categories of SEA and expected standards of behavior also emerged in interviews. The lack of consistency is not helped by the statement in the 2003 Secretary-General Bulletin regarding sex with recipients of UN assistance – while prohibiting sexual activity with minors and children, it simply states beyond that: ‘Sexual relationships between United Nations staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the United Nations and are **strongly discouraged**’ (added emphases).

The Panel agrees that that the use of term ‘strongly discouraged’ is not sufficient and undermines the intention of recognising power dynamics and the risks of SEA in aid situations. It became evident throughout the review that a range of UN entities, NGOs and government agencies take varied views and standards on expected behaviour of staff in respect to both commercial and transactional sex. Some international NGOs, for instance the ICRC, have an explicit prohibition against any sex with beneficiaries.

Action Point: The Panel suggests that prohibitions on sex with ‘beneficiaries’ and transactional sex need to be clarified, strengthened, reinforced and advocated both within UNICEF and at inter-agency level

1.2.3. More support needed for implementation of guidance and policies on the ground

The Panel also notes that the push of information currently lacks sufficient or consistent support for implementation. Some guidance documents can run to over 200 pages and best practices are buried in reports and notes deep into websites that staff may not reach or read and would need to be able to navigate. Making this knowledge more accessible, user-friendly, and practical for UNICEF staff and their partners in front-line situations is critical.

For example, the Kenya visit revealed the earlier existence of a PSEA Network and well-worked through protocols and commitments from UN and NGOs in 2009/10 that had been tailored to the country context and risks. These happened to be on file in paper copies held by a long-serving UNICEF staff member who had participated in the earlier iteration. Yet, no-one across from the UN agencies or RC Office referenced this precedent when talking about a new PSEA Task Force that was being considered as part of the Gender Working Group. Whilst undertaking separate research on IASC resources for PSEA, the Panel then uncovered a case study of Kenya as best practice for senior management in terms of establishing coordination!

The Panel notes the positive feedback received on field visits and in interviews, to field missions and regional meetings that discuss and troubleshoot operational implementation of PSEA in real time. For example, the UNICEF regional PSEA meeting held in Dakar in September 2017 allowed for open exchange and resulted in a number of recommendations. This kind of workshop could

¹⁶ ST/SGB/2003/13 (3.2); ST/SGB/2014/1 – Staff Rules and Staff Regulations of the United Nations, Rule 1.2 (e)

be usefully replicated in other regions and be part of an overall effort to capture good practices and unpack some of the key challenges for PSEA in different regional contexts. Also, in CAR, the leadership and staff appreciated support missions on investigations and victim assistance from the Regional Office and HQ to over 2016/17 that were considered very helpful.

The AAP/PSEA Task Team operates an IASC help desk function and offers the possibility of technical field support. The Panel understands that these channels are being explored for improvement and strengthening, and encourage such moves. Current resources for hands-on support to field offices, particularly in high-risk contexts, seem stretched and reliant on availability of staff who have other responsibilities in their own agencies. The Panel urges more be done to share existing good practices and guidance in straightforward operational terms and to support staff and partners in implementation.

Action Points: The Panel suggests:

- 1. Increased hands-on, people-centred support on learning and capacity building for PSEA by UNICEF and IASC at the operational level to translate and apply guidance. This should be considered in the updated strategy and workplan for PSEA by UNICEF and in consultation with a range of COs and ROs on needs and gaps.**
- 2. The Executive Director request the IASC Task Team to develop a system-wide plan for such support with targeted actions and resources.**

1.2.4. UNICEF's PSEA communications need to be more focused and adapted to local contexts

The Panel acknowledges the very real challenges UNICEF and other humanitarian and development actors have faced from understandable media pressure, attention and sometimes intrusive methods, and the efforts to support frontline offices operating in challenging settings to respond to intensive media attention and scrutiny. Staff in country offices expressed appreciation for this support.

However, given UNICEF's leading reputation on public communications it was surprising to the Panel that communications on PSEA were not more coherent. The external facing home page of UNICEF makes no direct mention of SEA. There is a page that can be eventually located via child protection themes that sets out 'UNICEF's approach to protection from sexual violence and abuse'. However, it seems hidden and not as prominent as it could be. This contrasts with some other UN agencies on their websites. The UNHCR home page¹⁷ has a sizeable clear heading and window to access information with photo and heading of 'our fight against sexual exploitation, abuse and harassment'. Good use of embedded video interview with UNHCR's recently appointed Senior Coordinator immediately gives a face and name to a channel of responsibility for SEA and harassment. There is a clear outline of core definitions and actions, and data is provided on UNHCR cases and allegations. The page links to a specific document that is directly relevant, reader friendly and sets out Strategy, Structure and Key Actions as well as How to report.

¹⁷ <http://www.unhcr.org/uk/our-fight-against-sexual-exploitation-abuse-and-harassment.html>

Meanwhile, UNDP treats PSEA under the heading of Accountability on its site.¹⁸ Once accessed, the Accountability page has a link with heading of 'Combatting sexual exploitation and abuse' that has sub-headings including 'disciplinary action', 'reporting', and so forth, with short crisp text outlining clear definitions and pathways for action. The visualisation of PSEA strategies can also assist effective communication and the panel notes the striking presentation graphics of UNFPA and UNHCR.¹⁹

These comparative observations point to the importance of being coherent in communicating on PSEA strategy and actions both internally and externally. However, in order to have effective communications to support implementation of PSEA, there needs to be an overall strategy that sets out the parameters in a succinct and simple manner.

The issue of unclear messaging also speaks to an aspect of organisational culture that that was found across all pillars of PSEA, namely that UNICEF is a 'good news' organisation and seems reluctant to share or get ahead of difficult or bad news. This reveals itself in feedback the Panel heard regarding the top down framing and management of communications and messaging. It translated itself into some staff feeling there was little scope to speak to context and be prepared to take strong advocacy positions and the pushback that might result.

Action Point: The Panel suggests UNICEF develop a dedicated and tailored communications approach (internal and external) as part of the work of any new/upgraded leadership and coordination position/team for PSEA. It needs to also take account of the various contexts in which UNICEF operates and support Country Offices and staff with PSEA communications in those contexts.

1.3 Key Finding: Need to establish a systemic (whole of organisation) approach, upgraded leadership structure, and sustained resources for PSEA

1.3.1. PSEA needs to be defined as a management accountability issue

Accountabilities are evolving but PSEA is not generally seen at UNICEF as a management accountability issue. The Panel found a compartmentalised approach towards PSEA where the issue has been seen as fundamentally a concern of Child Protection or Gender Based Violence in Emergencies and thus tackled mainly from a programmatic perspective in reacting and responding to UN cases on the ground, particularly involving minors and children. This conflation of organisational accountability with programmatic responses is confusing the understanding of roles and responsibilities for UNICEF staff regarding PSEA in day to day operational terms.

¹⁸ <http://www.undp.org/content/undp/en/home/accountability/combating-sexual-exploitation-and-abuse.html>

¹⁹ The PSEA Wheel of UNFPA is part of a presentation to its Board in June 2018; https://www.unfpa.org/sites/default/files/admin-resource/EB_4_June_18_UNFPA_-_PSEA_SH_Update_ExBrd_Joint_Segment_Presentation-FIN.pdf. The UNHCR flow process is found in its recent interim strategy and action plan; <http://www.unhcr.org/uk/5b2cb6284>

Field visits have shown committed staff doing PSEA work above and beyond their regular work. PSEA responsibilities are often an add-on to CP officers' portfolio and stretching already limited resourcing for programming in the areas of CP and GBVie. It must also be recognised that in many front-line cases it was GBV and CP staff who faced the issue and were tasked to take on responsibility 'in the absence of clear organisation-wide initiatives or guidance' (Iraq desk study). In another aspect of PSEA, recent activities on the Human Resources side on vetting and recruitment demonstrate evolving thinking in line with the rest of the UN system.

A whole of organisation approach can help bring clarity to the work and role of different teams as part of an overall strategy and workplan. This requires a distinction and separation of organisational leadership and management for PSEA from programme-based responses such as Child Protection and GBVie, and an explicit understanding that PSEA is primarily a matter of organisational accountability and management. Such clarification can also enable UNICEF to articulate more distinctly its protection and advocacy roles in terms of children's rights with respect to PSEA at the system-wide level. This is reflected in community engagement, victim assistance, and being a leading voice in ensuring child-friendly and gender-sensitive approaches to training and awareness of staff, partners and communities, Community Based Complaints Mechanisms, investigations of SEA involving children and minors, and upholding the spirit and law of the UN Convention on the Rights of the Child.²⁰

Action Point: The Panel suggests that UNICEF establish a clear distinction and separation of organisational leadership and management of PSEA from programme-based responses

1.3.2. Improved positioning of PSEA management structure in UNICEF

Effective PSEA requires overall capacities for policy leadership, operational guidance, and support to accountability, to be coordinated, concerted and coherent from inside the OED and ultimately led by the Executive Director. This requires direct support of senior coordination functions (person and/or team) led at level of at least D1 if not D2 to reflect the seriousness of the task.

Until now, there have been meetings of a UNICEF task force internally on SEA under the chairpersonship of the DED management and drawing in a range of units across HQ and calls with specific COs. However, the Panel was informed that this is sometimes experienced by staff as requests for information or sharing of information and different tasks rather than an overarching strategic lead and guide, as some of the essential actions for PSEA fall under the responsibility of other DEDs. In July 2018, while this review was in progress, a new Child Safeguarding Unit was announced, and it was indicated to the Panel that the positioning of PSEA within this unit is unclear. It is not obvious what capacity will be dedicated to PSEA vs general safeguarding. The Panel queries whether the current level of the CSU chief is sufficiently senior and whether the reporting line should be more directly to Executive Director.

²⁰ It is noted that other international conventions guide PSEA including the Universal Declaration on Human Rights, TIP Protocol, ILO Convention 182, and some of the Juvenile justice rules.

The Panel advises that UNICEF should establish a dedicated senior leadership/coordination position with supporting team to coordinate, guide and support UNICEF in shifting to a whole of organisation, systemic approach to PSEA. This should include:

- Senior position appointed at level of Director (D1/D2) and for a period of 3 years in the first instance;
- PSEA team should be located in the OED;
- Senior position would report to the Executive Director.

This proposal is made with the understanding that UNICEF is a decentralised organisation and that engagement with regional and country offices would be part of this process. UNICEF may want to consider at a later point folding this team into a wider safeguarding unit once the systems, policies and actions for PSEA are well-embedded and demonstrate collective impact and cultural change for the organisation.

Action Point: The Panel strongly suggests that UNICEF establish a dedicated senior leadership/coordination PSEA position with supporting team to coordinate, guide and support UNICEF in shifting to a whole of organisation, systemic approach to SEA. This dedicated leadership, capacity and resourcing is required to help UNICEF make the paradigm shift it needs to bring strategic lift to the range of PSEA initiatives, tools, policies, actions, and relationships across the various parts of the organisation and in UNICEF's engagement with the wider UN system on PSEA.

1.3.3. Dedicated resources are required to implement the new paradigm that focuses on whole of organisation strategy for PSEA

The Panel observes the well-established lesson from UN planning of all types that coordination takes time, staffing and resources to work well and to enable the UN system to work at its best. This is equally true of PSEA. For example, the Iraq case found that the PSEA network there was relatively more active than others and implemented more measures. This was found to be largely due to the presence of a full-time coordinator whose role was to follow up and deliver on agreed inter-agency actions.

The Panel notes that a number of piloting, testing, training, and other actions have been suggested and referenced across the pillars. For example, the roll out and ongoing training support needs for establishing effective CBCMs in humanitarian settings; the costs of adequate and consistent victim assistance; the support to discussion, in-person training and facilitation beyond on-line training for staff; the need for surge support to offices in crisis situations where risks can be high; the integration of risk assessment for PSEA into planning for all offices. All of these require resources and lift that cannot be dependent on individualised project proposals and appeals. They are core to organisational costs for operating, particularly in emergency and humanitarian operations, but also in development settings.

This requires a shift in strategic thinking about resourcing for PSEA and recognition that *ad hoc* financing is itself a risk to establishing an effective system across UNICEF and the wider UN. The

Panel wishes to reiterate that SEA is not a risk specific to UNICEF but to the entire UN system and that pooling efforts and funding is an absolute must while ensuring agency-level capacity to develop PSEA throughout its direct and indirect interactions with communities.

In 2017, UNICEF had revenue of \$6.57 billion and total staff of 13,855; UNICEF also supported, in 2017, 3,939 civil society organisations and 5,532 government ministries/agencies. It has 125 country offices, 7 regional offices and 34 national committees²¹. This scale of organisation and operations indicates that current risk assessment, resourcing, staffing and roll out of PSEA will need to be far more ambitious and strategic, and that UNICEF needs to invest in building a PSEA system that is fit for purpose.

While UNICEF has clearly ramped up its response in the past 12-18 months the Panel concurs with the views of a number of interviewees that the organisation must invest more in PSEA.

Action Point: The Panel suggests that UNICEF and the system-wide UN at inter-agency level significantly increase investment to underpin the pooling efforts and funding that are required for an effective system of PSEA at UN level, whilst ensuring agency-level capacity to implement PSEA throughout UNICEF's organisation and operations.

1.4 Key Finding: Need for enhanced UN coherence on PSEA to help system work together better

1.4.1. A plethora of Task Forces and Reviews on PSEA

Alongside the problem of 'too much information' and a strategic deficit that the proliferation of policies and tools promotes, the Panel finds a proliferation of fora for information sharing, planning and coordination on PSEA. An illustrative list includes the following:

- Jane Holl Lute appointed as UN Special Coordinator on Improving UN response to SEA in 2016. The Office of Special Coordinator has launched and been engaged in some 35 initiatives on PSEA since it was established.²²
- UN High-level Steering Group on SEA established in 2017 meets quarterly under Chair of Chef de Cabinet of the Secretary-General.
- CEB Task Force on addressing sexual harassment in the UN system, under the leadership of Jan Beagle, the Under-Secretary-General for Management, established in December 2017
- UN Working Group on SEA established in 2017
- IASC Task Team on AAP and PSEA (established separately in 2012 and merged in 2014; current mandate runs out at end of 2018)
- IASC Task Team on SHA (as of May 2018 this has merged with PSEA and future strategic direction or focus is not yet known)

²¹ Data submitted to Panel by UNICEF DHR and FRG.

²² 'Fact Sheet on the Secretary-General's Initiatives to Prevent and Respond to Sexual Exploitation and Abuse', 22 March 2018, Office of the Special Coordinator

The multiplying of forums can risk reinforcing divides between humanitarian and non-humanitarian systems in addressing SEA and reinforcing differences of organisational cultures. The Panel notes with encouragement that a joint meeting of IASC Principals and the SEA Task Force convened by Office of the Special Coordinator is scheduled for second half of 2018. At the country level there are an estimated 17 inter-agency PSEA Networks, with some having started in the 2000s and a lack of clarity as to whether they continue. The trend seems to be that such networks rise and abate with humanitarian crises and do not automatically or systematically transition to post-crisis settings or development (non-humanitarian) coordination mechanisms as part of core UN leadership and coordination.²³

The Panel heard that UNICEF is seen as positively engaged on a system-wide basis at headquarters with active participation in the UN SEA Working Group and with the Office of the Special Coordinator, as well as being a leading member of the IASC Task Team on AAP/PSEA, including working on protocols and tools for the UN system. These inter-agency credentials have been enhanced by the recent appointment of the Executive Director as IASC Principals' champion on SEA/SHA. The field visits have also noted the engagement of UNICEF staff in PSEA networks at the country level.

The Panel is also keenly aware that this review is just one amongst others taking place within UNICEF and across the wider UN, that all have relevance for improving PSEA. Other reviews include:

- Review of Sexual Harassment and Abuse cases at UNICEF over five-year period
- Independent Task Force on Workplace Gender Discrimination and Harassment at UNICEF
- Recently launched review by UNHCR of its SEA and SHA responses.
- Planned review by UNDP of SEA and SH as requested by its Executive Board

A joint Board decision in 2018 underpins the request for SEA and SHA reviews at UNDP, UNFPA and UNOPS, where it: 'Encourages UNDP, UNFPA and UNOPS management to undertake, using existing resources under the integrated budget 2018-2021, an independent victim-centered review of their respective policies and processes on tackling both sexual exploitation and abuse and sexual harassment, to review the current practices of the three organisations and provide recommendations on both issues, and requests UNDP, UNFPA and UNOPS to present the review and associated management responses to the Executive Board at its annual session 2019²⁴.

Across this review the Panel has found reports emerging from JIU, UN Ethics Office, and Office of the Senior Coordinator on a range of issues that directly relate to the workings of an effective PSEA system. The Panel suggests that UNICEF assist these system-wide efforts by leading on shared learning and consideration of findings and recommendations across these reviews and reports. This would help provide focused, collective and active follow to improve the system-wide approach to accountability in terms of standards, investigations, reporting and support to victims.

²³ See 'PSEA Mapping of country level networks and global initiatives 2017', carried out by the IASC Task Team on AAP/PSEA.

²⁴ Email communication to Panel.

Such follow up can also help to clarify the roles, responsibilities and resources at system-wide level (globally and at country level) as well as within individual UN entities in terms of making PSEA work better.

Action Points: The Panel suggests that:

- 1. The Executive Director in her new role as IASC Principals' Champion on SEA and SHA initiate joint meetings to share collective UN initiatives on PSEA with a view to streamlining efforts, and strengthening the coherence and impact of various forums and workstreams on PSEA.**
- 2. UNICEF arrange a joint meeting of the reviews commissioned this year related to SEA and SHA to optimise learning and cross-fertilisation of analysis and recommendations. Such critical engagement is needed as an ongoing part of building PSEA into UNICEF leadership, operations, culture, and engagement with communities.**
- 3. The Executive Director in her capacity as the chair of the IASC TF on SHA/SEA calls for a system-wide learning event to bring together the various reviews currently being undertaken by IASC members, with a focus on cultural change and accountability.**

2.0 Engagement with and Support of Local Community

This chapter explores how communities are viewed and involved in protection from SEA. It assesses the policies and mechanisms in place, and calls for a shift of paradigm in how 'beneficiaries' are considered.

Key Findings

2.1 Key Finding: A paradigm shift is needed in treating communities and victims as rights-holders rather than labelling them as beneficiaries

The Panel feels strongly that the individuals (women, children, men) and communities with whom UNICEF and the UN system works must be viewed as rights-holders rather than "beneficiaries", as most documents refer to them now. UN system staff should be considered duty-bearers toward these individuals and communities with clear and compelling obligations to uphold these rights. In this human rights-based approach, children are also rights holders and the UN, notably UNICEF, are bound to protect their rights under the Convention on the Rights of the Child. Shifting this paradigm – from beneficiaries to rights-holders – is fundamental to strengthening the prevention of SEA. Strong communities that understand their rights and are empowered to pursue them can be powerful allies of prevention efforts.

The failure to recognise the concerns and agency of rights-holders has at best four consequences:

- i. Community Based Complaints Mechanisms (CBCMs) become seen as shorthand for community engagement.
- ii. Victims are seen as subjects of 'procedures.'
- iii. The potential for communities to identify, respond and prevent SEA is squandered.
- iv. Children's rights are not upheld.

This tendency to reduce communities and individuals to beneficiaries also affects the understanding of victims under the victim assistance component of response to SEA, discussed in Chapter 4.

Community engagement as a pillar of action on SEA does not yet sufficiently engage prevention and accountability for communities and victims or reflect variation in understanding local cultures. A focus on prevention would imply that an enabling environment was in place and that mechanisms such as CBCMs are the 'last resort', the place to go when despite other measures or efforts, PSEA has failed and there are incidents and reports. It is just one link in a chain that needs to be strong at all points along the way to mitigate the failure when SEA occurs.

With accountability at the centre, this rights-based approach:

1. Defines the relationship of UNICEF as a duty bearer to the rights holders (with a strong focus on children) affected by its decisions and actions.

2. Sets out measures taken to acknowledge, assume responsibility for, and redress for SEA and other acts that can amount to human rights violations.
3. Puts in place a corrective function: a.) addressing individual or collective grievances; and b.) sanctioning wrongdoing by the individuals and institutions responsible.
4. Adopts a meaningful and proactive approach to prevention:
 - Prevention based on the lessons learnt from previous incidents of misconduct;
 - Prevention based on deterrence; the inevitability and proportionality (serious sanctions for serious misconduct) of sanctions works as a deterrence against the future misconduct;
 - Focus on empowerment of communities alongside well-trained, responsive staff;
 - Promoting and rewarding a 'speak out, speak up' culture among staff, partners and communities where UNICEF works; and
 - Strong leadership setting tone at the top and following through with clear actions and visible results.
5. Actively takes shared responsibility for UN system-wide PSEA actions at country, regional and global levels as organisational accountability for SEA is a systemic violation and risk that requires collective response. In this, UNICEF brings its unique role as advocate for protection of children's rights.

Action Point: The Panel strongly suggests that UNICEF adopt a rights-based approach to community engagement on SEA linked to prevention and accountability that underpins any updated, simplified UNICEF strategy for PSEA.

2.2 Key Finding: Need for fuller engagement with communities at earlier points for prevention and to consider this beyond humanitarian settings only

2.2.1. Complaint mechanisms on their own are not enough

Even if well-functioning complaints and reporting channels are in place, they cannot always address the chronic challenge of under-reporting that is endemic and goes beyond any coordination or reporting mechanism. The Panel learned of instances of elaborate hotlines and infrastructure being put in place but ultimately not leading to increased (or some in some instances any) reporting or cases. UNICEF needs to be cautious of setting up elaborate structures and pathways as ends in themselves when no one is reporting.

Secondly, such mechanisms cannot operate well or be effective if the referral of allegations to relevant agencies for follow up and action go nowhere. These are challenges not just for CBCMs that tend to operate in complex humanitarian settings, but for reporting channels and case-handling in all settings and aid operations. They require a fuller, longer term strategy for engaging communities and earning trust by building an environment for awareness of rights, willingness to report and well-placed trust that actions for accountability will result.

2.2.2. UNICEF does community empowerment elsewhere, why not for PSEA?

UNICEF has championed and demonstrated community empowerment, and particularly on how best to engage and empower children to uphold their rights across other programmes. This is seen through community dialogue, meetings, awareness raising and smart use of communications approaches for supporting changes in attitudes and behavior around health, education and participation of young people.

The Panel suggests the need for more focus on empowerment of communities alongside the building of trust and openness among staff to report, support to implementing partners to report and respond (dealt with chapter 3), and process of timely follow up and investigation of allegations (dealt with under chapter 4) to enhance the chain of accountability in a systematic approach to PSEA.

The Panel concludes that:

1. Community engagement needs to be turned on its head with the focus beginning with the communities and not just the reporting mechanism; beneficiaries are to be seen as rights holders and UNICEF (and other actors) as duty bearers.
2. UNICEF is well known for its abilities and track record on community mobilisation, empowerment and self-sufficiency. For example, it has pioneered work through C4D on integrating children and families into community processes of change in health, education and so forth.
3. The GBVie programming is another significant entry point and often at the forefront of engagement with vulnerable groups and communities, particularly in IDP and refugee camps.
4. Many implementing partners have positive and good relations with communities and good practices of community engagement.

In the last analysis, it is the responsibility UNICEF to ensure the full gamut of community engagement is being used and a substantive, rights-based approach is informing this engagement. There is scope for UNICEF to be an exemplar in the UN system for community engagement, prevention and reporting through a rights-based approach and to lead at country level in more substantive approaches.

Action Point: The Panel suggests that UNICEF set up a working group to apply its community engagement/empowerment strengths to working in a more systematic way on prevention of and accountability for SEA with communities in high risk areas of SEA, as well as development contexts. This could be reflected in updated strategy and action plan on PSEA and coordinated by upgraded leadership structure for PSEA.

2.3 Key Finding: CBCMs are a necessity in high risk countries and need to be fully tested, as part of overall need to establish One UN reporting systems at country level in all settings.

2.3.1. CBCMs need to be fully tested and proved in humanitarian settings

The Panel believes that CBCMs are an important initiative in humanitarian contexts and UNICEF should continue and accelerate support at inter-agency level and country level to roll out the ambitious target of establishing them in 29 countries where there are Humanitarian Response Plans. The CBCMs provide an opportunity to meeting the need for one coherent and consistent system of reporting in each country, particularly in crisis and humanitarian settings. However, CBCMs continue to be work in progress and need to be supported, tracked, learned from and improved.

Latest figures suggest that CBCMs are currently being set up or already operating in 15 crisis-affected or humanitarian contexts including 4 of the 5 case studies considered by the panel – Bangladesh, Central African Republic, Lebanon, and Iraq.²⁵ This reflects similar numbers for the establishment of PSEA networks at country level to enhance UN coordination and joined up action on reporting and response. The CBCMs have been main focus of IASC efforts including a detailed guide (running to over 280 pages including annexes) in 2016. UNICEF contributed to that guide, provided training in collaboration with IOM on CBCMs to PSEA Networks in 7 countries, and is currently piloting mobile phone-based technology to supplement CBCM work; this is being tested over 2018/19 in CAR, Mali and Lebanon²⁶.

The detailed guidance and sharing of good practices require operational training and technical support that may need to scaled up and sustained if CBCMs are to be fully realised and effective as reporting and case-handling mechanisms in high-risk settings. There is a need to ensure lines of accountability for UN leadership at the country level at the highest civilian level (usually the HC or SRSG in crisis-affected settings), and that this is part of job description and performance review for the HC and SRSG functions. The HC and CBCMs can only operate well if all UN entities participate and respect common principles that reflect shared accountability for follow up on complaints and allegations – such as being predictable, responsive, timely, transparent, and focused on complainants as rights-holders.

2.3.2 Need for one UN coherent community accountability mechanism at country level in all settings

The Panel believes that having a coherent shared platform for complaints is important at the country level whether in a humanitarian or non-humanitarian context. As one interviewee reflected, communities and individuals often see only one UN and do not know the labyrinth of

²⁵ 'PSEA Mapping of country level networks and global initiatives 2017', carried out by the IASC Task Team on AAP/PSEA; and internal email responses to requests for information by the Panel.

²⁶ UNICEF (2018) 'UNICEF Brief – Protection from Sexual Exploitation and Abuse', 12 July 2018; and internal email responses to requests for information by the Panel. See also IASC (2016) *Inter-Agency PSEA-CBCM Best Practice Guide* (2016).

entities that lies behind until they try to report and 'find themselves dealing with 26 UNs'. This is a deterrent to reporting and does not inspire confidence or trust. UNICEF has a unique role in assuring any mechanism is child-friendly and operates in accordance with the Convention on the Rights of the Child.

There is a need also to look at appropriate and relevant mechanisms for operating in non-humanitarian settings and how to make use of existing coordination mechanisms to address SEA and encourage community engagement and reporting. This requires use of risk analysis and management to assess what types of risk of SEA are prevalent in what settings and shaping strategy and actions in response to that close to the ground. This theme is taken up in Chapters 3 and 4.

Action Point: The Panel suggests that UNICEF, as part of its inter-agency leadership and participation in IASC, press for accelerated roll out, sustained training and support, and real-time learning and adaptation of CBCMs and associated PSEA Networks in humanitarian contexts, so that challenges and improvements can be addressed in terms of reporting and case follow up. Also, that UNICEF pay particular attention to the rights of the child in the setting up and operation of such mechanisms.

3.0 Prevention

This chapter looks at short- and long-term measures to create a culture and framework that deters SEA. The Panel believes that prevention must become the cornerstone of PSEA, focused on addressing the conditions and risks that give rise to SEA and mitigating these as far as possible. A robust and well-functioning PSEA system (for example, an enhanced PSEA MOS with more teeth) is a signal and accountable measure that prevention is being enabled.

The Panel notes that much of the focus to date by UNICEF has been reactive and an accumulation of many fixes to existing processes, HR procedures, development of training material etc. This is not sufficient and reduces prevention to a tick box exercise.

Key Findings

3.1 Key Finding: A need to move beyond fragmented compliance measures and build a more systemic approach to preventing SEA that includes more active promotion of deterrence

3.1.1. *Elements of a systemic approach to preventing SEA*

The Panel identified in the course of this review, the following components of prevention discussed across this report, and in this chapter, that could be better articulated and actioned as a more robust and systemic approach to preventing SEA:

1. An organisational culture that (i) sets that tone and values from the top (ii) cascades tone and values through management and staff (iii) is transparent in its dealing with risks and sharing good and bad news, and (iv) rewards openness and speaking out on SEA.
2. Community engagement and empowerment that treats individuals and communities as rights-holders and international UN humanitarian and development entities as duty-bearers (discussed in Chapter2).
3. Risk assessment and risk management for SEA as an integral part of corporate, regional and country-specific planning and programmes.
4. Strategic package of measures to underpin staff and partner responsibilities and enhance visible accountability and stronger culture of PSEA. These measures need to be taken together and tracked as a package rather than disparate activities/procedures that do not necessarily join up. This would include
 - HR recruitment, vetting, references/referral to other organisations
 - Embedding and rolling out codes of conduct, standards of behaviour, values
 - Training/induction/reinforcement (on-line, in person, events etc.)
 - Contracts and checks with partners as well as support and collaboration to help jointly create conditions for PSEA in all programmes and settings; and
 - Learning from partners who have established innovative and good practices in their own approaches of PSEA.

5. Clear communication on sanctions and deterrence of SEA; being prepared to be uncompromising in promoting and demonstrating zero tolerance and articulating specifically what that means in day to day terms.

Action Point: The Panel suggests that UNICEF adopt a more systemic and connected approach to prevention with elements of organisational culture, risk management, deterrence, operational support to staff and partners, and community engagement. This could be reflected in an updated PSEA Strategy and Action Plan.

3.1.2. Deterrence needs to be more actively promoted with visible and credible sanctions

The Panel considers that deterrence contributes to prevention of SEA and reinforces the presence of accountability. In addition, the consequences for SEA need to be communicated and backed up by credible sanctions.

Sanctions should be designed to prevent perpetrators from engaging in similar misconduct in the future and at the same time must deter others from committing similar acts. Sanctions are closely related to the certainty of reporting and an environment conducive for speaking up. The higher probability of a SEA incident being reported by the bystander (staff, partner, community member), the stronger effect the deterrence will have (a so-called 'social control').

The Panel feels strongly that the sense of consequences for violations needs to be better promoted and communicated. People need to know there will be sanctions and consequences need to be obvious. These should include:

- facing possible criminal charges, including in the country where the offence was committed;
- not being allowed to retire/resign in course of investigations or move on;
- implications for pension and entitlements;
- lifting of diplomatic immunity; and
- the show of strength from the authorities deciding on the disciplinary sanctions; those proved to be involved in serious SEA misconduct should face the most severe consequences i.e. they should be prohibited for life from working at the UN. This should be adequately communicated to staff (general deterrence) and should be included in the annual report by UNICEF.

The Panel notes that that such sanctions require wider and deeper conversation across UN system to ensure feasibility, legality, due process rights for victims and alleged perpetrators, and effectiveness of such sanctions. The main point being made is that sanctions are not yet fully developed, consistent, or seen to be applied with demonstration effect. Deterrence as part of prevention requires a system-wide, zero tolerance understanding of specific sanctions and that these are put in place by everyone. At present, the Panel notes UN entities adopt different approaches and standards for sanctions and so that deepens confusion and distrust.

The Panel observes that UNICEF like many other organisations only reports on investigative outcomes and their consequence in an opaque and sanitised (anonymised) manner, in part to protect the identify and location of the staff involved. The Panel believes that UNICEF's annual

report on disciplinary actions could be better used to emphasise zero tolerance messaging. Furthermore, a more contextualised review as part of annual reporting on SHA/SEA of past cases and lessons learned might be useful. In this way, deterrence and accountability are also closely related to transparency.

Action Points: The Panel suggests that:

1. **there be stronger promotion of deterrence as part of preventing SEA, with the focus on sanctions and consequences of SEA. These need to be credible, visible, and potentially negotiated/advocated within the administrative systems (UNICEF and system-wide UN) to ensure they work well and are used (that loopholes are closed down). The reality of deterrence and sanction for SEA must be visible and seen to work.**
2. **the Executive Director engage with other heads of larger UN Funds and Programmes and with the Special Coordinator on gathering an overview of sanctions available (as well as gaps and weaknesses) to drive a collective effort to address loopholes and strengthen the actions available to the executive leadership of the UN to sanction and deter SEA among staff and partners.**
3. **the Annual Report of UNICEF provide more detail on cases, investigations and sanctions for SEA and provide context and messaging on zero tolerance and lessons being learned about SEA and SHA.**

3.1.3. Training cannot simply be a tick box exercise and requires reinforcement

The Panel notes and commends the drive, particularly in the early part of 2018 to increase the completion rates for mandatory on-line training on PSEA; as of July there was a 96% compliance rate and, in the field, visits high completion rates were also observed. Many respondents found it practical and helpful in terms of awareness and prompting discussion. However, it can't be a stand-alone action, senior managers said. Some interviewees noted that this was among 6-7 'mandatory' courses that new staff have to take on top of busy workloads

The course, taken by one of the Panel members, seems good and reflects multi-cultural dimensions of the organisation and where it works. However, some interviewees pointed out that it does not translate well into all cultures and that for some local staff there may be a risk of language and different interpretation of the material. Training needs to go beyond a 'check-the-box' approach and more is needed to address cultural issues and to make it 'real' as well as embedding it into ethics training, office retreat discussions and onboarding induction and training.

The Panel also notes that there is limited staff accountability as PSEA work is not yet reflected in performance management nor is it part of job descriptions. The current way of working seems to depend on staff wanting to engage but little recognition it seems for the extra work. The demonstrated commitment and engagement of specific leaders and staff members were noted in every one of the 5 case studies conducted and reviewed; so too was the over-stretched capacities or additional work involved. Specific responsibilities for SEA should be written into job

descriptions and/or staff should be rewarded for taking initiatives to strengthen prevention of SEA in their duty stations or areas of work.

Training is just one part of mentoring, leadership and encouragement by line managers, and accountability through performance review that are part of building awareness, creating organisational culture that enables PSEA and encourages speaking up. The Panel encourages greater learning on what works and development of more integrated packages for staff development, improvement, and performance with respect to PSEA

Action Point: The Panel suggests that UNICEF build on the on-line training course and explore more integrated packages for staff development, improvement, and performance with respect to PSEA.

3.2 Key Finding: Organisational Culture is the enabling environment of protection from Sexual Exploitation and Abuse, and needs a long-term perspective with ongoing proactive measures and tracking of change.

Organisational culture and change is tangible and intangible and can often be a case of 'fish simply not seeing the water they are swimming in'. The Panel finds in this review that organisational culture is the ultimate enabler for change in terms of new ideas, ways of working and critical self-reflection on what is not working and where things go wrong. In the context of PSEA it holds together and sustains the whole-of-organisation approach called for by the Panel in Chapter 1. UNICEF and other humanitarian and development organisations can have all the elements of PSEA - investigations, training, reporting, etc. - in place, but, if the cultures of the organisations do not carry trust and credibility then these elements are not working as well as they should.

3.2.1 Tone from the top

The new Executive Director arrived in post in January 2018 and almost immediately confronted the resignation of a Deputy Executive Director amidst allegations that resurfaced latent concerns, risks, and anger about the handling of SEA and SHA by UNICEF. This was part of a wider trend in the latest convulsion of panic about SEA to challenge international humanitarian, development and peacekeeping organisations and operations. This time however, it also came on the back of the global eruption around the #MeToo movement that started in Hollywood and went viral. This touched a world-wide nerve of power, gender, anger, resentment, solidarity, calls for action and 'enough is enough' when it comes to hidden and normalised acts of harassment, sexual abuse, abuse of power and exploitation of women, girls, boys and men in predatory or vulnerable personal, social and professional situations.

The Executive Director took an immediate and uncompromising stance as evidenced by her calling a global townhall 'All Staff Meeting' on March 1, 2018, her messages to staff, her commissioning of reviews to accelerate deliberation and decision-making for priority actions, and her pressure on management and staff to step up on PSEA. The tone from the top was clearly sounded by the message of zero tolerance in the call of 'Not Here' in the open staff meeting. The

Panel heard it echoed in the field visits and interviews where some dared to hope that a new culture may be emerging.

The Panel would not be surprised to find that the Executive Director has faced the same information overload that inundated the Panel early on in this review. Parsing this up and getting to the heart of the matter will hopefully be assisted by the three ongoing reviews on SEA and SHA. The important point is that the Executive Director is supported by her management and staff at all levels to follow through and that UNICEF can demonstrate in short order that change is coming with regard to PSEA as an organisational reality, risk and blight on its work as a defender of children's and young people's rights everywhere. The suggestions and ultimate recommendations in this report are intended to support those efforts.

The short-term focus for the Executive Director and management is to provide strategic leadership and a coherent action plan on PSEA, whilst recognising that the overall capabilities and culture for an effective PSEA system could take 3-5 years to fully develop and realise. It is this need to move from a reactive to proactive approach that informs many of the Panel's suggestions in this review. This does not mean that results, impact and significant changes cannot be milestones along the way and indeed, they are the necessary and visible steps that will realise the ambition, imperative and challenge of meaningful and effective PSEA set out in the Introduction of this review. Acknowledging the enormity of the challenge and the sustained commitment and resources required to address it is an important part of shifting the organisational culture on PSEA.

The Panel acknowledges that it takes time to change, reorient, and enable an organisational culture that takes PSEA into the bloodstream of the work and organisation. People have to be reassured over and over again. There will be steps forward and back. In such a case, there is a risk that any executive leader gets discouraged or caught up in minutiae of bureaucratic processes at agency or inter-agency levels.

Action Point: The Panel commends the Executive Director in bringing her leadership to, and taking a strong stance on SEA. The Panel encourages her to push through in terms of maintaining the tone from the top and backing it up with a focused plan of action for the next 3 years that can give UNICEF the improved and strengthened system of PSEA that it requires and deserves.

3.2.2. Promoting a Culture of Speaking Out on SEA

(i) Organisational tendencies that hinder PSEA

UNICEF's organisational culture is defined by very positive traits such as high levels of staff integrity and dedication to the mission of UNICEF, and principled commitment to the Convention on the Rights of the Child in all aspects of life and development. Many interviewees and staff in the field expect strong advocacy positions from UNICEF on SEA and the abuse of children. This needs to be tapped into in terms of UNICEF advocacy and messaging on PSEA and shape the leadership of UNICEF in the wider UN System on developing rights-based, child-friendly

responses and prevention in terms of community engagement, investigations, reporting, and victim assistance and accountability.

The Panel emphasises here the aspects of culture that may be hindering a system of PSEA from taking root as well as it should and needs to. This is reinforced from interviews both in HQ and the field, where respondents, including senior managers were sceptical, unsure or distrustful that there would be any strong organisational and leadership response to SEA or SHA. One interviewee spoke of the current approach as ‘trickle down’ PSEA. Across the range of research, interviews, and engagement on this review, the Panel observed the following tendencies of organisational culture:

- a culture not conducive to reporting bad news, preferring to focus on good news;
- an environment where there is reluctance, lack of trust, and fear of reporting;
- inadequate trust that leadership will act, and that staff will be exposed or retaliated against in terms of career progression or reputation.
- a tendency to not immediately see or seek out SEA/SHA risks, similar to fraud blindness, if one is not looking for it one will not find it; and
- there is a culture of risk avoidance in terms of sharing of sensitive or potentially negative information, while managing confidentiality.

(ii) Listen to the Global Staff Survey

An insightful source on organisational culture is the *Global Summary ‘Whole Organization Report’ on the 2018 GSS ‘Pulse’ Survey results*. Some 8,080 of 13,794 staff members responded - a total global staff response rate of 59%. Some 536 Consultants also participated. One of the five priority questions from global management related to Speaking Up. A worrying result for the Panel is the measure of Personal Empowerment that emerged from the three following questions/statements put to staff:

- I am able to influence decisions that affect my work.
- I feel safe to speak up and challenge our processes in my office.
- I have the freedom I need to make decisions about my work without going to my manager/ supervisor for permission.

This indicated a negative benchmark median of *minus 24*, meaning that it fell well below its peers in select comparator organisations in terms of the sense of personal empowerment felt by staff in the workplace and organisation²⁷. As the survey explains ‘this theme reflects the degree of independence a staff member feels in acting to take decisions, raise and address issues and make an impact in the workplace’. The most striking feedback is that *48% of respondents felt neutral, negative or strongly negative about speaking up*.

²⁷ ‘The benchmark median is the value in the distribution of positive scores amongst the benchmark peers below which 50% of the distribution lies. Where benchmark comparisons are provided, the benchmark figures are based on data collected from ... 8 organisations [UN agencies and INGOs]’. (Survey, p.3)

(iii) Incentivise *speaking up*

The Panel advises that the key here is to recognise staff who are active on PSEA and who promote an open culture. Creating and promoting an open, speak out culture on PSEA needs to be incentivised in a context where staff need to be reassured to do the right thing, and that they will not suffer for speaking out. For example, active promotion of the revised whistleblower policy including prominent placement on intranet.

There is a shared need in the context of both SEA and SHA to recognise the power dynamics at play in workplaces where staff who might want to speak out, dare not. This can be due to fear of reprisal, not being taken seriously, being on insecure short-term contracts and therefore fear of implications for contract, promotion or career progression. Age and gender, as well as position in organisational hierarchy all contribute to such power dynamics. These were all reflected in interviews and field visits carried out in the course of the review, at all levels and functions across UNICEF.

Training can be helpful but without personal reinforcement by a head of office or line manager this will not be effective or embedded in culture of offices and programme settings. Dialogue and discussion need to be encouraged by the leadership of Country Representatives, Regional Directors and senior managers. Management training should include soft skills such as “listening and reacting to staff” and staff empowerment. Leadership and managers need to show the way in opening up spaces and facilitate difficult discussions.

The Panel notes emerging good practice in this regard from the field visit to Kenya where PSEA was the subject of discussion at senior management meeting in the CO in March and subsequently cascading discussions were held by heads of sections with their teams; a meeting with the CMT during the visit reinforced a strong sense of growing engagement and discussion across WASH, Nutrition, Communications, Child Protection, and Evaluation as participants reflected on how it would play out in operational terms as time goes on. This discussion underscored how important leadership in an office is as well as the creation of space to discuss PSEA in deeper ways.

3.2.3. *How will UNICEF know if changes are happening in organisational culture?*

- Staff surveys will reflect change and the low baseline of 2018 will improve.
- People will speak out and Executive Director and senior managers will ‘get more trouble’ in response to clear corporate message on zero tolerance; they must be ready and open for this and ready to respond constructively and in timely, transparent manner.
- By moving consequentially through a strategy over the next 3 years.

The staff survey could treat the baseline of the 2018 survey on this category as one element of tracking change in culture over next few years. The survey could consider adding questions on PSEA measures to track more deeply issues of trust and response on reporting and follow up for SEA and SHA. The Special Coordinator survey cited in Chapter 1 above, is also evolving as a useful source of feedback and pulse check on SEA attitudes and measures across the UN and for UNICEF specifically. This could be discussed with the SC Office to consider if

questions/themes relevant for humanitarian and development entities might be added to this survey to assist with (i) understanding and risks of SEA in aid operations and programmes (ii) adapting measures for prevention and response and (iii) tracking change in attitudes and feedback over time.

Action Point: The Panel suggests the Executive Director outlines active measures to promote an open, speak out culture on PSEA as part of the recommended updated Strategy and Action Plan on PSEA.

3.3 Key Finding: The Transfer of Money to Implementing Partners does not Transfer the Risks of SEA

The Panel observed a strong sense that ‘real risk’ for SEA is considered to lie with implementing partners and front-line workers in remote areas or where vulnerable populations are gathered. This was backed up by field visits and interviews. In 2017, UNICEF was involved in funding and supporting 3,939 civil society organisations, i.e., national and international NGOs, community-based organisations and academic institutions. It also supported and funded 5,532 government ministries/agencies at national and sub-national level.²⁸

The Panel asserts that the transfer of money does not transfer the risks of SEA when it comes to UNICEF working with implementing partners. SEA risk cannot simply be transferred, delegated or assumed to lie with implementing partners – INGOs and national NGOs, community groups, and programme spaces. UNICEF is present whether it chooses to monitor, visit, do spot checks, or adopt a pro-active approach to community engagement.

The new UN-wide *Protocol for Implementing Partners* on PSEA developed by the IASC Task Team on AAP and PSEA led by UNFPA and UNICEF seeks to establish a framework of accountability covering partners. It was endorsed by the UN High-Level Steering Group on SEA in February 2018. The Field Results Group of UNICEF has just launched a global package of measures, tools and guidance it will roll out with COs to work with partners on this. This package contains the following elements:

- Global Broadcast Messages to staff alerting the roll out plans (July 20, August 13)
- Updated templates for partnership agreements that add specific clauses on PSEA accountabilities and measures to the General Terms and Conditions of; these are to be signed by existing partners and their sub-contractors
- Due diligence verification form for UNICEF partners includes statements and checks (media, online) for potential SEA or reputational risk
- IPs encouraged to use the Integrity1 email address to report misconduct
- PSEA orientation presentation that sets out survivor-centred approach to victims,
- Copy of the Protocol and FAQ sheet on it
- IPs expected to train their employees, personnel and subcontractors on prevention of and response to SEA, and share relevant documentation with UNICEF by end of 2018

²⁸ Data submitted to the Panel by UNICEF Field Results Group.

- UNICEF commitment to provide support to IPs and share PSEA resources
- A comprehensive toolkit for IPs is under development by Child Protection, in collaboration with the Field Results Group and other stakeholders.

UNICEF has already taken steps in entering clauses into contracts and PCAs and seeking confirmation from partners of existing policies, training and reporting systems on PSEA. The Panel welcomes the reaffirmation in the global message of August 13th that the UN Protocol applies in all UNICEF offices, in all programme contexts, and with all implementing partners.

It is important that this implementation of the new protocol is more than a tick box exercise or a working assumption that risk can be transferred. This needs to be more of a shared endeavor to build the capabilities and systems for PSEA that the wider humanitarian and development field needs to protect and continue its vital lifesaving work of assistance and recovery for people affected by crisis, conflict and natural disasters, and to protect children in all operations. The Panel emphasises the importance of UNICEF working in partnership with the IPs in meeting the shared risk, challenge and accountability for SEA and cautions against seeking to delegate risk through contractual arrangements.

The Panel believes that all PCAs could consider adding more substantive language for dialogue with partners regarding what partners have in place and to raise 'no agreement' on PSEA as a risk. As a matter of fact, the Panel notes emerging good practices by implementing partners from the field visits²⁹. For example, (1) IRC and its code of conduct named 'The IRC Way' and how that is rolled out and promoted with and by staff in different countries (2) and the Kenyan Red Cross shared and briefed longstanding, well-established reporting and response mechanisms as well as active community engagement on PSEA. It was the counterpart of the UN in driving through the initial strategy and tools for the PSEA Task Force that operated in Kenya from 2009/10 until it seems to have petered out when HC moved on and humanitarian crisis abated.

The Panel considers IASC to be an important forum where major IPs are present and where UN and other actors engage as partners in shared community of humanitarian assistance. IASC is also recognising, for example, that many smaller NGOs and CSOs will simply not have the capacities and resources to carry out investigations and due diligence for PSEA and so announced a new fund spearheaded by OCHA to support these efforts. Beyond this, there is a spirit of joint capacity building and support in partnership and a learning and shared endeavour in preventing and responding to SEA that needs more recognition, active support and to be replicated in non-humanitarian scenarios.

Action Point: The Panel suggests that partners need to be engaged on PSEA and that this is not simply a matter of delegating risk but supporting partners and learning with partners in what is a shared challenge. There is space for such joint work within UNICEF and at level of IASC with other UN entities who often work with the same INGOs and CSOs, as well as major implementing partners who are part of IASC.

3.4 Key Finding: PSEA is not embedded in risk management at HQ and field level

The Panel was surprised to find that UNICEF's corporate risk register for 2018 does not include PSEA; neither did SEA or 'failing safeguards' feature in the 2017 guidance on enterprise risk management to all offices. It is not surprising therefore that a review of current risk registers for selected COs (Bangladesh, Lebanon, Kenya and CAR) and ROs (ECAR, ESAR, MENA, ROSA) show no reference to SEA as a risk for UNICEF.³⁰ Yet, it is clear from interviews and field visits that many in senior management see SEA as a risk since 2015 in particular with the CAR Report on peacekeepers and SEA, and the negative findings regarding UNICEF. This heightened sense of risk has been accelerated since early 2018 with the arrival of the Executive Director who has been voicing a strong push on PSEA.

There is emerging recognition that PSEA needs to be part of risk management at programme level. A recent UNICEF briefing indicates it is 'under development based on existing knowledge and tools in the GBV sector and initiated as part of Rohingya response and Iraq.'³¹ In the field visits certain senior leaders and programme staff demonstrated keen awareness of programmatic risks and emerging attempts to mitigate them and factor them into planning, monitoring and evaluation. There is not yet, however, a sense that PSEA is a matter of risk and responsibility across all programmes and sectors (WASH, nutrition, education etc.) and not just a matter for GBVie and Child Protection.

PSEA needs to be a matter of planning and consideration in all operating contexts where UNICEF works. For example, the preventive measures of setting up systems of checks and balances and capacities to vet, report and act on SEA is important in terms of being prepared when emergencies strike. This is true for UNICEF internally and for partners. This can be seen in the Bangladesh where there is a significant crisis (influx of Rohingya refugees) and a large-scale response and programme. Such scale and risk require appropriate levels of preparation to have vetted staff and consultants for certain standards beforehand as there is not time when disaster strikes.

PSEA actions need tailoring and support to be embedded in all types of UNICEF presences in humanitarian and development settings. This requires an understanding of risk in different contexts and even variation within context where dynamics of crisis might exist in certain geographic areas or programmes (e.g. Kenya which is mainly non-humanitarian but where work in more remote and border areas as well as legacy IDP issues and electoral issues exist). It also

³⁰ All risk registers were provided to the Panel by the Enterprise Risk Management team in the Strategic Business Support Office.

³¹ UNICEF Briefing Note on PSEA, July 12 not)

means working with the requisite UN coordination and leadership structures (UNCT, HCT, UN Integrated Mission) and being explicit about UNICEF roles and responsibilities and the balance to be struck between One UN approach and an internal UNICEF approach.

At country level there should be an UN-wide SEA prevention strategy which should be based on a joint SEA risk analysis and root cause identification. This should consider how to strategically respond to root causes of SEA, such as severe impoverishment, the normalisation of violence, social norms around child marriage, impunity for sexual violence, lack of governance and rule of law and overall insecurity. Furthermore, in countries with UN/non-UN troop presence, the socio-cultural background of the contingents needs to be factored in and addressed through training, strict adherence to code of conduct, duration of rotation, etc. In this regard, some of the work done by the Special Coordinator is promising but needs to be proactively monitored by the peacekeeping missions at the country level. At another level, the Department of Field Support in the Secretariat piloted an launched a SEA risk-management toolkit. It is included in 2018-2019 IASC PSEA Task Team work plan to be adapted as an IASC-wide tool.³²

The Panel believes there is an urgent need to embed SEA into risk registers (project and country level) and risk discussions (within UNICEF and within UNCT) where PSEA risk is mapped and tailored to different contexts.

Action Points: The Panel suggests that:

- 1. PSEA be treated as a standard part of any risk analysis at project, programme, country and corporate levels.**
- 2. the Executive Director in her new role as IASC Principals' Champion on SEA/SHA lead on practical plans for UN-wide SEA prevention strategies in all countries – humanitarian and non-humanitarian – and pursue this in joint efforts of IASC with the Office of the Special Coordinator.**

³² (A/72/751, para.20)

4.0 Response

This chapter reviews the trends and challenges in areas of response to SEA, with a focus on reporting, investigations and victim assistance. The Panel finds elements of these areas of response to be in place and working to some extent, but requiring lift and investment to be working well. This lift is needed in terms of a paradigm shift where an accountability approach drives the implementation of response actions and more resources are invested to ensure this.

The Panel notes that well-functioning reporting mechanisms can contribute to the sense of accountability both at the organisational level (for staff) and at the community level; it gives a perception of ownership over the process that should follow. Reporting here is understood as both external (community reporting discussed in Chapter 2 and here) and internal (inside UNICEF involving staff or partners).

Key Findings

4.1 Key Finding: Chronic under-reporting is a systemic concern and stumbling block to accountability and prevention of SEA

4.1.1 Under-reporting is a systemic challenge

The Secretary-General's report of 2018 on special measures for PSEA highlighted the weak link of reporting in the findings of the 2017 system-wide survey of the Office of the Special Coordinator: 'the results indicated that more effective systems for the reporting of allegations were needed, along with greater oversight by senior leadership and more outreach to staff on how to report.'³³

A 2018 Report by the UN Joint Inspection Unit confirmed that underreporting is a system-wide issue³⁴. The main reasons for underreporting as provided by the JIU, resonate with those seen and heard by the Panel: (a) personal fears or risks of reporting; and (b) lack of confidence in the systems and functions in place. Under-reporting can be attributed to power dynamics where staff members fear impact on their careers; gender where women report less than men but experience more retaliation; and, employment status where non-staff members tend to be more reluctant to report as they feel vulnerable. A key issue raised by the JIU is the lack of trust in the organisation to take meaningful action and the perception that 'nothing will happen'.

In the view of the Panel it is vital that staff trusts management to do the right thing and that reporting is not seen as a potential career impediment. As in any organisation, cases that are reported on are closely watched by staff who draw their own conclusions on whether or not they trust the process. The low number of SEA/SHA cases resulting in disciplinary action also is cause for concern and does not serve as a deterrent. This reflects fact that a relatively low percentage of the cases investigated get confirmed. While it is to be expected that not all cases are founded, the low numbers in part are a result of having closed cases if a staff member leaves the

³³ A/72/751, para. 18.

³⁴ JIU (2018) *Review of whistle-blower policies and practices in United Nations system organizations* (JIU/REP/2018/4), Geneva.

organisation - this is now being changed but explains in part some of the low number of disciplinary actions. Of serious concern to the panel is the fact that only 21 percent of UNICEF respondents in the 2017 system-wide survey of the Office of the Special Coordinator on PSEA, believed in the event that they should report an instance of sexual abuse or exploitation in their duty station they can do so without fear of retaliation. In the view of the Panel, whistle blower protection and management support to those involved combined with swift action on reports are essential requirements to encourage a “speak out” culture.

The Panel notes positively that UNICEF has instituted a Notification Alert to Senior Management for reporting allegations and incidents of SEA of children by UN personnel or foreign military personnel associated with a UN mandate. This is in the form of a Significant Incident Report (SIR) from the Country Representative of UNICEF to the Regional Director and onto the DED Management in New York, all within 36 hours. UNICEF staff cited inconsistencies between the official internal reporting protocol (Notification Alert) and communications from senior management on SEA reporting. For example, a Power Point presentation by UNICEF senior manager to the Executive Board on 12 June 2018, the PPT says at slide 3 that SEA allegations are reported to executive level within 24 h, instead of within 36 h. There have also been instructions from HQ to a certain CO to report through the Notification Alert all SEA (not just against children) committed in UNICEF sites, such as UNICEF branded tents. Leaflets and posters for wide dissemination are being produced including this instruction in that country.

There was also some feedback from the field visits that this timeframe can be very tight for field staff to scope and verify basic information on allegations before submitting. The Panel also heard that OIAI is not directly part of this notification alert system and SIR so its involvement in and knowledge of situations and overall allegations are limited. This is not an ideal situation, is out of step with established practice in comparator agencies, and contrary to OIAI mandate to be the decision-maker regarding when to open an investigation. It also limits corporate analysis of the risk factors. The Panel encourages management to ensure OIAI is copied on all incoming complaints so as to ensure their proactive engagement if warranted.

The overall reported case load for UNICEF (OIAI) seems low in comparison to other large agencies, with below 80 new cases per year as reported for 2016 and 2017 for a range of cases involving SEA as just one category of allegation³⁵. 11 SEA allegations were noted between 2009 and 2018, and reviewed by the Panel. These numbers also seem low when one considers the size and scale of UNICEF global budget, staff, and number of civil society and government partners³⁶. The spike in over 80 cases (according to Panel information, mostly new cases regarding abuse of power) in early March 2018 following the Executive Director’s communications on SEA and SHA points to significant under-reporting in the past. In earlier parts of this report we have explored cultural factors that are at the root of such under-reporting.

In order to change this, the Panel believes that building trust - in follow-up, transparent reporting, consistent tone at the top, zero tolerance and protection of whistle blowers – must be a top priority.

³⁵ See data sources cited under later discussion on Investigations.

³⁶ UNICEF has global budget of \$6.57 billion and total staff of 13,855, 125 country offices, 7 regional offices and 34 national committees, as well as partnerships with 3,939 civil society organisations and 5,532 government ministries/agencies recorded in 2017.

A more direct engagement by OIAI in internal communications could also strengthen a more independent profile. The Executive Director's annual report on disciplinary processes constitutes a good opportunity for highlighting SEA cases and action taken, as well as delivering key messages on tone at the top. This will help build confidence in staff that reporting is taken seriously.

Action Points: The Panel suggests that:

- 1. The Executive Director and Senior Management actively promote and reinforce a 'speak up, speak out' culture and actively engage in understanding the attitudes and power dynamics that drive under-reporting of both SEA and SHA.**
- 2. The Executive Director and Senior Management deploy communications and reporting tools (e.g. the Annual report on disciplinary actions) to convey key consistent messages.**

4.1.2. Whistleblower policies and practices

The Panel takes note of ongoing action by UNICEF during 2018 to clarify and strengthen the approach to whistle-blowers and prevention of retaliation that is relevant for PSEA and SHA:

- On June 21st, a revised policy was approved by Executive Director on 'UNICEF Policy on Whistle-Blower Protection Against Retaliation' (DHR/POLICY/2018-001); it covers UNICEF personnel, includes designated focal point on SEA as one of four channels for reporting misconduct or preventing retaliation, and reinforces the Ethics Office as location to report attempts at retaliation. Potential measures to protect complainants (UNICEF Personnel) and sanction retaliation attempts are set out.
- On August 15th, the Ethics Office hosted a webinar on *Whistle-blower Protection against Retaliation: what it is, why it matters, and what changes with UNICEF's revised policy.*
- In parallel, a Pocket Guide was developed and posted on the Ethics Office website.

The revised UNICEF policy follows on from and reflects the reinforcing language of the 2017 Secretary-General Bulletin on the issue of retaliation for reporting misconduct or participating in investigations that makes specific mention of its application in cases of SEA³⁷.

UNICEF actions also take place in the context of the JIU report issued in July 2018 comparing whistle-blower policies and practices across the UN system³⁸. This report found variation across the system and no one entity, including UNICEF, fully met the criteria and indicators of good practice on reporting and protection from retaliation. The analysis and recommendations of this JIU report need to be considered by UNICEF as it updates its overall policy and operational plans for effective SEA. The effective promotion and implementation of this revised policy can serve to encourage 'speak out' culture. The linking of this policy with efforts at level of CBCMs and engagement with implementing partners will be key to ensuring that communities and partners as well as UNICEF staff are prepared to come forward and report SEA.

³⁷ (ST/SGB/2017/2/Rev.1)

³⁸ (JIU/REP/2018/4), *op. cit.*

Action Point: The Panel suggest the revised whistle-blower policy is promoted and made operational across UNICEF and with partners, communicated easily and visibly on websites, and demonstrated that it works – that staff will come to know and hear of cases where people were protected.

4.2 Key Finding: Too many mechanisms leading to confused reporting lines for SEA

The Panel observes that at the field level, mechanisms are being set up in elaborate ways in crisis settings. See for example the references to PSEA Networks and CBCMs in earlier parts of this report. The Panel finds there is still uncertainty about reporting in one's own agency/entity or as part of One UN in the context of a Country Team (humanitarian or development) or where there is an Integrated Mission (Peacekeeping, Special Political Mission, Country Team).

Each agency seems to be reporting up the line and/or passing information to each other at field or headquarters levels (vertical and horizontal sharing of information on incoming allegations). The Panel also heard of pressures from headquarters pushing to be first to know and also the Office of Special Coordinator needing to know directly. Furthermore, there was a sense of 'reporting to nowhere' in terms of delayed or no feedback on what will happen next or a sense of accountability and feedback to victims. The Panel heard concerns from the field level that very short reporting times to HQ got in the way of scoping or verifying an allegation before putting full details forward. This was not intended to dismiss the need for an urgent timeline but to argue for it to be feasible and in the interests of establishing situation and facts so that next steps could be agreed quickly.

In CAR, where there is an integrated mission, there was a sense of parallel reporting lines and a 'race to get information to New York first' among Mission, Secretariat, and Agencies, Funds and Programmes. The roll out of the new protocol on implementing partners that FRG is leading with COs and partners introduces a further OIAI complaints email for IP reporting. While good in principle this may risk by-passing locally established mechanisms.

Hotlines as a reporting channel for SEA

The Panel found the use of hotlines was a much-cited reporting pathway. For example, The Iraq hotline running since 2014 was favourably mentioned in documents as well as in some interviews. The Iraqi IDP Information Centre runs a toll-free national number linked to a call centre that provides information, advice and referral on a range of humanitarian assistance enquiries (types of relief, distribution points, family search etc.) and includes complaints and feedback in terms of accountability of aid providers including SEA. In CAR, the UN Humanitarian Country Team is building on an existing hotline, *Ligne Verte* run by DRC (Danish Refugee Council) that is managing the humanitarian hotline on behalf of the PSEA network made up of UN, Government and NGOs; the number for that is 4040 and has operated since 2013. Similar to the Iraq example, SEA is just one small part of overall complaints and feedback received on the hotlines. This was confirmed during a site visit. What further affects the efficacy of such a hotline is the fact that MINUSCA also has its own hotline 4044 for reports on mission personnel. There are pros and cons to separating out SEA a distinct hotline (risk of stigmatisation and costs) and concerns about how relevant or approachable they are for children who may not have access to phones. UNICEF could explore and guide on child-friendly nature of hotlines and other reporting channels and to ensure they respond to context and work for children.

Underpinning this trend of ‘over-reporting’ in a context of reluctance to report, is a strong sense that reporting pathways at country level are many and create confusion for staff, partners and communities. The Panel believes that the reporting path for SEA needs to be obvious and simple on the ground. This requires:

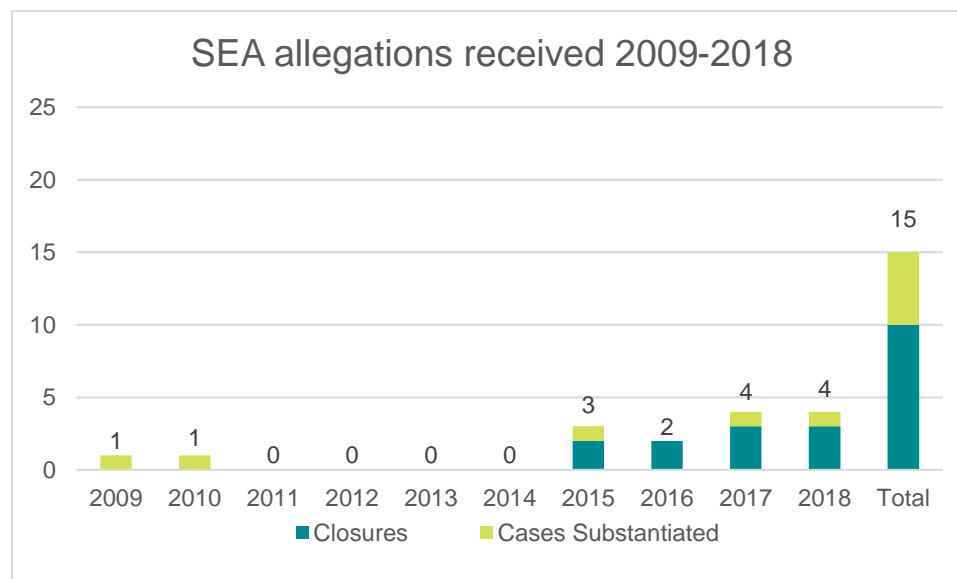
- Strong community engagement to encourage reporting (see Chapter 2)
- Improved and well-functioning CBCMs in crisis settings (see Chapter 2)
- Precise lines for reporting through UNCT, HCT or Mission, depending on nature of UN presence and the context – that are shared and understood by all UN entities at country level and HQ
- Use of **one** agreed and shared hotline or contact point for communities, partners and staff at country level
- Explicit instructions and scenarios for staff and partners on what to do in real-time situations to report misconduct as part of the UN at the country level and reporting up the line to UNICEF HQ.

Action Point: The Panel suggests one clear and consistent pathway for reporting SEA is established at country level and embedded in the UN operational and coordination set up that is there (humanitarian, development, integrated mission)

4.3 Key Finding: The Approach, Management and Outcomes of Investigations involving SEA need significant improvement and coherence

4.3.1 Panel review reinforces and converges with findings of parallel SHA legal review on investigations

The Panel was able to discuss and review the findings of the separate review commissioned to review 26 sexual harassment investigations conducted by OIAI from 2013 to 2017. The Panel also reviewed actual closure memoranda and investigations reports provided to it by OIAI on 13 out of 15 SEA allegations received between 2009 and 2018. Finally, it reviewed data-base information on case management provided by OIAI at UNICEF from 2009-2018 covering a total of 64 cases that were reported/opened across a (new and recent) breakdown of categories of sexual abuse, sexual exploitation, sexual harassment, and sexual assault³⁹. Comparing its findings with those of the legal review, the Panel concludes that the issues identified apply for both SEA and SHA investigations and concurs broadly with the recommendations by the legal review team. It is the Panel's understanding that the legal review will also be made publicly available and applauds UNICEF's courageous decision in this regard.



Source: OIAI, August 2018

The data received from UNICEF OIAI confirms a low average case load of SEA cases over the past ten years as well as a low number of allegations (5 or 33%) that were confirmed. In terms of regional distribution, the majority of the 15 OIAI reported SEA investigations were in Africa (9),

³⁹ Data was submitted to Panel by OIAI in the form of a table dating back to 2009 with annual data on a total of 64 SHA and SEA cases received, cases closed, investigations reports issued, and average timeline for each.

followed by Asia (4) and the Middle East (2). Two of the allegations were referred to a partner agency and the remaining 13 allegations were investigated by OIAI. At least two of the reported allegations took place in countries not in a humanitarian relief context, reflecting indeed that SEA is not only a humanitarian concern or risk. Not included are 8 sexual assault cases as they involved staff members. This does raise a definitional issue whether sexual assault which is a criminal offense should be reflected as SEA. It is difficult, however, to do a trend analysis based on the data made available, in part because the overall numbers are low. It is also difficult to benchmark this data with other UN organisations or the private sector as the presentation of data varies from organisation to organisation.

It was also brought to the panel's attention that transactional sex cases involving staff or rape of a staff member by another would not easily fit into current reporting categories. This calls for a need to revisit reporting categories and align these across the UN system for all contexts. Annual reporting is carried out on cases by most if not all oversight/investigations offices but the reporting categories are inconsistent, often merging SHA and abuse of authority. The data also hides the full extent of the problem as in the past – not only in UNICEF - cases were closed if the perpetrator had left the organisation during the investigation.

The Panel agrees with the legal review that a strong investigative function should be part of building a stronger organisational culture and sustaining a culture that addresses SEA and SHA early on. The Panel noted in this regard a positive development in investigators being part of regional workshops and webinars organised by the Ethics Office. Investigators should engage more in such initiatives, contributing with lessons learned and case studies as well as informing actions to address root causes. A review of case reporting in OIAI's annual reports does not currently allow for any trend analysis or root cause analysis.

In terms of the investigations themselves the Panel believes that it is critical that the investigators use a more holistic framework. The cases reviewed by the Panel speak to a very linear type of investigation and point to the need for investigators to be more skilled in SEA/SHA investigation. While the Panel was informed that all investigators had been trained on SEA investigations, this training was recent and therefore the cases reviewed were likely conducted by investigators without specific training or relevant professional background at the time. It should also be noted that the SHA/SEA case load was consistently low reaching a minor fraction of the overall case load with greater emphasis given to fraud cases (8 percent for 2016/17).

The Panel read and heard of lengthy investigations timelines for both SEA and SHA in the UN system with an average of 9-12 months, and in some cases the wait for an outcome being inconclusive. In the case of UNICEF, the data indicates an average duration of 105 days which would appear to be significantly below the system-wide average. The legal review while stating that investigations take too long did also point to the need to increase the ambition of investigations e.g. establish the credibility of the complaint/accused. Standards and expectations are changing and in 2015, the UN Secretary-General adopted a six-month timeframe for UN

investigative entities to conclude investigations into SEA, with is to be shortened to three months where ‘circumstances suggest the need for greater urgency.’⁴⁰

The Panel notes that investigations guidelines for OIAI need updating to reflect more recent developments, including timelines set for investigations and victim/child consent⁴¹. There is a need for specific SEA guidelines to be added and these should mirror or be aligned to those being prepared under the leadership of OIOS as part of the UNRIS. The obligation of UNICEF to inform the victims about the outcome of the investigation needs to be reinforced. The Panel also notes the need to strengthen investigations reports regarding legal framework and providing conclusions by the investigators. In 2 of the 6 investigations reports reviewed by the Panel, the investigators raised questions to the legal office rather than provide its own assessment of the merits of the cases. The interpretation currently seems to lie with HR/legal which risks resulting in different interpretations from the investigators.

As also noted by the legal review, the Panel saw closure of 3 out of 13 cases where the alleged perpetrator had left the organisation. In the view of the Panel this must change, in part to ensure full accountability of the perpetrator, if confirmed, but also to provide closure and accountability to the victim. The Panel noted that investigations into older conduct had not been pursued until recently and believes that there should be no time limitation on investigations while acknowledging that older cases are notoriously difficult to address but would speak to understanding the full picture. The importance of meaningful sanctions to drive deterrence as part of preventing SEA was discussed in Chapter 3.

As a matter of fact, as also indicated in a recent NY Times article⁴², there are question marks as to how the UN system has handled SEA and SHA cases. Also, independent reviews of investigative activities, or external quality assurance processes, such as those undertaken for internal audit or evaluation functions are rare. Therefore, there has been limited learning, although, the UN Representatives of Investigations Services (UNRIS) has now made joint protocols, challenges, case management and experience-sharing a key area of focus. UNICEF in this regard could play a useful leadership role in ensuring best practice child-friendly and victim-centric interviewing techniques get adopted around the system.

4.3.2. Investigation capacities need to be resourced and reinforced

The Panel notes that OIAI may require additional resources as also confirmed by the legal review. The current profile of the OIAI is as follows: 7 investigators ranging from 1 x P5, 3 x P4, 1 x P3 and 2 x P2. Three posts are filled by female staff. The Panel had access to resource information on other investigative services in the UN system and found that in comparison to other organisations of similar size and scope (e.g. WFP, UNDP and UNHCR), UNICEF appeared

⁴⁰ United Nations General Assembly “Report of the Secretary-General on Special measures for protection from sexual exploitation and sexual abuse” A/70/729 (16 February 2016) paras. 50-51;

⁴¹ For example, while the annex refers to the ST/SGB/2003/13 Special measures for Protection from SE and SA, no specifics are included in in text. Types of investigation listed on page 5 include sexual harassment and sexual exploitation in one line but does not refer to sexual abuse.

⁴² ‘U.N. Cases Read like “Manual in How not to Investigate” Sexual Assault’, by Jina Moore, *New York Times*, June 29, 2018.

understaffed and under resourced. Under-resourcing of this critical function has direct consequences on the timeliness of investigations and the ability of the investigative function to be proactive. The Panel welcomes therefore the recent capacity increase by four investigators but wishes to stress the following:

- The additional capacity should be used to complement existing capacities and care should be taken that overall the unit is more gender, geographically and linguistically diverse.
- Even with the additional four positions UNICEF still seems at a lower capacity. This could and should be addressed through greater use of a consultant roster and mid-term stand-by consultants allowing to upscale when needed.
- Other organisations have hired specialised investigators and increased the number of female investigators, but heads seem not to be convinced that such specialised capacity is needed. This may well be but, when given the opportunity to increase staff capacity, UNICEF would be well advised to make prior experience with SHA or SEA a desirable qualification for at least 50 percent of the new investigators.
- The level of the head of the unit (P5) is at a lower level than in other UN agencies where the position for larger offices and functions are classified at D1. The Panel also notes that the position has been vacant since March 2018 and is currently being filled by the former Chief on a Temporary Assistance basis. Combined with the recent departure of the Director of OIAI this represents risk but also opportunity.
- Resource constraints go beyond staffing numbers as they affect the ability of OIAI to perform its functions. Of 14 UNICEF-conducted and closed investigations between 2009–2018, only 29% were undertaken in the field. For sensitive cases such as SEA and SHA the Panel feels that ‘feet-on-the-ground are essential and that sufficient resources for travel should be made available as this essentially limits the effectiveness of the investigative function. The use of consultants based in the region could also be considered. As for SEA investigations in duty stations with investigative capacities, OIAI may wish to consider approaching partner agencies to provide on-site support.
- Increased resources will need to be matched with tightened performance indicators in line with those set by the UN Secretary-General. SEA/SHA investigations should set more ambitious goals for being brought to closure.

Action Point: The Panel suggests that the current approach and capacities for investigations on SEA by UNICEF are upgraded and strengthened in line with the findings of this review, and the parallel SHA review, and considered a priority in the recommended plan of action for PSEA.

4.4 Key Finding: Victim Assistance needs to be urgently reviewed with a right-based lens to clarify support to victims, as well as UNICEF roles, responsibilities and resources in context of system-wide accountability

A UN system-wide *Protocol on Victim Assistance*, led by UNICEF is still in draft form. It has been field tested in CAR, DRC, Iraq and Mali. Further training on the protocol took place in context of CBCM roll out (IOM/ UNICEF collaboration). Learning from CAR indicates that a working modality for Victim Assistance (VA) has emerged where UNICEF takes responsibility and charge of *all* victims in CAR who are minor/child or were so at time of alleged incident. While efforts to provide follow up services to victims are necessary and welcome, the project-based approach to VA needs to be re-considered from a rights-based approach grounded in proper accountability to victims. The Panel believes it is important for UNICEF to engage, learn and re-define its role and responsibilities more precisely in this area with regard to system-wide shared responsibilities, challenges and risks.

4.4.1. Risk areas for UNICEF on victim assistance and accountability

The following risks were identified from reports, interviews and country visits.

- Referral pathway for VA based on GBVie practice and working assumptions may not be giving victims as rights-holders what they want and need.
- Little or no feedback on investigations to victims causes backlash for UNICEF and partners;
- No onward referral to functioning justice mechanism creates frustration, risk and potential harm for victims and yet resolving this is beyond scope of any one actor and is part of the long and ongoing work to stabilise security situations, and enable nationally-owned and led peace and development including functioning justice systems for all crimes.
- How can SEA cases in this context be ‘concluded’ in ways that satisfy expected justice, punishment of perpetrators, and reparations/ recognition of victims?
- Open-ended funding risks for VA packages with no criteria for resolution or exit, in a context where UNICEF is increasingly seen as operationally ‘responsible’ for all UN SEA victims who are minors/children.
- Also, reputational risk for UNICEF in terms of becoming the ‘victims’ agency’ given exposed and unclear role in victim assistance.

4.4.2. Victim Assistance needs to give rights-holders what they are entitled to, not only what is available

The Panel finds the following trends for victim assistance as currently implemented:

- The sense is ‘off the shelf’ GBV packages⁴³ provided based on what is available rather than what is necessarily needed or wanted by victims. These vary in terms of quality of offer and availability according to field visits and interviews with providers. Interviewees in

⁴³ The packages follow standard GBV referral pathway services of medical, psycho social, legal, and economic regeneration. Some packages extend to schooling support for limited period or social and economic integration. There has also been a component of relocation for families of victims where security or stigma in community might be factor.

CAR for example, reflected that medical referral was often good, psychosocial was mixed and legal was ‘not working’.

- There are unintended consequences of victim assistance. These include frustration and anger of victims who feel abandoned, the provision of services where victims may want legal redress and reparations/ compensation, and risks for local partners when funding runs out.
- The emphasis on project-based services and packages mean accountability gets lost. Field visits reveal that some victims who have waited a long time for some type of court/judicial process and reparations have turned angry or given up. Even where investigations have taken place, the lack of feedback to victims or any recourse for legal follow up is noted.
- There is a gap in referral to legal support and justice, particularly in crisis-affected setting where institutions are weak. Some Interviewees suggested a type of ‘civil reparations’ or ‘economic regeneration’ scheme for victims was required if investigations or courts were not going to deal with cases.
- In development settings, there is strong possibility for referral to existing national systems for services and of criminal investigation and courts. This was evident in Kenya with the existence of government and civil society referral networks of services, policing, and a legal system and courts, including at decentralised levels. However, in the Iraq case there were concerns about safety and trust in local justice and security officials even when institutions were in place. Guidance and clarification are needed for UN leadership and staff on how to work with national authorities and mechanisms in cases of SEA.

It is not evident to the Panel that VA as currently framed advances UN accountability to victims or system-wide organisational accountability. This goes to back to the strong message of the Panel in Chapter 2 on the need for a rights-based approach to individuals and communities.

4.4.3. Who pays and is there an exit strategy or resolution point?

The Panel notes the deep commitment of the leadership and staff in this area, but UNICEF is stretched. Simply absorbing the work of VA and PSEA into existing programmes with *ad hoc* funding is not appropriate, sufficient or sustainable. Furthermore, the funding gap for PSEA in terms of reliance on *ad hoc* funding or new funding for additional activities is compounded in a context where humanitarian appeals and response plans are seriously underfunded on a regular basis.

UNICEF has been paying to some extent for victim assistance programming from its own funding. For example, the CAR CO received set aside funds during 2017 (USD\$1.8m CAR CO; plus, regional office WCARO \$1m)⁴⁴, but there is no confirmation that further funds will be forthcoming in 2018. The Victim Assistance Trust Fund of UN for SEA has received donations of over USD£1.8m⁴⁵ (from 19 Member States) globally and has made allocations in CAR to one NGO only. MINUSCA also receives funding for VA work in the context of the new system-wide Victim Rights Advocate function. The trust fund is managed by the Department of Field Support (DFS)

⁴⁴ UNICEF Note undated but in email of 11 July 2018 titled ‘Resources Allocated to PSEA’

⁴⁵ Memo of Atul Khare (USG, Field Support) February 27, 2018

in the UN Secretariat whose fact sheet states that: 'The Trust Fund was established to provide assistance and support to complainants, victims, and children born as a result of sexual exploitation and abuse by United Nations staff and related personnel'.⁴⁶ The Operational Guidance is explicit from the opening line that it is not for reparations or direct payments to victims and complainants but for services to be provided by implementing partners.

For the Panel this raises critical questions for UNICEF and the wider UN into the future as to who is responsible for VA and who pays for it. Firstly, there is a trend of projectising it to donors or folding it into GBV programmes and CP at UNICEF when what VA needs is a flexible, sustainable and core funding solution. There could be some consideration as to whether the UN including UNICEF should be factoring VA and other costs of PSEA into their operating core budgets rather than treating it as a programmatic issue that requires funding proposals. Secondly, UNICEF needs more clarity on its responsibilities for VA vis a vis the wider UN system.

4.4.4. Support to COs in critical areas

The Panel heard that support missions on investigations and victim assistance from the Regional Office and Headquarters to CAR were very helpful over 2016/17. The VA mission included Associated Director Child Protection from HQ and Regional Adviser Child Protection from RO. A set of recommendations emerged as well as initial considerations on developing criteria for handling VA and an exit strategy. These all remain in draft form or not fully followed up. Resources and follow through are needed on some of these issues. Also, to link them to the work of the VA Protocol that is due to complete pilot phase and be rolled out later this year. In addition, there is scope to link to VRA work in Office of Special Coordinator on legal and accountability pieces for victim accountability and not just assistance. The VRA was appointed in August 2017 and has undertaken country level visits including to CAR in October 2017.

⁴⁶ See Fact Sheet on 'How to use the Trust Fund for Victims', CDU/DFS/TF Guide/Dec-2017; also, working document 'Operational Guidance for the use of the United Nations Trust Fund in support of Victims of Sexual Exploitation and Abuse by United Nations and Related Personnel', 28 February 20

Action Point: The Panel recommends that UNICEF at both agency and inter-agency levels move to revisit, review and finalise the UN-wide Protocol for Victim Assistance. In this, UNICEF needs urgently to consider and clarify:

- 1) Working assumptions and potential risks of merging VA into GBV and CP programming as another project when emphasis should be on responsibility and accountability to victims as rights-holders with respect to UNICEF and wider UN as duty bearers for allegations and reports of SEA.
- 2) How funding of victim assistance in cases of SEA can be made timely, predictable and sustainable as part of core UN-wide organisational and operating costs and not reliant on ad hoc project and programme fundraising; how such funding will be sourced and allocated into the future and who will pay given current operating assumptions that UNICEF takes charge of all UN victims who are minors and children. These discussions should include the set aside funds of UNICEF, the new UN Victim Trust Fund, the core budget of the UN from Member States, and the payments to Troop Contributing Countries where peacekeepers are involved.
- 3) How to bridge the accountability gap in legal referral, justice and reparations that carry implications and risks in the current application of victim assistance packages.
- 4) Critical learning from across UNICEF on the evolution and implementation of VA packages with view to adapting and reshaping guidance; this should include re-evaluating the standard make-up of packages, modelled on available GBV services from UN agencies and partners, in terms of appropriateness and effectiveness for victims; it should also address the risks of lack of clear exit strategies for time bound assistance for VA.
- 5) Coherence and complementarity in the evolving roles, responsibilities, and ways of working of the new Victim Rights Advocate role vis-à-vis agencies and programmes (notably UNICEF and UNFPA) with responsibilities for VA to complainants where any UN personnel are involved.
- 6) Parameters for relevance, coherence and sustainability of victim assistance in operational implementation in different settings (development settings with national systems, humanitarian/crisis settings, and peacekeeping settings) need to be set out at UN level for clarity of roles and responsibilities of UNICEF vis a vis other parts of the UN.

The purpose and outcome of these proposed efforts is to improve the effectiveness and support.

Action Point: The Panel suggests that the Executive Director in her role as IASC Principals' Champion on SEA and SHA, table a discussion with relevant parts of the UN on establishing guidelines for pursuing SEA investigations, cases, and victim support in contexts where referral can be made to national authorities.

Key messages and ways forward

Key Messages of the review

The core message of the Panel is that UNICEF needs a whole of organisation strategy and an action plan for PSEA. Both of these must reflect the five necessary conditions required for UNICEF to improve fundamentally the prevention of SEA: Accountability, Leadership, Organisational Culture, Coherence (within UNICEF and UN system-wide), and Connected Impact of these conditions on the ground.

It is the view of the Panel that while elements of these conditions exist they are not yet sufficient, at scale, or strong enough to constitute a fully effective system for PSEA.

Accountability must be at the heart of such a system. This requires a multi-dimensional paradigm shift in how UNICEF engages with PSEA.

This paradigm shift has the following elements:

- The individuals and communities with which UNICEF works must be viewed as rights-holders rather than beneficiaries. UNICEF is a duty-bearer in relation to these rights.
- *Ad hoc* fragmented actions across the many levels of UNICEF must be replaced by a clear and compelling whole of organisation strategy.
- PSEA must be seen as a management responsibility rather than the extension of child protection or GBV programmes.
- The emphasis must move from a maze of policy documents on PSEA to operational reality. UNICEF staff need practical, user-friendly guidance on PSEA. They need to understand their accountability as duty-bearers towards children and the communities in which children live.
- PSEA must be seen as relevant in all UNICEF operations, not only in humanitarian settings. UNICEF must be pro-active in identifying and managing PSEA risks, not only responding to crisis. The root causes of and risks for SEA must be identified in all contexts, across all programme areas and in every setting that UNICEF works.
- Implementing partners should be seen as potential allies in PSEA and, as such, given support, guidance and resources to ensure PSEA within their operations. While implementing partners must be held accountable in this regard, UNICEF cannot transfer its own risk and responsibilities to these partners.
- A culture must be created that rewards speaking up on PSEA, eliminates fear of retribution and inspires confidence that the “system works”.
- Deterrence contributes to prevention of SEA and reinforces the presence of accountability. To this end, consequences for SEA need to be communicated and backed up by credible sanctions.

- UNICEF must embrace its role as lead advocate for children’s rights and needs in all system-wide policies, mechanisms and actions on the ground.
- SEA and preventing SEA are not problems for UNICEF alone. They are system-wide issues and thus require system-wide accountability and action. UNICEF cannot and should not allow the rest of the system to abdicate its responsibility for prevention or for victim assistance. It has two key and reinforcing roles: push the system to do more and better to prevent SEA; and ensure that whatever system-wide action is taken has the rights and needs of children at its center.

The Panel concludes that the Action Points set out in this report need to be implemented. They should be implemented in the spirit of lessons learned and guided by the strategic directions below.

1. Continue the **persistent tone at the top aiming at culture change** at all levels through various means – including ensuring the centrality of accountability in all of UNICEF’s actions on SEA
2. Shift the focus on reporting, policy development and guidance materials to **prevention** and ensuring **accountability** both at global and country level
3. Develop a concise, strategic, three-year **whole-of-organisation strategy**, accompanied by a theory of change and an accountability framework
4. Develop a clear **communications strategy** on PSEA that is adaptable to the country-specific context
5. Using a **risk-based** approach, provide support (including through additional resources) for full PSEA roll out throughout UNICEF in both humanitarian and development contexts
6. Put **accountability at the centre of detection, investigation and sanctions** for cases, as well as the **treatment of victims as rights-holders** at all stages of reporting, investigation, assistance and outcome.
7. Use the chairpersonship of IASC SEA/SHA to promote **inter-agency accountability and learning**, pooling of resources to maximise in-country impact, rolling out of a rights-based approach to community engagement on PSEA, simplifying and centralising reporting at the country level to a single focal point responsible to the SRSG/RC/HC who in turn should be held accountable for ensuring sustainable PSEA systems

ANNEXES

Annex 1 Independent panel terms of reference

Terms of Reference

Independent Panel: Protection from Sexual Exploitation and Abuse: Independent Review of the UNICEF Response

This terms of reference (TOR) complements the original PSEA ToR dated March 2018 and outlines the responsibilities and deliverables of the Independent Panel.

I. Introduction

UNICEF aims to have the highest standards for implementing policies and systems for protection from Sexual Exploitation and Abuse (SEA). Any sexual exploitation and abuse by UNICEF staff and its partners/contractors or anyone associated with its work, wherever it may occur, constitutes a serious breach of the rights of the victims, and of the accountability procedures of the organization.

The Executive Director has requested the Evaluation Office to undertake an independent review of the UNICEF response to PSEA with the overarching objective of examining what is working and areas that need improvement; identifying ways of deepening management accountability; and improving the organization's policies and systems, and its responses, as well as its culture. To achieve this overarching objective, the Evaluation Office have decided to establish an independent panel of three subject matter experts to advise UNICEF on the way forward and to produce a comprehensive assessment with actionable recommendations. The work of the panel builds on the previous work done by the review team which has been transmitted to the panel.

II. Objectives

The review will assess:

1. The quality, timeliness and effectiveness of UNICEF's response.
2. The adequacy of UNICEF's policies, standard operating procedures, protocols, and systems to manage PSEA to the highest standards.

3. The effectiveness of the response, in terms of progress, gaps and lessons, integration with broader gender-based programming and organizational culture for prevention, including safeguarding, protection and swift action on SEA.
4. The efficiency of the response in terms of the capacity and resources assigned to PSEA and the institutional arrangement to advance PSEA
5. The extent to which innovation and international best practice are being leveraged by the organization to advance PSEA
6. Assessment of organisational culture, and of management accountability procedures, internal oversight processes, HR processes, vetting, and enforcement of ethical standards in addressing SEA.
7. Provide findings and recommendations for a comprehensive improvement of the UNICEF PSEA response, including policies, SOPs, protocols, guidance, programmes, systems, reporting and response mechanisms and capacity strengthening initiatives.

III. Scope

This is a comprehensive independent review that benchmarks and compares UNICEF's policies and approaches to PSEA with the highest standards within the UN, the international aid system, and the public and private sectors. The review will cover policies, SOPs, programmes and systems of all five pillars of UNICEF's work on PSEA (reporting mechanism, victim assistance, investigation and accountability, governance, capacity strengthening and coordination, and prevention, including through safeguarding) to establish how well the PSEA response is working and what improvements are needed. The scope covers working with host countries, partnerships with International and local NGOs and private contractors, and UN Secretariat and Agencies, including the UN Special Coordinator on Improving United Nations Response to Sexual Exploitation and Abuse. A key aspect of the review is the assessment of organisational culture, management and staff capacity and financial resources to respond to SEA. Internal oversight, risk, legal compliance and ethics in the management of PSEA including the roles and accountability of divisions/offices at Headquarters (specifically: Division of Human Resources, Office of Internal Audit & Investigations, and the Ethics Office), Regional Offices and Country Offices are part of the scope of the review. The focus of the Review is on PSEA, while taking into account the big picture of child protection/GBViE programming and principles. The scope does not include the related questions on the harassment of UNICEF staff by their (internal) supervisors, peers or subordinates. The question of harassment will be addressed through a separate review that will be simultaneously undertaken.

The expanded scope includes a non-humanitarian context in the study as well as a visit to review the changes in CAR since the CAR report. Work previously done by the Review Team which includes desk reviews, country case study of Lebanon and

Bangladesh and extensive interview notes with UNICEF staff and partners are made available to the Panel. The Panel will: lead and guide the completion of a final report that brings together the previous work as well as additional new research outputs and information; draw and agree the overall findings of the Review; and the formulate recommendations for UNICEF to consider.

IV. Management

The panel will be supported logistically and administratively by the Evaluation Office and the Review Manager from the Evaluation Office on access to information, scope and priorities of the review, including interviews with stakeholders, and related consultation processes. The panel submits their framework paper and main reports to the Evaluation Office Director.

The panel will be supported by a senior consultant in terms of the substantive aspects including analysing and preparing necessary draft documents for the Panel deliberations and framing the findings, conclusions and actionable recommendations.

The Panel along with the Evaluation Office Director ensures the safeguarding of the independence, credibility and utility of the review.

The Panel shares a draft report with Evaluation Office Director to receive comments from stakeholders.

V. Expected deliverables include the following:

1. A framework paper (15th June)
2. Draft review report (20th July)
3. Presentation of the draft Report to the Office of the Executive Director (24/25th July – TBC)
4. A final review report (31st July)

UNICEF Evaluation Office

4th June 2018

Annex 2 Biographies of the Panel

Kathleen Cravero

Kathleen Cravero is the President of Oak Foundation. She has served in this capacity since 2009, supporting the Trustees of Oak and providing leadership and guidance to Oak Foundation staff in substantive programmes such as the environment, prevention of child abuse, housing and homelessness, international human rights, issues affecting women and learning differences. Before joining Oak Foundation, Kathleen worked in various positions with UNAIDS, UNICEF, UNDP and WHO. Advancing gender equality is a long-standing concern for Kathleen. At UNDP, she chaired the Steering Committee of “Stop Rape Now – UN Action Against Sexual Violence in Conflict”, which unites the work of 14 UN entities with the goal of ending sexual violence in conflict. From 2005 to 2008, she chaired the Leadership Council of the Global Coalition on Women and AIDS, a group of prominent personalities who advocate publicly on issues related to women and the “feminization” of the HIV/AIDS epidemic. Kathleen holds a PhD in political science and a Master’s degree in public health.

Susanne Frueh

Susanne Frueh is the current chair of the UN Evaluation Group, a network of fifty evaluation offices around the UN system. She is also the director of internal oversight service at UNESCO overseeing evaluation, internal audit and investigations. In her thirty years with the UN system Susanne has worked on development, conflict and post conflict settings. Following work in consulting and programme management, she has worked at senior leadership level in the evaluation functions of the United Nations Capital Development Fund (UNCDF), the World Food Programme (WFP), and the UN Office for Humanitarian Coordination (UNOCHA). Between 2007-2009 she headed the Peacebuilding Support Office secretariat for the UN Peacebuilding Commission and managed the UN Peacebuilding Fund. Prior to joining UNESCO in 2014, she was the executive secretary of the United Nations Joint Inspection Unit, a subsidiary body to the United Nations General Assembly with system-wide mandate for evaluation, inspection and investigations. Susanne holds a Master’s degree in Geography and various professional credentials in the area of oversight.

Yasmin Sooka

Yasmin Sooka is the Executive Director of the Foundation for Human Rights in South Africa, an independent non-profit Foundation established in 1996 by President Mandela’s government and the European Union, to address the legacy of apartheid and to support the building of a human rights culture in South Africa. She currently chairs the Commission on Human Rights in South Sudan for the Human Rights Council in Geneva, a position she has held since March 2016. In 2015, Yasmin was appointed by the UN Secretary General to the Independent Review Panel for Central African Republic (CAR), which investigated Allegations of Sexual Abuse by Foreign Military Forces in the Central African Republic as well as the UN Response to the Allegations. In July 2010, she was appointed by the Secretary-General to serve as a member of the Panel of

Experts advising the Secretary-General on Accountability for War Crimes in Sri Lanka. Yasmin served as a Commissioner on the South African Truth and Reconciliation Commission from 1996 to March 2003. She also served as one of three independent UN Commissioners on the Truth and Reconciliation Commission of Sierra Leone between 2002 and 2004. Yasmin held the post of the Inaugural Soros Chair at School of Public Policy-Budapest in the fall of 2015 where she lectured on transitional justice. She also served as an advisory member of the UN Global Study on Resolution 1325 in 2015. Yasmin is a Board member of Justice Rapid Response (JRR).

Eleanor O’Gorman (Consultant to the Panel)

Eleanor O’Gorman is a Senior Associate at the University of Cambridge Centre for Gender Studies and a member of its Academic Committee. She is an international expert in the field of conflict, peacebuilding, humanitarian and development affairs including gender analysis and policy. She also works on organisational learning and development processes with multilateral, bilateral and civil society organisations. Eleanor’s clients include the United Nations, the European Union, the governments of the UK, Ireland, and Germany, and NGOs such as Crisis Action, WILPF and CMI (Helsinki). Her field experience includes Democratic Republic of Congo, Liberia, Zimbabwe, Somalia, Timor-Leste, Sri Lanka and Nepal. Eleanor holds a PhD in social and political sciences from the University of Cambridge and writes and publishes in her field. Her latest publication is (2018) ‘Women Peace and Security and the Agenda on Sexual Violence in Conflict’ in the Handbook on Women, Peace and Security, edited by Jacqui True and Sara Davies with Oxford University Press.

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