



SOMALIA PSEA NETWORK

INTER-AGENCY STANDARD OPERATING PROCEDURES ON REPORTING, REFERRING AND  
HANDLING COMPLAINTS OF SEXUAL EXPLOITATION AND ABUSE BY AID WORKERS.

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**List of Acronyms**

AAP	Accountability to Affected Population
APFs	Agencies Programs and Funds
ATMIS	African Transition Mission in Somalia
CBCM	Community Based Complaint Mechanism
CBO	Community Based Organization
CDU/CDT	Conduct and Discipline Unit/Team
CoC	Code of Conduct
CRM	Clinical Management of Rape
GBV	Gender Based Violence
GBV AoR	Gender Based Violence Area of Responsibility
HC	Humanitarian Coordinator
HCT	Humanitarian Country Team
IASC	Inter-Agency Standing Committee
IC	Informed Consent
IRF	Incident Report Form
PSEA	Protection (in some contexts Prevention) from Sexual Exploitation and Abuse
RC	Resident Coordinator
SEA	Sexual Exploitation and Abuse
SH	Sexual Harassment
SOC	Subject of the Complaint
SOPs	Standard Operating Procedures
UNCT	United Nations Country Team
UNSOM	United Nations Assistance Mission in Somalia
UNSOS	United Nations Support Office in Somalia

## 1. PURPOSE AND DEFINITIONS

### 1.1 Purpose and Endorsement

The Somalia Inter-Agency Standard Operating Procedures on Reporting, Referring and Handling Complaints of Sexual Exploitation and Abuse by Aid Workers (herein SOPs) aim to establish safe and ethical procedures for the handling of complaints of Sexual Exploitation and Abuse (SEA) among UN agencies, UNSOS, UNSOM, ATMIS, NGOs and CBOs operating in Somalia, as outlined by the IASC Global Standard Operating Procedures on Inter-Agency Cooperation in CBCM<sup>1</sup> as well as to strengthen access of victims and complainants to safe, confidential and victim centered reporting, investigation and assistance.

The SOPs also aim to operationalize IASC and DCO commitments on collective HCT and UNCT<sup>2</sup> implementation of PSEA Inter-Agency country-mechanisms, as well as organizational and individual accountability on PSEA.

PSEA Network members are therefore strongly encouraged to implement the principles and framework of the SOPs as an example of best inter-agency practice and global commitments.

This SOP complements PSEA Network members' internal PSEA policies and procedures and provides guidance when reports of complaints need to be referred beyond one individual organization. The SOPs reinforce the inter-agency system-wide common action to prevent and respond to SEA.

The SOPs shall take effect upon endorsement by the Somalia HCT and UNCT.

Following endorsement, all PSEA Network members are required to adhere to the protocols and documents contained in these SOPs. HCT, UNCT and all PSEA Network members also commit to rolling out and implementing the SOPs with their Implementing Partners (IPs) across the humanitarian and development response in Somalia, including ensuring that partners sign the SOPs and are supported to effectively implement requirements.

The implementation of the SOPs will be monitored by the PSEA Network Co-Chairs and PSEA Coordinator and the progresses reported to the Resident and Humanitarian Coordinator.

### 1.2 Scope And Application

The SOPs applies to all HCT, UNCT and PSEA Network members (see Annex X). The PSEA Network will further work to ensure strong linkages and engagements with other relevant stakeholders such as government agencies, security actors and CBOs to raise awareness, establish collaborations, build internal capacity and systems for safe and confidential complaints handling. Training will be required at both the national and subnational level to support roll out and implementation of the inter-agency SOPs with all relevant actors, in particular partners that do not have internal technical capacity on protection/GBV/Child Protection.

As lessons are learned in the application of the SOPs within the context of Somalia, the SOPs will be updated by the PSEA Coordinator and co-chairs in consultation with the PSEA Network, as required. Any substantive changes will be brought to the attention of the RC/HC and UNCT/HCT for consideration and approval, as part of regularly reporting to the UNCT/ HCT on PSEA progress and challenges.

These SOPs are based on Somalia's PSEA Guidance Note revised in October 2020 and have been developed in consultation with PSEA Network, UNCT/HCT and partners.

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<sup>1</sup> <https://interagencystandingcommittee.org/system/files/2021-03/IASC%20Global%20Standard%20Operating%20Procedures%20on%20Inter-Agency%20Cooperation%20in%20Community-Based%20Complaint%20Mechanisms%2C%202016.pdf>

<sup>2</sup> <https://unsdg.un.org/sites/default/files/UNDS-MAF-2019-country-level-component-FINAL-editorial-rev-26APR.pdf>

### 1.3. Definition of SEA and Sexual Harassment

Sexual Exploitation and Sexual Abuse violate universally recognized international legal norms and standards and have always been unacceptable behavior and prohibited conduct for United Nations personnel and partners. Such conduct is prohibited by the United Nations Staff Regulations and Rules, as well as core IASC and International Humanitarian Law and core humanitarian principles of ‘do no harm’.

Every personnel working for the United Nations (including affiliate workforce), and partners are expected to always uphold the highest ethical standards of personal and professional conduct as required by the UN Chart, staff regulations and rules and other relevant guidelines and policies. SEA of persons of concern by UN personnel, partners, or other persons involved in providing humanitarian or development assistance is unacceptable and constitutes gross misconduct.

As per ST/SGB/2003/13<sup>3</sup>, Sexual Exploitation and Sexual Abuse is defined as follows:

- a. 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.
- b. Sexual abuse means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.
- c. Sexual Harassment vs SEA: SEA occurs against a beneficiary or member of the community. Sexual harassment occurs between personnel/staff and involves any unwelcome sexual advance or unwanted verbal or physical conduct of a sexual nature. Sexual harassment is not covered by these SOPs although agencies’ internal procedures for reporting sexual harassment allegations maybe the same as for reporting SEA complaints. The distinction between the two is important, so that agency policies and staff trainings can include specific instruction on the procedures to report each and provision of support for survivors.

**Sexual harassment in the workplace is not included in the scope of these referral procedures.**

## PART TWO: CONTEXT ANALYSIS AND PREVENTION

### 2.1 SEA Risks in Somalia Context.

In May 2022 the Violence against Women and Children Helpdesk released a research by Naomi Clugstone and Erica Fraser called: “Links between Drought and Violence against Women and Children”<sup>4</sup>

The research is investigating the links between the drought and the violence against women and children (WAWC) in its various forms like intimate and non-intimate partner violence, genital mutilations, child marriage, trafficking, SEA. The analysis and results reported in the research are providing some interesting elements related to risks of GBV and SEA in Somalia and in the Region.

“Based on this rapid evidence review and analysis by the GBVAoR Helpdesk on the broader linkages between food insecurity and GBV in conflict, it is possible to identify three broad ‘conditions’ associated with droughts that could exacerbate the risk factors for different forms of VAWC: (1) lack of food and water; (2) the search for food and water; and (3) access to food aid.”<sup>5</sup>

“Food and water insecurity, caused by drought, increases the risk of sexual exploitation, abuse and harassment by humanitarian workers distributing aid and members of the community who have access to these basic resources. Reports from Somalia find that during the drought, women exchanged sex for food and other basic

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<sup>3</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N03/550/40/PDF/N0355040.pdf?OpenElement>

<sup>4</sup> Links between Drought and Violence against Women and Children Naomi Clugstone and Erika Fraser 2022

<sup>5</sup> <https://gbvaor.net/sites/default/files/2021-03/gbv-aor-helpdesk-climate-change-gbv-19032021.pdf>

household needs. In Kenya, child rights organizations report that girls as young as 11 and 12 were exploited sexually by older men in exchange for food, water, money and sanitary products. In 2020, UN Staff based in Uganda were accused of demanding sex from women and girls in receipt of humanitarian assistance due to the drought and famine. There is also evidence from some contexts that male food vendors, transporters, farmers and landowners have exploited resource scarcity during droughts to sexually exploit women and girls.”<sup>6</sup>

In report also states that: “In Somalia, female headed households are at risk of losing income during droughts but, unlike men, face additional barriers to finding alternative sources of income due to restrictions on their movement, the type of jobs they are able to engage in, a lack of capital and limited networks. Lack of resources and economic pressure of this nature is associated globally with sexual exploitation and abuse by those with the power and resources that female-headed households lack.”<sup>7</sup>

In June 2021 UNICEF released a detailed SEA Risk Assessment<sup>8</sup> in Somalia and Somaliland. While this assessment is based on qualitative and non-quantitative data collections, the results offer clear indications of a very high level of risk of SEA in the country. The report states that: “The rates of SEA are high across Somalia. Southern Somalia appears to have the highest rates. There, the risk of SEA is greatest in sites where internally displaced persons (IDPs) reside, yet SEA is also evident in host communities. A wide array of actors are involved in perpetrating SEA, often quite openly; including ‘gatekeepers’, a range of armed actors, local government officials, and non-governmental organizations (NGOs) staff and UN implementing partners. The UN and international humanitarian agencies rarely distribute goods or provide services in camps and IDP sites directly, with the goods they provide distributed by others – and with the nature of operations shaped and tempered by a series of intermediaries. Aid is delivered almost exclusively through implementing partners. These consist of NGOs, alongside a growing number of private contractors operating in this space. Humanitarian organisations must cooperate with, and have their movement and access restricted by, gatekeepers and their militias. To a great extent, the choice of who gets access to humanitarian aid is decided by local administration, in tandem with gatekeepers delivering assistance in their respective locations.

Geographically, IDP settlements within cities and towns tend to be physically isolated from the main parts of districts, adding to the vulnerability for GBV and SEA.<sup>9</sup> These areas tend to be characterized by high rates of petty crime, as well as by limited governance by state authorities. These areas with little governance, often have a high prevalence of armed actors – who are frequent perpetrators of GBV and SEA. So too in these areas, gatekeepers are more extractive, as these sites are not often visited by third-party monitors or research actors, due to their insecure locations. In Mogadishu, the outer parts of Daynille and Kahda exemplify these dynamics, falling outside of the remit of state authority, especially in the night-time, leaving women highly vulnerable.

Within IDP settings, female-headed households appear to be particularly vulnerable to SEA. Female-headed households are more common amongst IDP and minority communities, due to the deaths of their men during conflict, or because men stayed behind in places of origin to guard their homes and land after their families were displaced. Exacerbating the problem, is that there is an economic pay gap between men’s and women’s work in Somalia, making such women even more socio-economically disadvantaged. The result is that some do not feel as though they have a choice other than exchanging sex for humanitarian aid and services.

It is therefore the intersection of these vulnerabilities; being displaced, being from a minority clan, being socio-economically disadvantaged, and being part of a female headed-household, that heightens the risk of SEA for displacement affected women. IDP women are often exposed, powerless, without protection, and with high economic needs, making them vulnerable to abuse, or to the need to exchange sexual favours in return for access to humanitarian aid, jobs or money.”

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<sup>6</sup> ibidem

<sup>7</sup> ibidem

<sup>8</sup> UNICEF Somalia: PSEA Risk Assessment: Somalia and Somaliland By Sif Heide-Ottosen and Dr Orly Maya Stern 2021

<sup>9</sup> UN Monitoring Group for Somalia and Eritrea, *Report of the Panel of Experts on Somalia submitted in accordance with resolution 2444 (2018), S/2019/858* (November 2019), available from <https://undocs.org/S/2019/858>

In addition to these two documented researches, a series of anecdotal reports collected within the aid community, are confirming abusive behaviors of “gatekeepers” in the IDPs sites, potential abuses during “cash for work” programs implementation, an overall *laissez-faire* due to the challenges in directly reaching beneficiaries in the field (for security reasons) and conduct any supervision of partners and intermediaries’ work. In such of context it seems very urgent to revitalize a robust PSEA mechanism including as much as possible stakeholders and partners.

## 2.2 The Somalia Legal Framework

In 1990, Somalia ratified the International Covenant on Civil and Political Rights. The next year in 1991, Somalia signed the African Charter on the Rights and Welfare of the Child and in 2006, Somalia signed the African Charter on Human and People’s Rights on the Rights of Women in Africa, and in 2015 Somalia ratified the Convention of the Rights of the Child. Despite various promises over the years, the Somalia Government has not yet ratified the Convention on Elimination of all forms of discrimination against women (CEDAW).

In 2018 the Somalia Cabinet approved the “**Sexual Offence Bill**” and in 2020 a “**Law on Sexual Intercourse Related Crimes**” (LSIRC) has been presented, however to date any law on sexual offences has been approved. Given the absence of a specific legal framework, the restrictive definitions and norms, not in line with international standards, provided by the Somalia Penal Code (1962) still apply.

Chapter 1, part IX of the **Somalia Penal Code**<sup>10</sup> classifies Crimes of Sexual Violence under the group of “Crimes against Morals and Decency” and not as a crime against the person. The Article 398 (Carnal Violence) at Alinea 1-2-3- states as follow:

1. Whoever with violence or threats has carnal intercourse with a person of the other sex, shall be punished with imprisonment [96 P.C.] for five to fifteen years.
2. The same punishment shall be imposed on anyone who has carnal intercourse with a person of the other sex who is incapable of giving consent or with a person who has been deceived by the offender personating as another person.
3. The same punishment shall be imposed also on a public officer [240 a P.C.] who, by abusing his power, has carnal intercourse with a person of the other sex who is under arrest or detained in custody under the said officer by reason of his office or entrusted to him in execution of an order of the competent authority.

It is important to note that for purposes of the Penal Code “penetration of the male sexual organ shall constitute carnal intercourse”. While the article 398 is giving a quite restrictive definition of “sexual violence”, the following Article 399 is generically indicating “Acts of Lust committed with violence” punished with imprisonment from one to five years.

Art.405 is criminalizing the practice of prostitution in any form which can be punished with imprisonment from two months to two years, homosexuality and abortion are also considered criminal acts and abortion for medical reasons or after rape are not considered. Article 422 is however indicating as an extenuating circumstance “abortion for reasons of honor” and therefore reducing the prescribed punishment by one-half to two-third.

### 2.2.1 The Somaliland Sexual Offences Law 2018 and Recent Proposed Changes

In Somaliland a Rape and **Sexual Offences Law (Law No. 78/2018)** was approved in 2018.

The Text of the 2018 Law was officially gazetted in Somali<sup>11</sup> and no English language translation of the Law is currently available.

Recently the House of Representatives approved a new bill amending the 2018 SO Law, titled. in Somali, **Xeerka Kufsiga, Sinada iyo Xadgudubyada la Xidhiidha, Lr. 78/2020**, which in English translates

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<sup>10</sup> SOMALIA LEGISLATIVE DECREE No.5 of 16 December 1962. Penal Code

<sup>11</sup> [Xeerka Kufsiga iyo Ku Xadgudbka Jinsiga Xeer Lr. 78/2018.](#)



as Rape, Fornication and other Related Offences Law No. 78/2020 that is meant to replace the 2018 Sexual Offences Law. There have already been strong expressions of disagreement with many of the provisions of this new bill, as the one from Women in Law Group of September 2020 strongly condemning the approval of the new bill. The new bill is based on Islamic Sharia, is criminalizing “fornication” defined as “Any sexual intercourse between two unmarried people with their consent.” The death penalty is widely expected for the most serious violations conducting to victim’s death, as well as monetary compensations and “full-blood compensation” (e.g. in case of loss of virginity). From what is possible to read into the unofficial translation by Horizon Institute, the bill is contradicting in many points international standards related to definitions and procedures, is largely foreseeing the death penalty and is criminalizing any sexual activity outside the marriage even between adults fully consenting, as well as homosexuality and prostitution. However, the bill is introducing the notion of “Sexual Harassment and Assault” “Abuse of position of power and trust” “Sextortion and blackmailing” and “Sex Trafficking”.

### **2.3 Somalia Inter-Agency Misconduct Prevention Measures: the experience of the Risk Management Unit (RMU).**

In Somalia a Risk Management Unit (RMU) was created since 2011 with the aim to “support robust risk management approaches, due diligence and information sharing aiming to improve programme planning and implementation, informed decision making, fiduciary accountability, do-no-harm and open dialogue regarding risk management challenges. RMU support complements the existing systems each UN organization and its partners have in place”<sup>12</sup>

RMU analysis often leads to and/or supports cases of fraud, corruption as well as support through oversight, quality control, guidance and capacity development on risk management, public procurement and financial management, do-no-harm, audit and reporting.

RMU also has a “Contractor Information Management System (CIMS)” tool, an online database platform with information related to vendors and implementing partners with whom the UN engages. It captures capacity and risk assessments, agency performance ratings, UN security sanctions and other additional restricted information can be relied upon to manage risks, support due diligence and identify issues of concern.

The wealth of experience and information the RMU has collected over more than a decade of work in Somalia could offer support to a younger and less experienced PSEA mechanism. In that optic the establishment of a two-way communication mechanism between the RMU and PSEA seems logical. This is also due to the nature of misconduct that both mechanisms (PSEA and RMU) are involved: it has been noticed that often the sexual offenders are also responsible for other types of misconduct like fraud, corruption or financial mismanagement and vice versa, cases of fraud or corruption may frequently involve associated sexual exploitation and abuse.

The RMU and the PSEA mechanism will explore a modality for regular information sharing, between cases of SEA and fraud and corruption, within the boundaries of each portfolio. An ad hoc Information Sharing Protocol (ISP) between PSEA and RMU will be developed and submitted to the UNCT/HCT for endorsement. Once done, the ISP will be considered as an integral part of this SOPs.

## **PART THREE: REPORTING**

### **3.1 Roles and Responsibilities in handling and responding to SEA complaints<sup>13</sup>**

In 2018 the IASC principals endorsed the “IASC Plan for accelerating protection from sexual exploitation and abuse (PSEA) in humanitarian response at country-level”<sup>14</sup>

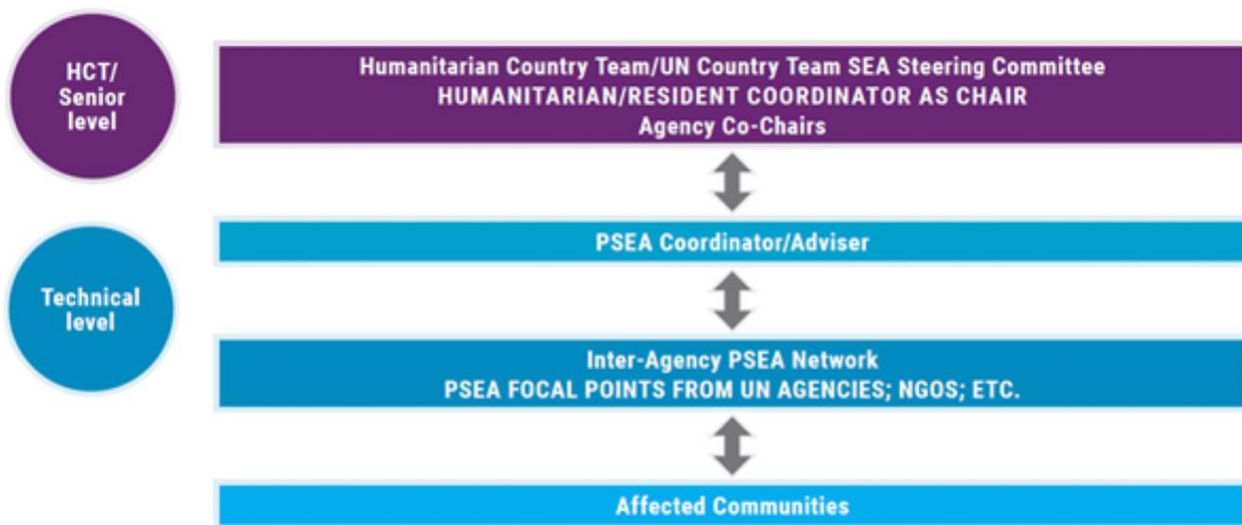
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<sup>12</sup> <https://somalia.un.org/en/31540-risk-management-unit>

<sup>13</sup> This Chapter is based on: Global SOPs on inter-agency Cooperation in CBCMs. These are an agreement between IASC legal departments and then endorsed: <https://interagencystandingcommittee.org/accountability-affected-populations-including-protection-sexual-exploitation-and-abuse/documents-51>

<sup>14</sup> <https://interagencystandingcommittee.org/iasc-champion-protection-sexual-exploitation-and-abuse-and-sexual-harassment/iasc-plan-accelerating-protection-sexual-exploitation-and-abuse-humanitarian-response-country-level>

The Plan is defining the PSEA Architecture at Country level as per the below chart:



Based on this architecture the responsibilities in responding to SEA complaints are defined as follow: **The DSRSG/RC/HC**, is ultimately accountable for addressing SEA in the humanitarian and development sectors in Somalia.

**The Steering Committee:** The Steering Committee’s functions are to provide direction, review progress, address obstacles, engage relevant stakeholders, and provide the overall support needed to effectively implement the PSEA Action Plan. The Steering Committee is nominated by HCT/UNCT and would serve as the senior-level body holding the primary accountability, decision-making and oversight authority for PSEA activities at country level. The Steering Committee shall provide guidance in case of complex cases (e.g. involving Senior Management in a SEA case, complaints against military forces of Government officials etc)

**UNCT/HCT Members in Somalia: Individual agencies are responsible for SEA investigations and sanctions against the personnel found responsible for SEA according to their own policies and procedures.** They participate in the work of the PSEA Network under its ToRs, and support joint PSEA actions as agreed. Agencies are responsible for sharing relevant information with the PSEA Coordinator according to this PSEA SOPs.

**PSEA Inter-Agency Coordinator:** The Coordinator is fully dedicated to initiating, overseeing, and coordinating PSEA activities in Somalia. He/she has a dedicated post focused on PSEA, with a direct reporting line to the HC/RC, and provides day-to-day technical support and expertise for the inter-agency PSEA Network and acts as Victim Rights Advocate. He/she is responsible for engagement with the UNCT/HCT in order to advocate for high-level commitment and broad engagement at the country level. The Coordinator will also coordinate with the IASC’s PSEA Field Support Team in Geneva, with the Office of Special Representative of SG on PSEA in New York to ensure that global level forums maintain a current understanding of country-based activities and that operational agencies’ headquarters are informed and can make sure that their Heads of Office at country level understand the need to actively participate.

The PSEA Coordinator has a holistic view of PSEA issues in Somalia, liaises between agencies and with the host government, conducts regular inter-agency meetings, and generally keeps PSEA momentum moving forward. She/he reports on PSEA activities to the UNCT/HCT and any other appropriate structures on a regular basis, and advises and assist members as required, as well as coordinates with the UNSOS/UNSOM’s actions on PSEA activities.

The PSEA Coordinator is neutral, acting on behalf of the PSEA Network, regardless of his/her employing agency. In this capacity, one of the functions of the Coordinator is to gather information on the SEA complaints received by the Agencies and consolidate the SEA statistics and trend analysis at country level

as well as to feed into annual SG's PSEA report. Given these functions, the Coordinator is a dedicated/full time position, and not a function in addition to other job duties.

**Co-chairs of the PSEA Network:** They support the PSEA Coordinator and acts in his/her absence according to its ToRs.

**Integrated Office (DSRSG/HC/RC):** Supports the PSEA Network work at the UNCT/HCT and allocates resources for PSEA work in Somalia

**PSEA Network:** This is an inclusive forum comprised of PSEA Focal Points from Agencies, NGOs, CBOs, UNSOS, UNSOM, ATMIS, and, if conditions allow, Government. The PSEA Network implements collectively systems and mechanisms that protect the affected populations from Sexual Exploitation and Abuse. They are guided by the annual PSEA Action Plan. Some of the responsibilities of the SEA Network include:

- Conduct SEA risk assessments in high-risk areas
- In collaboration with GBV sub-cluster, develop and update an inter-agency referral pathways document to ensure timely and consistent survivor support,
- Hold agencies accountable to one another in developing a PSEA action plan and implementing that plan against strategic performance indicators
- Ensure PSEA is integrated across key interagency planning processes for Somalia community

**PSEA Focal Points:** Each Entity/Agency which wish to participate to the PSEA Network must designate the PSEA Focal Points and alternates, who form the PSEA Network in Somalia and are technically representing their own entity. The Focal Points lead PSEA activities within their entity and common activities in Somalia, and report on progress and on specific cases to the Network as required. Entities/Agencies are encouraged to nominate their own PSEA Focal points in every field office location. (See Annex XV for a detailed PSEA Focal Point TORs). The main role of the PSEA Focal Points is to collect and record complaints. They are responsible for receiving complainants in person and taking statements using the Somalia Incident Report Form (IRF, annex VI)<sup>15</sup>. Given the sensitivity of the Focal Point's profile the staff designated should be senior enough to take decisions (P3/P4) and the PSEA responsibilities should be reflected in his/her Job Description and/or evaluation appraisal.

**Inter-relation with GBV and CP AoR:** SEA is a form of GBV and collaboration between PSEA Network and Protection Cluster and GBV and CP AoR is critical. It is essential to recall that SEA victims are not offered special/parallel services but shall follow the GBV and CP referral pathways in order to receive services. Therefore the Somalia GBV Referral Pathways are fully integrated in the present SOPs at the annex IX, as well as the referral form. PSEA-GBV-CP joint initiatives, risk assessments, trainings, awareness-raising campaigns are also good practices that should be introduced in Somalia.

**Concerned Entity/Agency:** **The final responsibility to address the complaint, provide support to victim, and follow-up the investigation, lies with the organization that employs the subject of the complaint (SOC). The organization is also responsible to provide updates to the PSEA Coordinator on the status of a referred case**

### 3.2 Core Principles Related to Handling Complaints:

**Victim-centered:** All responses to SEA complaints will be developed in a manner that balances respect for due process with a victim-centered approach in which the victim's wishes, safety, and well-being remain a priority in all matters and procedures. The overarching approach, in line with best practice, will be to let the complainant/victims be in charge of their case, letting them decide what they want to do, what information they want to share, who they want to talk to and what help they want. Allowing the complainant/victim to

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<sup>15</sup> <https://interagencystandingcommittee.org/accountability-affected-populations-including-protection-sexual-exploitation-and-abuse/documents-50>

make decisions about their case empowers them, which is particularly critical in cases involving sexual exploitation and abuse.

**Respect and Non-Discrimination:** All victims have the right to be respected and to the best possible assistance without unfair discrimination on the basis of gender, age, disability, race, color, language, religious or political beliefs, sexual orientation or social class.

**Confidentiality:** Complainants/victims and subjects of a complaint (SOC) both have a right to confidentiality. Informed consent will be sought from the survivors and respected. The procedures related to confidentiality and information sharing are detailed in the **Part 5 of this SOPs**.

**Accessibility:** The complaints mechanism must be accessible to all potential complainants and to the largest number of people. To ensure this, multiple channels for complaints are made available. To facilitate reporting and avoid stigmatization, anonymous reports will be treated with the same gravity as other cases.

**Safety and Well-Being:** The safety of the victim will be a primary consideration at all times during reporting, investigation, and thereafter. All actions taken under these SOPs will consider potential dangers and risks to all parties, incorporate ways to prevent injury and harm, address potential retaliation to victims/complainants, and offer a safe space for reporting. It is essential that a risk assessment be conducted for each victim, and that a security/protection plan be developed if necessary, based on individualized needs.

**Transparency:** Members of the affected community will be informed on how to raise complaints. This will be in a format that is accessible to all, regardless of age, literacy, language spoken or disability.

**Accountability:** Community members will be informed about their rights, including their rights to make and withdraw complaints. Complainants/victims will be kept informed about any next steps related to their case, including investigation and referral to GBV services.

**Mandatory Reporting, Limitation of Confidentiality and Survivor's Consent:** In recognition of the UN's zero-tolerance policy for SEA, the Secretary General's Bulletin on SEA and related agency/organizational Inter-Agency PSEA policies, oblige UN staff and Non-UN staff and Implementing Partners to promptly report all concerns or suspicions of SEA by fellow workers. Anyone making a complaint should be made aware that all UN and Non-UN personnel are obliged and mandated to report to their entity when they become aware of any concern or complaint of sexual exploitation or abuse by a fellow worker. **To make the respect for consent meaningful, potential complainants should be informed early in the process of this reporting obligation, so that they may make an informed decision on whether to report.**<sup>16</sup>

**Special Considerations regarding Children:** As per UN definition and the purpose of this SOPs a Child is any person below the age of eighteen years. All the above principles apply to children, including the right to participate in decisions that will affect them. Each time that a decision is taken on behalf of a child, the best interests of the child shall be the overriding guide.

### 3.3 SEA Complaint Intake, Assessment and Inter-Agency Referral Procedures

It is the responsibility of the PSEA Network to ensure that the Inter-Agency reporting procedures are safe, confidential, transparent, and accessible, including for groups who have specific needs, and complaints and feedback mechanisms are available or, where needed, established.

Reporting mechanisms should be explained to affected populations so that all potential complainants know where and how to submit a complaint. Affected people should understand their right to free humanitarian assistance, their right to complain, and how they can bring a complaint forward in the manner most conducive and convenient to them, as part of two-way communications with affected communities.

The Somalia PSEA Network will be working towards establishing inter-agency complaints reporting channels, across the response. Complaints regarding allegations of sexual exploitation and abuse by a humanitarian/

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<sup>16</sup> For more details about consent management and limitations of confidentiality see (part II Chapter 2) [http://www.gbvim.com/wp/wp-content/uploads/Interagency-GBV-Case-Management-Guidelines\\_Final\\_2017.pdf](http://www.gbvim.com/wp/wp-content/uploads/Interagency-GBV-Case-Management-Guidelines_Final_2017.pdf)

development worker may be reported directly by the victim or by anyone who has a suspicion or a concern (complainant)

### **3.4 Core principles on SEA complaints Intake:**

**NOTA BENE: The PSEA Focal Points are the only staff trained and therefore authorized to handle a SEA complaint. Any other staff receiving a complaint, witnessing a wrongdoing, or receiving information about potential SEA must immediately contact the PSEA Focal Point of own Entity/Agency.**

The PSEA Focal Points receiving a complaint pertaining to SEA should:

- A. Treat the victim, or complainant, if different, with dignity and respect, make them as comfortable as possible; always believe the survivor. Use a separate room to ensure privacy.
- B. Explain to the victim/complainant the mandatory requirement to report on all SEA allegations. If the survivor is the complainant, seek their informed consent to share information confidentially. If a victim has not given consent to report the incident, there is nevertheless the obligation to report. Address issues of confidentiality, explaining that there are limits to confidentiality to the extent that agency staff are obliged to report complaints, while reassuring the complainant that information will only be shared on a strictly “need to know” basis. (see above section on confidentiality, mandatory reporting and informed consent).
- C. Get the basic incident information following the Somalia IRF (Annex VI)
- D. Conduct an immediate assessment of the survivor’s health (prioritizing the need for CMR and/or other urgent medical services), safety, psychosocial and other immediate needs (e.g. food, clothing, transportation to access services and safe shelter).
- E. Based on identified needs and the informed consent of the victim, refer her/him to appropriate GBV or CP case worker, in line with established referral pathways, including specific services if the survivor is a child.
- F. Confidential information regarding the case (including the name of the alleged perpetrator, organization employing the alleged perpetrator, etc.) should not be shared with the SGBV/CP service provider. The Somalia Referral Form (Annex IX) may be used for referrals to GBV and CP service providers. The Somalia IRF (Annex VI) should NOT be used for this, as this document contains confidential information regarding the incident.
- G. Ensure that safety measures are applied and a plan to mitigate any risks of retaliation or harm are addressed (e.g. relocation of the victim to another location/safe space, if required).
- H. It is primarily the responsibility of the organization of the alleged perpetrator to ensure that the victim is referred for required assistance/services, with the informed consent of the survivor. However, in cases where the allegation pertains to another UN/NGO entity, the organization receiving the allegation should ensure the survivor is referred for assistance; this should not wait for the referral of the allegation to the other UN/NGO entity. The organization of the alleged perpetrator is responsible for continued follow up to ensure all required assistance and services is provided, including covering costs in cases assistance is not available via established GBV and/or CP providers. Longer-term assistance can include comprehensive health care, ongoing psychosocial support, including mental health, access to legal assistance, livelihood support, skills training and education.
- I. For female victims, always try to conduct interviews with female staff, including translators. For male victims, ask for their preferences (a man or a woman) to conduct the interview. For victims who identify as LGBTQI as well, seek their preference.
- J. Ensure the victim is informed of the option to report to the police, where the case constitutes a criminal matter, and provide information regarding support available for this process.
- K. Ask the victims/complainants how they would prefer to receive further communications about the case.

### **In cases where the victim is not the person reporting the incident:**

- L. **Do NOT seek out the victim to provide assistance and services**
- M. In consultation with the PSEA Coordinator, and if required, GBV/CP Coordinators: Conduct GBV assessments and awareness-raising activities in targeted areas to inform the communities of SEA, their

- rights and of services available, with the aim of ensuring victims get the support they need and encouraging victims to report incidents.
- N. Handling Child Cases (under 18 years): In the event that a SEA allegation or complaint is reported concerning a child, ensure that protection principles and child safeguarding measures are in place to avoid the chance of children being put at risk. Ensure the child is referred to a professional with the required training and skills in dealing with child survivors of sexual violence e.g. a Child Protection Case Worker with specialized GBV skills.
  - O. Information about an incident or allegation is different to an investigation. **The PSEA Focal Points are NOT authorized to conduct any investigation. Investigations must be carried out exclusively by trained professionals and who are not involved in the response.**
  - P. The above considerations and procedures also apply to complainants/victims with mental health issues or intellectual disabilities. As in all cases, the wishes of the complainant/victim must be respected as far as reasonably possible.
  - Q. Signatories to the SOPs agree that action should be taken on all SEA cases taken within 24 hours for reporting and referral of victims for GBV assistance and support (where consent is given) and to apply relevant administrative measures, in line with organizational policy and procedures (including application of administrative leave) and on whether a case constitutes SEA and requires investigation, should be determined within 72 hours (prima facie). The investigation should be initiated within 7 days.
  - R. It's the responsibility of the organization carrying out the investigation (organization of the alleged perpetrator) to keep the complainant (and if separate, the victim) notified in a safe and timely manner of the status and outcome of an investigation, in accordance with the organization's internal protocols. The organization should also inform the PSEA Coordinator.
  - S. PSEA Focal Points are responsible for receiving and ensuring follow up on any allegations of SEA, including when received on weekends and during holidays. If PSEA Focal Point are on leave, the alternate PSEA Focal Point should provide coverage during this period.
  - T. The PSEA Coordinator or one of the PSEA Network co-chairs in the absence of the PSEA Coordinator will send a confidential notification regarding the case to the RC/HC. This notification does not include identifiable information and is based on the IRF template shared in Jane Lutte Guidance Note of 26 November 2021 (Annex V)

### 3.5 The e.IRF

The development of an **electronic version of the Incident Reporting Form (e.IRF)** that will centralize and streamline both the approach of data collection and coordination of information across the UN system has been planned for the third quarter of 2019. However, to date, the e.IRF is still not rolled out systematically (e.g. the RCOs are not included). Implications of systematic roll-out of the e.IRF across all UN components are therefore impossible to be included in the present version of the SOPs.

### 3.6 Information Regarding reporting on SEA and UNSOS, UNSOM and ATMIS

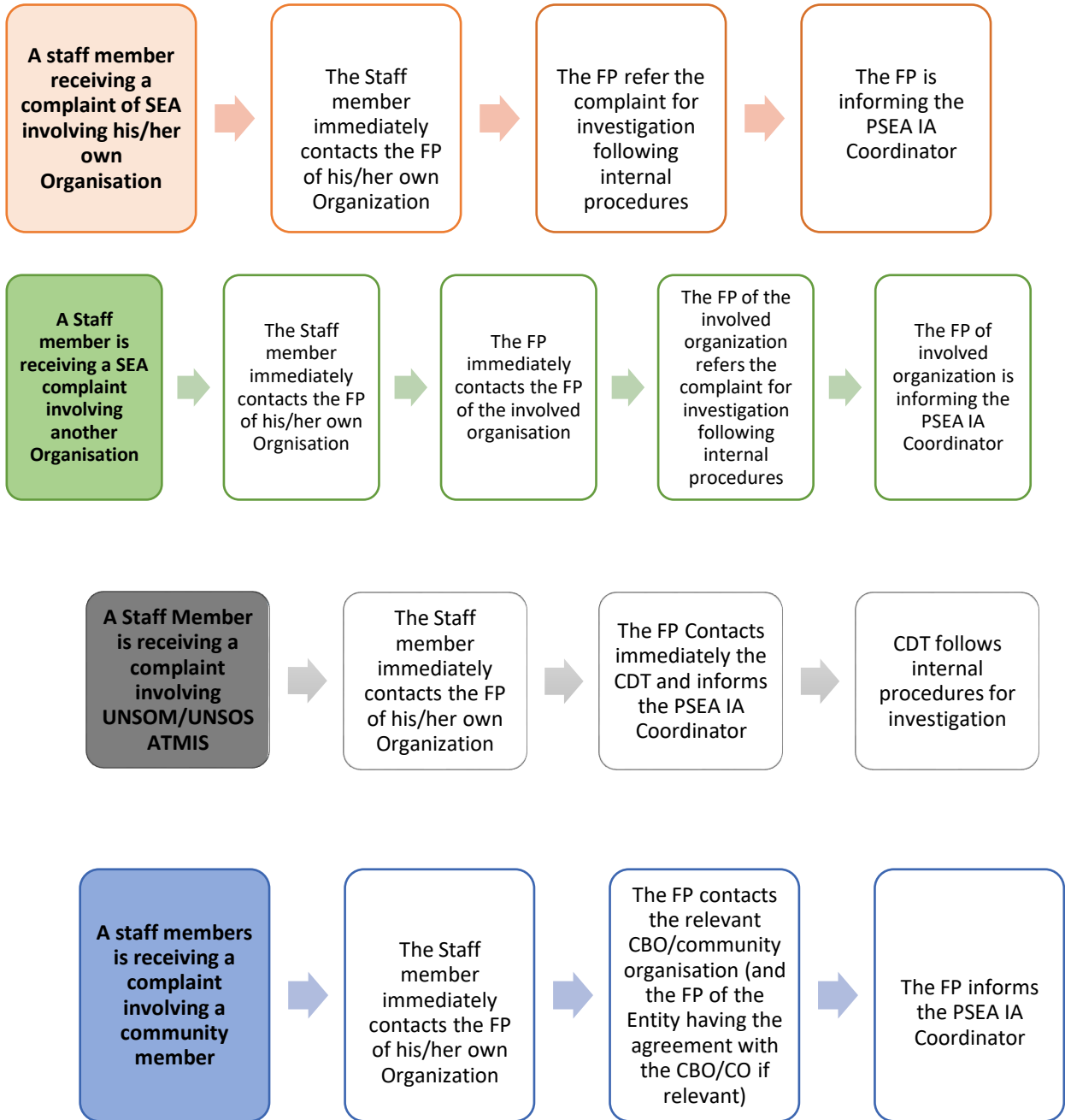
The SC Resolution 2628 adopted the 31 March 2022 on reconfiguration of AMISOM in ATMIS is stating at Alinea 34: "*reaffirms* the importance of a zero-tolerance policy on Sexual Exploitation and Abuse, *stresses* the need to prevent such exploitation and abuse, *requests* the African Union and troop- and police-contributing countries to screen personnel, undertake risk assessments, deliver all relevant training to personnel, to protect and support the relief and recovery of survivors who report abuse, carry out timely investigations into allegations, to hold perpetrators accountable, and to repatriate units where there is credible evidence of widespread or systemic sexual exploitation or abuse by members of those units, and *further requests* the African Union to work closely with the United Nations in this regard."

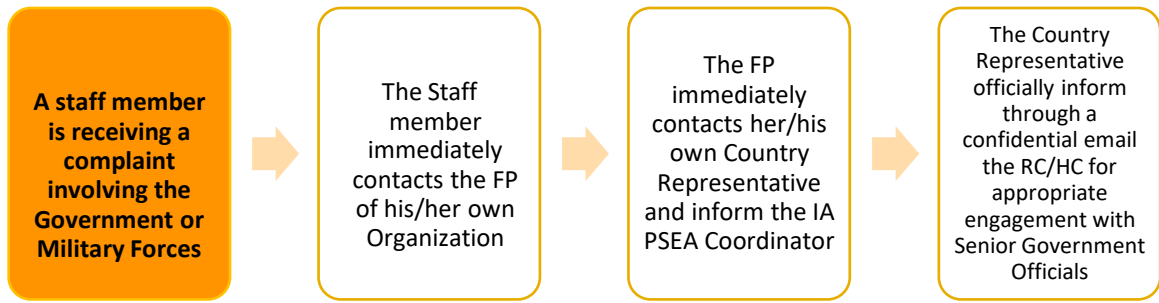
Furthermore since 2017, Conduct and Discipline Service (CDS) has been providing support to the African Union on the implementation of its compliance framework related to conduct and discipline, including its conduct and discipline policy framework, the screening of personnel, risk management and case management.



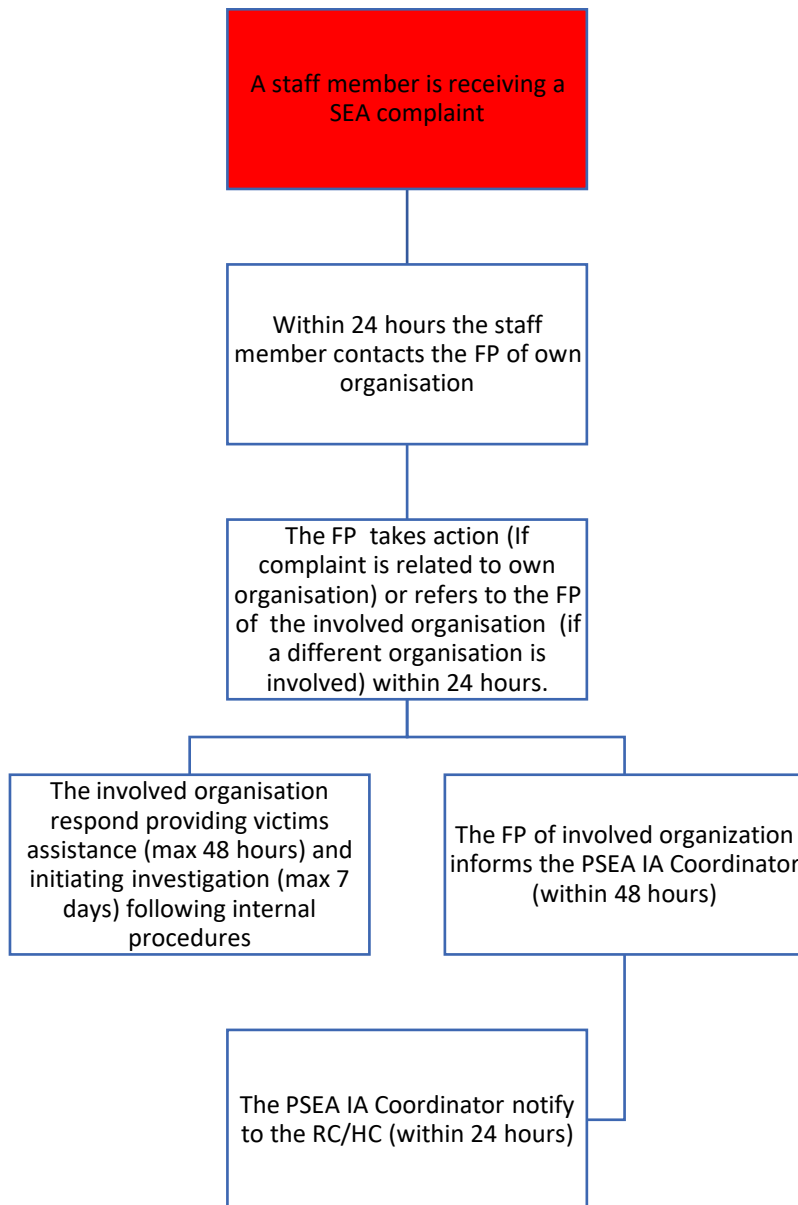
While UNSOS, UNSOM and ATMIS have different systems in place in order to address and investigate SEA cases, accordingly to the above mentioned invitation to “close work” with United Nations, it appears essential to elaborate an inclusive approach and establish bridges and collaborations amongst PFAs, UNSOS, UNSOM and ATMIS. To this regard UNSOS/UNSOM CDT is already part of the PSEA Network, further collaborations with ATMIS should be established.

**3.7 Somalia SEA Reporting Flowcharts (Standard Scenarios)**





### 3.7.1 The Reporting Process





### **3.7.2 The Referral for Criminal Prosecution**

When an incident of SEA constitutes a criminal offense, it is the decision of the investigating entity, in close coordination with its legal office in country and/or in HQ, to refer the case to the proper law enforcement authorities in conformity with the entity's internal procedures.

In such cases, as general rule, the relevant entities will fully cooperate with the local authorities, in accordance with respective agency / organizational policies and procedures and national laws. A risk analysis, and appropriate safety measures should be applied, to ensure the safety and protection of the victim/complainant, witnesses. Victims are also entitled to legal assistance and representation, where required.

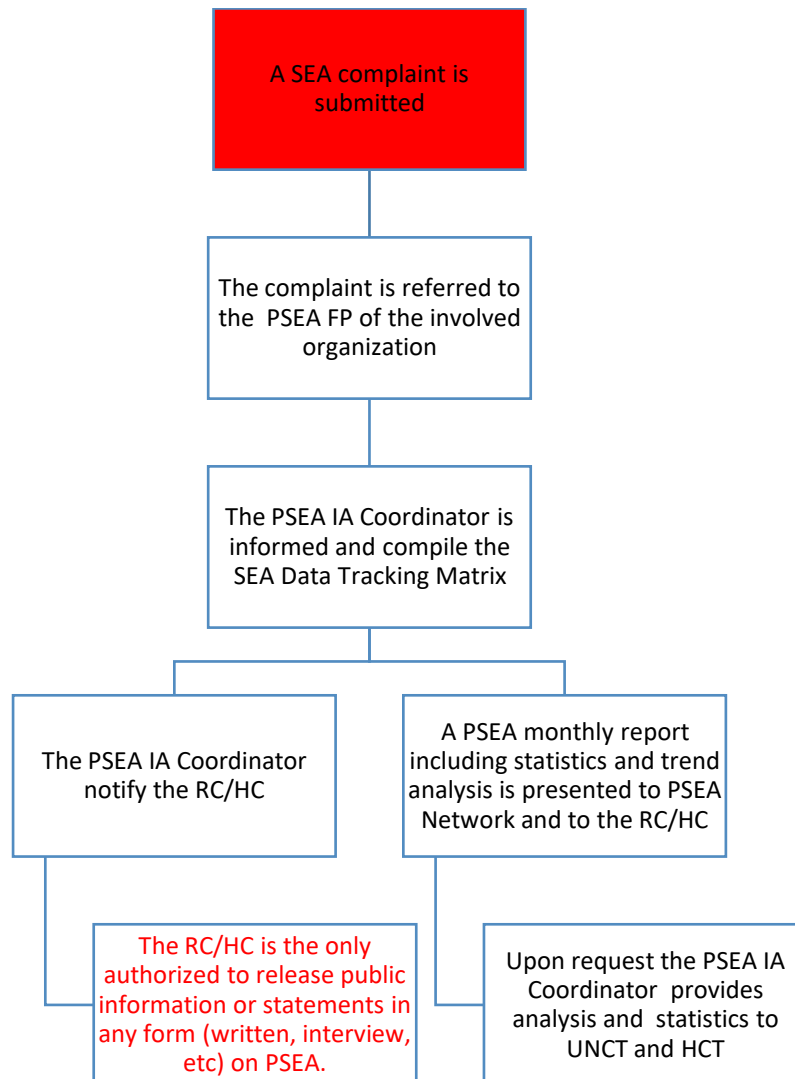
More specifically in case the victim wishes to present charges against the perpetrator through the local Court, legal partners or pro bono lawyers can be contacted by the Investigating Agency in order to provide legal support throughout the procedure. The Investigation Agency is responsible for any cost incurred by the victim in relation with the legal procedure.

**The decision of the entity to refer a case to the Somalia national authorities should consider the consent of the victim/complainant, who may not wish to involve the national authorities.**

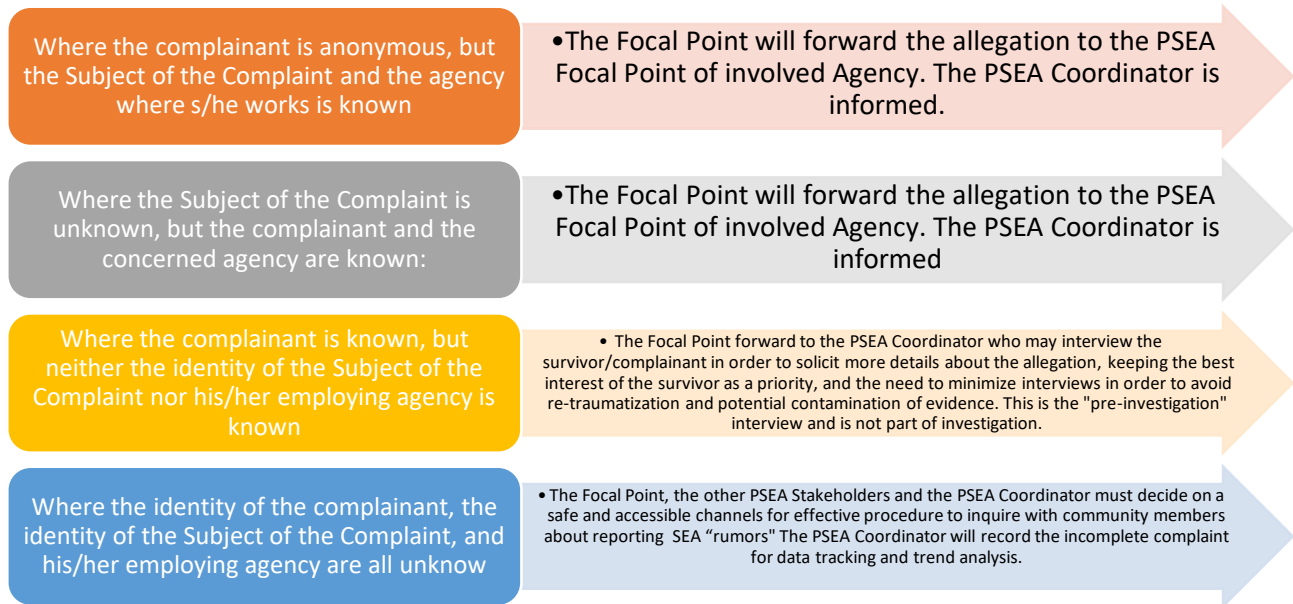
It is also important to note that Somalia hasn't any moratorium on death penalty, and this also apply to children. As seen above in Somaliland the new Sexual Offences bill is largely foreseeing death penalty (including in the article 14 for "witchcraft to obtain sex"). In such a context and in absence of a specific national law on sexual offences any referral for legal prosecution must be carefully commensurate to potential risks (including ones for the Subject of the Complaint) and evaluated in light of UN Human Rights due diligence.

While sexual abuses against children have a mandatory reporting rule in many countries, in Somalia the legislative vacuum related to any type of sexual offence is also affecting this type of crime and, to date, no mandatory reporting to authorities is required in case of allegations related to sexual abuse against children.

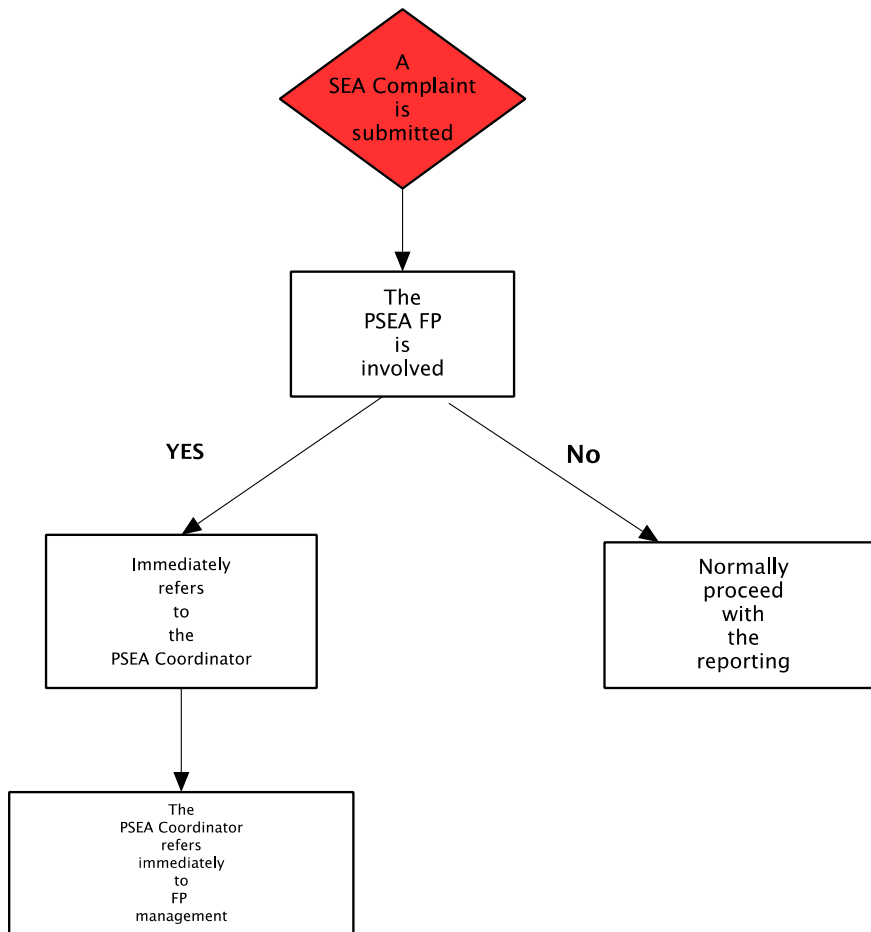
### 3.7.3 The SEA Information Flow



### 3.8 Non-Standard Scenarios

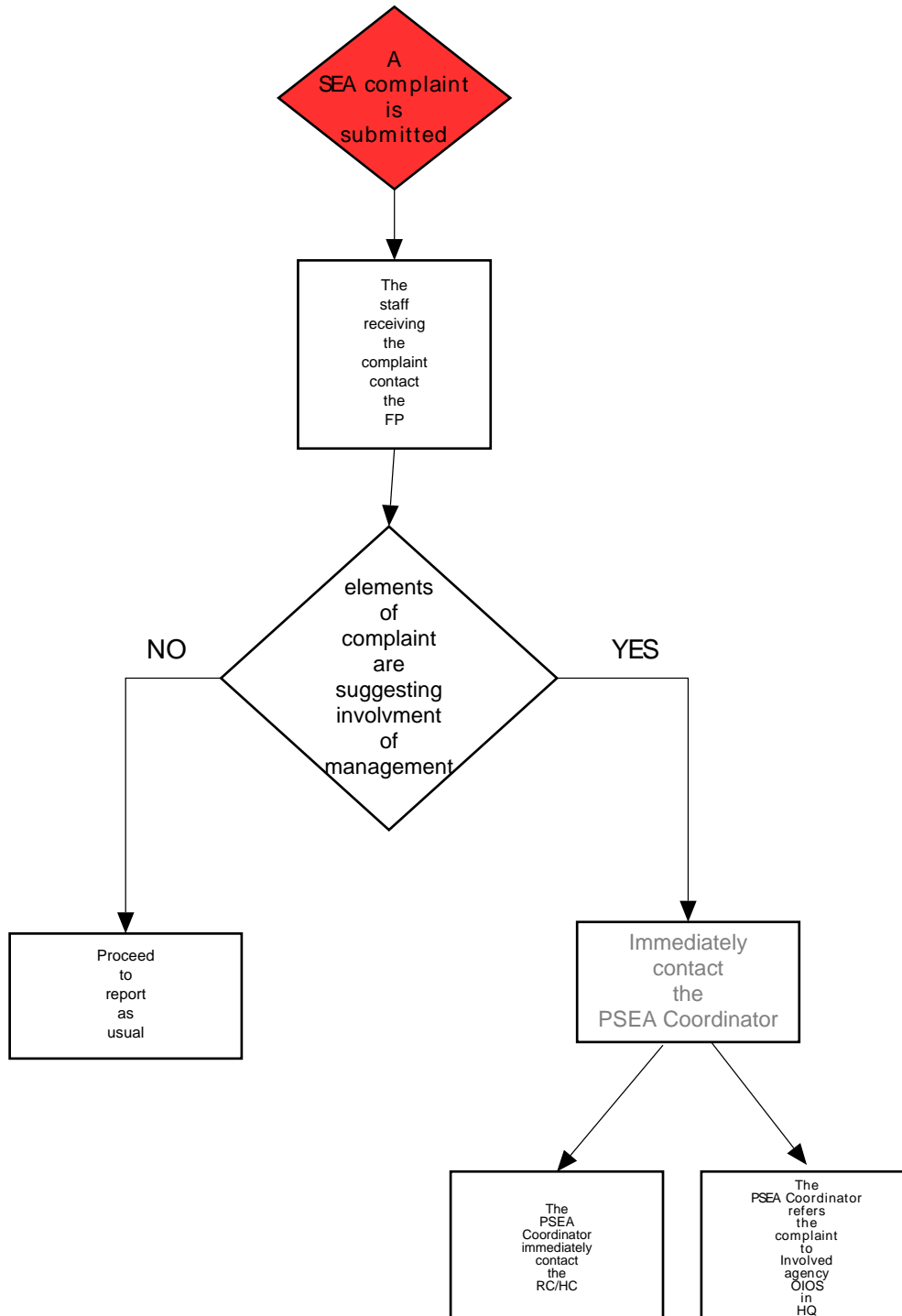


#### 3.8.1 The PSEA Focal Point is potentially involved in the SEA case.



### 3.8.2 The management is potentially involved in the SEA case

Recent SEA scandals in Haiti, Uganda, DRC etc. demonstrated that in some cases it could be a direct or indirect implication of involved agency's Senior Management in the SEA. Therefore, it is important to also consider this potential scenario.



## **Part Four: Investigation and Victim's Assistance**

### **4.1. Investigations**

Investigations of complaints or allegations of sexual exploitation and abuse should be undertaken exclusively by dedicated, trained and experienced personnel of the entity of concern or by the established investigative body affiliated with that entity, that are charged with this responsibility and who have the necessary skills and competence to undertake such investigations appropriately.

**Lack of internal investigations capacity:** In the event an agency may lack the capacity to investigate internally, the PSEA Coordinator, upon request from the concerned agency/entity, can support the agency to identify PSEA-trained investigators from Global Investigation Rosters/ Pools, where possible at the cost of the requesting agency. Financial support for investigations may also be requested from the IASC Fund for SEA allegations, managed by OCHA at the global level. For UN and INGO implementing partners, the organizations may request the support of these entities to carry out investigations if internal capacity and expertise is not available. All UN implementing partners are obliged to report any allegations of SEA to the UN entity/entities. Feedback to complainants/ survivors is a two-fold responsibility: it is part of the required outcome of agency investigations under international commitments, and it is part of victim assistance. Ideally, feedback should be given in writing to the victim to avoid confusion and/or differing interpretations.

Recognizing that internal investigations capacity and procedures is a gap for many local humanitarian actors, the Somalia PSEA Network, in line with its action plan, will work towards **establishing a pool of independent investigators at national level**. This resource may, at the request of the concerned organization/entity, provide support to internal investigations, where this is a gap.

Where appropriate and warranted, consideration should be given to conducting **joint investigations** in the interests of information and resource sharing, as well as limiting the number of interviews necessary.

### **4.2 Supporting the Needs of Survivors, Complainants, Whistle Blowers, and Witnesses.**

All entities are responsible for the actions of their personnel and all entities agree to a comprehensive approach to ensure that the protection needs of anyone involved in a complaint are fully considered and provided. Entities will make every effort to put in place prevention measures and support mechanisms to protect anyone who raises a complaint of sexual exploitation and abuse to their agency. All entities must respect the privacy, confidentiality and rights of all those involved in a complaint or allegation of sexual exploitation and abuse, including the complainant, the victim, a whistle-blower, a witness and the subject of a complaint or alleged perpetrator.

Anyone making a complaint should be made aware of mandatory reporting on all SEA allegations to help prevent harm and abuse for all. Complainants should be reassured that information will be shared strictly on a need to know basis, through established reporting mechanisms, and with full consideration of the wishes and best interests of the survivor, while ensuring safe access to applicable criminal procedures.

Entities must consider both the immediate and on-going protection, safety or assistance needs of anyone involved in a complaint or allegation of sexual exploitation and abuse. This includes the victim, complainant, whistle blower, witness and subject of the complaint.

To avoid malicious accusations: entities must reassure their personnel that no action will be taken against those who report **in good faith** information indicating a violation of the entity's staff CoC, rules and regulations regarding SEA, even if following an investigation, it proves unfounded. And if personnel knowingly and willfully report false or malicious information regarding another member of staff, such false reports lead to disciplinary action. Entities must establish the appropriate environment within their entity to ensure that there is no retaliation by fellow humanitarian workers who report such allegations/misconducts from within their agency and the PSEA Network will support each other to ensure that retaliation between entities is prevented and managed.

## Part Five: Data and Communication

### 5.1. Data Management and Information Sharing

PSEA Data Management as well as Data Tracking and Trend Analysis are crucial to determine the effectiveness of the mechanism, the quality of assistance provided and anticipate trends.

### 5.2 Information Sharing

**As general rule it is important to recall that the names of all parties to a complaint are confidential. The identity of the Subject of the Complaint/Alleged Perpetrator must be protected, out of considerations of due process, potential retaliation, and presumption of innocence. Under no circumstances should the name of the victim or complainant be released to the Subject of the Complaint/Alleged Perpetrator.**

- Somalia SEA reporting procedure has two key forms: the Incident Report Form (IRF) and the Informed Consent Form (IC). These are filled by the Focal Point of the Entity receiving the complaint (Entity of SOC).
- Non identifiable information related to the complaint should be sent by email ONLY to PSEA Coordinator to the following dedicated electronic address: [somalia.psea@gmail.com](mailto:somalia.psea@gmail.com) with subject title “DATE (e.g. 05/06/2022)-Strictly Confidential”. **No other person should be copied in the email. The email must be sent using Focal Point’s professional address and NOT forwarded to anyone.**
- Information to be shared by the PSEA Focal Point of the involved Agency/Entity in accordance with the Inter-Agency PSEA SOPs for Somalia as follows:
  1. The date of the incident(s);
  2. The nature of the incident (sexual exploitation or sexual abuse);
  3. Whether the victim/survivor is an adult or a child.
  4. Gender of the victim;
  5. Gender of the SOC
  6. Profile of the SOC (National- International Staff)
  7. Services provided to the Victim
  8. Confirmation that the Investigation has been initiated.
  9. Notification of whether the incident has been reported to the police
- The PSEA dedicated email address [somalia.psea@gmail.com](mailto:somalia.psea@gmail.com) is a two keys secured email created with specific purpose of receiving information about complaints from PSEA Focal Points. Only PSEA Coordinator has credentials to access this email. These are handed over to PSEA Network Co-chairs in case of absence of the PSEA Coordinator. Access credentials are changed by the PSEA Coordinator every three months.
- The PSEA Coordinator will be responsible to update the PSEA Network with anonymized and aggregated information about number of complaints and their status using the SEA Data Tracking Matrix (annex VIII)
- As per Jane Lutt Guidance Note of 26 November 2021, the PSEA Coordinator will confidentially notify the RC/HC of each SEA complaint using the required tool.

### 5.3 Data Management

- With information gathered from PSEA Focal Points the PSEA Coordinator will update the SEA Data Tracking Matrix and prepare a monthly Report by the 10<sup>th</sup> of the following month.
- The Report will be shared and discussed with PSEA Network during its monthly meeting.
- The PSEA Network is responsible to produce SEA Trend Analysis to be submitted to PSEA Steering Committee quarterly.

#### **5.4 Data Safety**

- The hard copies of IRF and IC must be stored in secure, locked and confidential locations at all times. Electronic storage of scanned copies of all forms must be done in a password-protected folder to which only the Focal Point has access. This should be located in the Focal Point's professional laptop.
- SEA Data Tracking Matrix will be located in the PSEA Coordinator professional laptop, password protected and accessible only to PSEA Coordinator.
- All reports will be compiled using anonymized and non-identifiable information, no pictures or any kind of identifiable information will be shared in reporting or during presentations or trainings.
- PSEA Focal Points will be requested to demonstrate have signed a Confidentiality Undertaking in accordance with their respective Entity internal policies.

#### **5.5 UN Annual Certification**

All UN agencies are also required to submit an annual certification to the RCO stating that all allegations of SEA have been reported and that training has been provided to their personnel. The RC also certifies the same points concerning the RC's Office. At the same time, all UN entities are required to report SEA allegations involving their own personnel and implementing partners to the UN Secretary General. The UN Resident Coordinator in his capacity as the most senior UN official in the country, with accountability to implement the Secretary General's Bulletin on Sexual Exploitation and Abuse, sends the overarching management letter to the SG informing the UN Agencies' certification in-country (i.e. SEA cases reported by each UN agency and all-personnel PSEA training completed by each UN agency).

#### **5.6 Media and other external actors:**

All information requests on SEA from the media and external actors will be carefully considered and any requests for aggregated information on SEA, have to be made in writing to the PSEA Network Coordinator or Network co-chairs in the absence of the Coordinator. Approval of such information sharing may only be given by the RC/HC. The RC/HC is the only authorized to release public statements, interviews or any type of public information in any type of media on SEA.

### **Part Six: Final Arrangements**

#### **6.1. Participation and signature**

This SOP shall be open for signature by agencies on an on-going basis. Organizations will signify their interest to the PSEA Network Coordinator, within the office of the RC/HC or PSEA Network Co-Chairs, who will take the necessary steps to formally accept new agencies/ organizations in the SOPs and the PSEA Network.

All signatories to these PSEA Standard Operating Procedures are committed to protecting people from Sexual Exploitation and Abuse by any of its personnel, and in doing so agree to extend the fullest cooperation and assistance to each other in adherence with the following:

- Apply the principles and best practice standards defined in this SOPs.
- Apply the standards and agreements for Inter-Agency Reporting, Referrals and Feedback on SEA allegations defined in this document.
- Adhere to or demonstrate a commitment to achieving the appropriate compliance with the relevant data protection standards.