

public interest whistleblower systems  
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public interest reporting and whistleblower  
protection: un approaches, challenges and  
lessons learned



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United Nations

the un agency for  
القسم العام للوكالة  
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# outline

- Brief into to Ethics Offices in UN system
  - Five lines of service common to UN ethics offices
- UN approaches to reporting misconduct and protection and prevention of retaliation
  - UN Secretariat and Funds & Programmes, including UNRWA
- Challenges and lessons learned
  - Based on personal experience with whistleblower protection since 2008



# un ethics offices - mandate

- Confidential ethics advice
- Ethics awareness and education
- Protection against retaliation
- Financial disclosure programmes
- Policy support and standard setting



# reporting misconduct

- Whistleblowers are individuals who report observed misconduct on the part of UN staff
  - Each staff member has the duty to report to an official channel
  - Each staff member has the duty to cooperate and provide information
  - Non-staff are encouraged to report to an official channel
  - Multiple reporting channels depending on nature of misconduct



# protection against retaliation (1)

- What is retaliation?
  - Retaliation arises when
    - a report that is made in good faith or on reasonable grounds
    - about observed misconduct
    - is causally connected
    - to a detrimental action
    - taken against the reporter
- Seeking help with workplace disputes or grievances is not the same as making a report of misconduct
  - Disagreement with a manager does not necessarily imply that the manager is retaliating



# protection against retaliation (2)

- **Goals to be served**

- Encourage staff to report wrongdoing so problems can be addressed
- Ethical cultures encourage employees to speak up and speak out
- Protect reputation and standing of UN
- Promote institutional integrity and accountability
- Methodology to counter corruption, fraud, waste and other misconduct

- **Ethics Office role**

- Advising potential whistleblowers to appropriate channels
- Conducting preliminary assessment of whistleblower complaints
- Pursuing interim measures and/or remedies as appropriate

# challenges (1)

- **Whistleblowers are often difficult people**
  - Persistent, often somewhat 'blinded', going against the grain
  - May have been involved in wrongdoing themselves
  - Often perceived as trouble makers by management/colleagues
  - Risk of bias → importance of maintaining independent & neutral perspective
  - Complaints often messy with retaliation one element of broader set of grievances
  - By contrast, protecting witnesses against retaliation generally less complicated



# challenges (2)

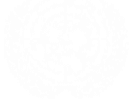
- **Protecting whistleblowers likely to result in pushback**
  - Interventions often not appreciated by offender & management
    - → Courage needed to intervene on behalf of whistleblowers
    - → Make sure to get facts right
    - → Make *prima facie* determination when appropriate
- **WP still in infancy and powers to protect are limited**
  - Global experience with WP mechanisms < 20 years
  - Powers of 'protectors' mostly limited to 'recommendations'
  - Legal intervention time consuming and mostly ineffective





# challenges (3)

- WP increasingly subject to legal review (tribunals, etc.)
  - Again: get facts right
  - Be confident in *prima facie* determination or investigation results, as appropriate
  - Importance of documenting every step
- WP can take us into sensitive territory: sexual abuse
  - Cultural sensitivities – likely to prevent victims from reporting
  - Linkages with organized crime – representing significant risks
  - Protector may face ethical dilemma: protecting victim vs. duty to report



# lessons learned (1)

- **Creating a safe environment for reporters**
  - Advising potential whistleblowers to appropriate channels
  - Advising to report anonymously through hotline or otherwise
  - Making referral on behalf of reporter
    - In case of reporters having difficulty to articulate complaints or allegations
    - Remove identifying information and blow whistle on behalf of reporter  
→ arguably most effective protection tool
- **Informal interventions might sometimes work**
  - In less serious forms of retaliation associated with earlier workplace grievance
  - In clear cut cases: advocating for rescission of detrimental action in order to avoid formal complaint and/or full-fledged investigation

# lessons learned (2)

- **Offender push back**
  - Need to intervene when retaliation is ongoing
  - E.g. witness being pressured by offender → recommend that offender is suspended and served with order not to contact any anyone (especially co-workers) in relation to case
- **Protection against forms of retaliation not covered by PaR policy**
  - Borderline between retaliation and other forms of workplace abuse of power → pursuing PaR through mechanism to address workplace conflict or personal grievance
  - Challenges of 'external retaliation' (by individuals external to Government, company, organization)

# lessons learned (3)

- **Application of interim measures**
  - Aim for something management can live with (i.e. special leave instead of reinstatement)
  - Be prepared to manage push back from offender and management (generally: get facts right; be confident in *prima facie* determination)
- **Application of remedies**
  - Consult complainant as well as concerned managers
  - Importance of non-financial (non-tangible) benefits (restoring honour of complainant)
  - Can sometimes be achieved without need to carry out or complete full investigation

# lessons learned (4)

- Sexual exploitation and abuse (including child sexual abuse)
  - Critical importance of confidentiality
  - Be aware of cultural sensitivities
  - Ethical dilemma: protecting victim vs. duty to report – how to resolve?
    - (Extended) preliminary inquiry instead of full investigation
    - Reporting whilst withholding identity of victim
    - However, due process considerations
    - Offer option to resign in order to avoid full investigation
    - Protection against malicious claims
  - Need for specialized investigative capacity
  - Importance of victim support



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