



## Policy on the Prohibition of Discrimination, Harassment, Sexual Harassment and Abuse of Authority

This Policy enters into force on the date of its approval by Council.

A handwritten signature in black ink, appearing to read "M. King".

Signed: \_\_\_\_\_

Date: 26 January 2020

# Policy on the Prohibition of Discrimination, Harassment, Sexual Harassment and Abuse of Authority

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# POLICY ON THE PROHIBITION OF DISCRIMINATION, HARASSMENT, SEXUAL HARASSMENT AND ABUSE OF AUTHORITY

## Introduction

This Policy seeks to ensure that all individuals working at ICCROM are treated with dignity and respect and are aware of their role and responsibilities in maintaining a workplace free of any form of discrimination, harassment, sexual harassment or abuse of authority.

## Section 1 -- Definitions

1.1 For the purpose of this Policy, the following definitions apply:

- a) Discrimination is any unfair treatment or arbitrary distinction based on a person's race, sex, religion, nationality, ethnic origin, sexual orientation, disability, age, language, social origin or other status. Discrimination may be an isolated event affecting one person or a group of persons similarly situated or may manifest itself through harassment or abuse of authority.
- b) Harassment is any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person. Harassment may take the form of words, gestures or actions which tend to abuse, demean, intimidate, belittle, humiliate or embarrass another person or which create an intimidating, hostile or offensive work environment. It includes harassment based on any grounds, such as race, religion, color, creed, ethnic origin, physical attributes, gender or sexual orientation. Harassment normally involves a series of incidents.

Acts that constitute harassment include, but are not limited to, the following: persistent, unjustified and unnecessary negative attacks on personal or professional performance intended to offend the employee; manipulation of an employee's personal or professional reputation by rumor, gossip or ridicule; offensive comments or behaviour relating to the ethnic origin, physical characteristics or religion of an individual; exclusion or continued isolation from professional activities;

- c) Sexual harassment is any unwelcome sexual advance, request for sexual favor, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile, or offensive work environment. While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between persons of the opposite or same sex. Individuals of all sexes can be victims or offenders.

Act(s) that constitute sexual harassment include, but are not limited to, the following: (a) deliberate physical contact; sexually-oriented comments or gestures, including sexually explicit jokes; offensive phone call(s), letter(s) or e-mail message(s); showing or displaying obscene or offensive images or texts; sexual advance(s), proposition(s) or pressure(s).

- d) Abuse of authority is the improper use of a position of influence, power, or authority against another person. This is particularly serious when a person uses, or threatens to use, his or her influence, power, or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation, and promotion as well discriminatory treatment while on maternity, paternity and adoption leave. Abuse of authority may also include conduct that creates a hostile or offensive work environment, and such conduct can include (but is not limited to) the use of intimidation, threats, blackmail or coercion. Discrimination and harassment, including sexual harassment, are particularly serious when accompanied by abuse of authority.

## Section 2 -- General Principles

- 2.1 In accordance with the provisions of Article 101, paragraph 3 of the Charter of the United Nations, and the core values set out in ICCROM Regulation 1 and 2, every Staff Member has the right to be treated with dignity and respect, and to work in an environment free from discrimination, harassment and abuse. Consequently, any form of discrimination, harassment, sexual harassment and abuse of authority is prohibited.
- 2.2 All Staff Members are expected to act with tolerance, sensitivity and respect for diversity. They have the obligation to ensure that they do not engage in, condone or tolerate behaviour which would constitute discrimination, harassment, sexual harassment or abuse of authority. Any form of discrimination, harassment, sexual harassment or abuse of authority in the workplace or in connection with work is a violation of these principles and may lead to disciplinary action, irrespective of whether the discrimination, harassment, sexual harassment or abuse of authority takes place at an ICCROM office, in the course of official travel or an official mission, or in other settings in which it may have an impact on the workplace.
- 2.3 Managers<sup>1</sup> are expected to act, at all times, as role models by upholding the highest standards of conduct and by promoting a harmonious working environment, free of any form of discrimination, harassment, sexual harassment and abuse of authority. They have the obligation to ensure that complaints of discrimination, harassment, sexual harassment or abuse of authority are promptly addressed in a fair and impartial manner while upholding the confidentiality of the matter as required under this Policy. This includes explaining to an individual alleging harassment the processes available under this Policy. Failure on the part of managers to fulfill their obligations under this Policy may be considered a breach of duty, and, if established, will be reflected in their annual performance evaluation and may be grounds for administrative or disciplinary action, as appropriate.
- 2.4 Managers are responsible for the implementation of this Policy in their respective office and for holding other supervisors and Staff Members accountable for compliance with its terms.
- 2.5 Performance: Disagreement between a Staff Member and supervisor on work performance or on other work-related issues is normally not considered harassment or abuse of authority and is not dealt with under the provisions of this Policy but in the context of performance management.
- 2.6 Complaints against the Director-General: If a complaint filed is against the Director-General, references to actions to be taken by the Director-General in relation to the filing, investigation and disposition of a complaint under this Policy shall refer to the Chairperson of the Council.
- 2.7 Complaints against the Head of Human Resources: If a complaint is filed against the Head of Human Resources, the Director-General shall assign another individual to take on the responsibilities assigned to the Head of Human Resources under this Policy. In that situation, references to actions to be taken by the Head of Human Resources in relation to this Policy shall refer to the individual assigned by the Director-General.
- 2.8 All individuals charged with responsibilities or involved in any process under this Policy shall discharge their duties with complete neutrality towards the parties involved and maintain strict confidentiality at all times to protect the privacy of the individuals concerned. Individuals who feel they are unable to maintain neutrality in discharging their responsibilities under this Policy shall so notify the Director-General and withdraw from any involvement in relation to any process or decision under this Policy.
- 2.9 Delegation of Authority: The Director-General may delegate his or her responsibilities under this Policy to another ICCROM Staff Member, as the Director-General deems necessary. The

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<sup>1</sup> The terms "Manager" refers to all individuals in leadership and managerial positions. It specifically refers to the Director-General, Directors, Chief Officers and Managers of Units and Services. See also: Administrative Circular 2019/02.

Chairperson of the Council may delegate his or her responsibilities under this Policy as he or she deems necessary.

### **Section 3 -- Applicability**

This Policy applies to all ICCROM personnel with a direct contractual relationship with the organization regardless of contractual type. Complaints of discrimination, harassment, sexual harassment or abuse of authority may be made by any person who may, in a work-related context, have been subject to, witnessed, or has been approached by a victim of such conduct, by any individual working at ICCROM.

### **Section 4 -- Preventive Measures**

- 4.1. ICCROM has the duty to take all appropriate measures towards ensuring a harmonious work environment, and to protect staff from exposure to any form of discrimination, harassment, sexual harassment or abuse of authority through preventive measures and the provision of effective remedies when prevention has failed.
- 4.2. Staff Members and others with a direct contractual relationship with the organization are responsible for familiarizing themselves with this Policy. Heads of units or offices shall ensure that their staff and others for whom they are responsible are provided with a copy of this policy upon taking up their appointments. A note acknowledging receipt shall be placed in the staff member's official status file.
- 4.3. In order to resolve problems which could potentially give rise to discrimination, harassment, sexual harassment or abuse of authority, heads of units will maintain open channels of communication and ensure that Staff Members who wish to raise their concerns in good faith can do so freely and without fear of adverse consequences.
- 4.4. If there is a need for confidential guidance or advice on matters which could give rise to instances of discrimination, harassment, sexual harassment or abuse of authority, Staff Members and other individuals with a direct contractual relationship with ICCROM may consult the Director-General or the Head of Human Resources.

### **Section 5 -- Corrective Measures**

- 5.1. Individuals who believe they are victims of discrimination, harassment, sexual harassment and abuse of authority or individuals who witness, or who have been approached by a victim ("complainants") are encouraged to address the issue as early as possible after it has occurred. The complainant may do so through an informal or formal process, as explained below. The complainant may attempt, in the first instance, to resolve the situation informally or he or she may decide to submit a formal complaint directly. The processes described below are not mandatory, nor are they listed in priority order. They describe the options available to the complainant, who decides which option is the most appropriate for his or her situation. Individuals need not use the informal complaint process before electing to use the formal complaint process. Regardless of the choice made, the aggrieved individual is encouraged to keep a written record of events, noting dates, places, a description of what happened and the names of any witnesses and of anyone who may have information concerning the incident or situation at issue.
- 5.2. Regardless of the approach (formal or informal), all reports of discrimination, harassment, sexual harassment, or abuse of authority will be handled with sensitivity and confidentiality to protect the privacy of all individuals concerned.

## **Section 6 -- Informal Process**

- 6.1 An informal approach offers the opportunity to resolve a complaint or grievance in a non-threatening and non-contentious manner. It includes:
- a) Approaching the alleged offender: A person who feels he or she has been the victim of discrimination, harassment, sexual harassment or abuse of authority can give consideration to bringing that concern directly to the alleged offender. That person may not be aware that his or her behavior is offensive and, having had this pointed out, may change behaviors in a positive manner. There are situations where a person who feels he or she has been the victim of discrimination, harassment, sexual harassment or abuse of authority will be reluctant to approach the alleged offender, including situations of disparity in power or status, and there is no requirement to take this particular step.
  - b) Involvement of a third party: Either the person who feels he or she is a victim of discrimination, harassment, sexual harassment or abuse of authority or, once the matter has been brought to his or her attention, the alleged offender, may choose to involve a third party in trying to resolve the situation. This third party should be a neutral individual, without close connections to either party, and is expected to help facilitate a calm and respectful discussion between the parties and to offer suggestions for a way forward. The third party can be, for example, the complainant's manager or another supervisor; the Head of Human Resources or a staff representative.
  - c) It is vital that the third party ensures that confidentiality is respected at all times. The third party should be fully familiar with this Policy. The third party should be aware that sometimes the best form of assistance is a referral to a more appropriate individual within ICCROM. The third party should always act with complete neutrality towards both the complainant and the alleged offender. If a third party is uncertain about what suggestions to make to the parties, he or she should withdraw.
- 6.2 An unsuccessful attempt to resolve the matter informally does not preclude it from being formally pursued under the following provisions.

## **Section 7 -- Formal Process**

- 7.1 Filing a complaint: The complaint should be submitted in writing to the Director-General. If the complaint is against the Director-General, the complaint should be submitted in writing to the Chairperson of the Council. The Chairperson may refer the complaint to an external qualified entity to conduct the preliminary assessment and a fact-finding investigation, if necessary. Any person may file a complaint and is encouraged to do so as soon as possible.
- 7.2 The complaint should state:
- a) the name of the alleged offender;
  - b) description of the incident(s);
  - c) the date(s) and location(s) of the alleged incident(s) of discrimination, harassment, sexual harassment, or abuse of authority;
  - d) the names of witnesses and any physical and/or documentary proof in support of the allegation (e.g., e-mails, message recordings, photos, letters, medical exams); and
  - e) any other relevant information.

### Preliminary Assessment

- 7.3 Upon receipt of a formal complaint, the Director-General will instruct the Head of Human Resources to conduct a preliminary assessment of the complaint and discuss with the complainant options of informal resolution, if the complainant has not already pursued informal resolution. The purpose of the preliminary assessment is to:
- a) clarify the allegation(s);
  - b) ensure that the complaint pertains to allegations of discrimination, harassment, sexual harassment or abuse of authority;
  - c) ensure that all available evidence is submitted.
- 7.4 If the Head of Human Resources concludes that the complaint was made in good faith and there are sufficient grounds to warrant a formal fact-finding investigation, he/she will notify the Director-General of that fact.
- 7.5 Upon informing the Director-General that the complaint in question merits a fact-finding investigation, the Head of Human Resources shall notify the alleged offender of the nature of the allegation(s) against him or her. In order to preserve the integrity of the process, information that may undermine the conduct of the fact-finding investigation or result in intimidation or retaliation shall not be disclosed to the alleged offender at that point. This may include the names of witnesses or particular details of incidents.
- 7.6 The alleged offender will be invited to respond and will be given fifteen (15) calendar days to provide a written response, including any explanations, relevant materials and/or the names of witnesses who might be able to assist in a possible investigation.

### Interim Measures

- 7.7 When necessary, the Head of Human Resources may suggest to the Director-General, that pending its review and investigation, interim measures be taken, for example measures to physically or hierarchically separate the alleged offender and the complainant on a temporary basis, the identification of alternative duties, the consideration of paid administrative leave for either the alleged offender or the complainant.

### Investigation

- 7.8 The Director-General will assign one of the senior managers of ICCROM or anyone else whom the Director-General considers appropriate (including an external party) to conduct the investigation and report his or her findings to the Director-General.
- 7.9 The fact-finding investigation shall include interviews with the aggrieved individual, the alleged offender, and any other individuals who may have relevant information about the conduct alleged.
- 7.10 The entity appointed to conduct the fact-finding investigation shall prepare a detailed report, giving a full account of the facts that they have ascertained in the process and attaching documentary evidence, such as written statements by witnesses or any other documents or records relevant to the alleged prohibited conduct.
- 7.11 On the basis of the outcome of the investigation, the Director-General shall take either of the following actions:
- a) where the Director-General deems that there is insufficient evidence to support the allegation of discrimination, harassment, sexual harassment or abuse of authority, he or she shall close the case with a closure memo and inform the alleged offender and complainant that the case is closed and share with them a summary of the findings and conclusions of the investigation, as appropriate;

- b) where the Director-General deems that there is evidence that discrimination, harassment, sexual harassment or abuse of authority has occurred, he or she shall take either of the actions as indicated in (c) and (d) below:
  - c) **Managerial action:** If the report indicates that there was a factual basis for the allegations but that, while not sufficient to justify the institution of disciplinary proceedings, the facts would warrant managerial action, the Director-General will decide on the type of managerial action to be taken, inform the Staff Member concerned, and make arrangements for the implementation of any follow-up measures that may be necessary. Managerial action may include mandatory training, reprimand, a change of functions or responsibilities including re-assignment or other appropriate measures. The Director-General will inform the complainant of the outcome of the investigation and of the action taken. If the case involves the Director-General the Chairperson will decide on the action to be taken;
  - d) **Disciplinary proceedings:** If the report indicates that the allegations were well-founded and that the conduct in question amounts to possible misconduct, the Director-General will initiate disciplinary action pursuant to the Staff Regulations and Rules. The Director-General will inform the complainant of the outcome of the investigation and of the action taken. The nature and extent of any disciplinary action against the Director-General shall be determined by the Chairperson of the Council.
- 7.12 If at any stage of the process it is determined that the allegations of discrimination, harassment, sexual harassment and abuse of authority were unfounded and based on malicious intent, the Director-General may decide to initiate disciplinary or other appropriate action against the complainant.
- 7.13 Where a complainant or alleged offender has grounds to believe that the procedure followed in respect of the allegations of discrimination, harassment, sexual harassment or abuse of authority was improper, he or she may appeal pursuant Regulation 11 and Staff Rule 110 even if there was no administrative decision.

### **Section 8 -- Miscellaneous**

- 8.1 **Resignation of the alleged offender:** If the alleged offender opts to resign from ICCROM pending investigation, ICCROM cannot force him or her to remain employed if he or she wishes to resign. In such an event, a note for the record will be placed in the file of the Staff Member, disclosing that he or she resigned while under investigation for allegations of discrimination, harassment, sexual harassment or abuse of authority. Such an individual will be banned to work with ICCROM under any contractual modality unless he or she is fully cleared from the allegations of misconduct raised against him or her. If a Staff Member resigns during investigation the Director-General will determine whether or not the investigation will be pursued despite the resignation of the alleged offender.
- 8.2 **Investigation without formal complaint:** The Director-General may initiate an investigation into allegations of discrimination, harassment, sexual harassment or abuse of authority at his or her own initiative, including without reference to a written and signed complaint.