

PARTNERSHIPS AND PROTECTION AGAINST SEXUAL EXPLOITATION AND ABUSE

AN ANALYSIS OF RECENT CASE STUDIES



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List of Acronyms and Abbreviations

CAR	Central African Republic
CBCM	Community Based Complaints Mechanism
CBO	Community Based Organisation
CSO	Civil Society Organisation
DAC	Development Assistance Committee (OECD)
DRC	Democratic Republic of Congo
EU	European Union
FCDO	Foreign and Commonwealth Development Office (UK)
GAC	Global Affairs Canada
GBV	Gender-Based Violence
IASC	Inter-Agency Standing Committee
ICVA	International Council of Voluntary Agencies
IDP	Internally Displaced Persons
INGO	International Non-Governmental Organisation
IP	Implementing Partner
LGBT	Lesbian, Gay, Bisexual and Transgender
MENA	Middle East and North Africa
NGO	Non-Governmental Organisation
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OECD	Organisation for Economic Cooperation and Development
PCA	Programme Cooperation Agreement
PSEA	Protection against Sexual Exploitation and Abuse
SCHR	Standing Committee for Humanitarian Response
SEA	Sexual Abuse and Exploitation
SOC	Subject of Concern
SOP	Standard Operating Procedure
UN	United Nations
UN SG	United Nations Secretary General
UNFPA	United Nations Population Fund
UNHCR	United National High Commission for Refugees
UNICEF	United Nations Children's Fund
WASH	Water, Sanitation and Hygiene
WFP	World Food Programme

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1. Executive Summary

This study commissioned by the Steering Committee for Humanitarian Response (SCHR) and International Council of Voluntary Agencies (ICVA) focusses on the important role played by partnerships in addressing allegations of sexual exploitation and abuse (SEA) against aid workers. Following the adoption of the UN Protocol on Allegations of Sexual Exploitation and Abuse in 2018 (hereinafter 2018 UN Protocol), the various UN agencies and NGO partners, working in a humanitarian context, have tried to work together to ensure that their efforts to prevent, mitigate the risk of and respond to allegations of sexual exploitation and abuse are more systematic and efficient. Such joint efforts have given positive results on the ground but need to be further enhanced not only to prevent cases of SEA but also ensure that once they occur, the rights of the victims are protected and there is no impunity for the perpetrators. It is against this background that the current evidence-based study, focusing on a number of recent cases was conducted. The objectives of the study were as follows:

- To examine in what ways the nature of relations between partner organisations (UN, NGOs, donors) has affected the quality of the response to allegations of SEA, in particular the impact on survivors, communities and programme continuity.
- To identify and document good practice and learning in partnership response to SEA cases.
- To provide findings that may inform ongoing efforts by donor governments, UN Agencies and NGOs to collectively strengthen the framework for prevention of SEA.

The review was carried out by GCPS Consulting in early 2021. The methodology included conducting a desk review of documentation and confidential interviews with representatives from a range of different international and national organisations, including UN agencies, donors and NGOs. Examples were anonymised and selected from multiple contexts. A number of core

documents were identified which overall define the obligations of the various partners and these were used as a basis for the research. UNHCR participated in the advisory committee for the study, together with ICVA and SCHR, in light of the High Commissioner for Refugees' role as Inter-Agency Standing Committee (IASC) Champion on Protection from Sexual Exploitation and Abuse and Sexual Harassment at the time the study was conducted.¹

In addressing SEA, all stakeholders act based on a number of obligations derived from international and national law, ethical principles, internal administrative regulations and code of conducts, voluntary commitments or specific instruments like the 2018 UN Protocol on SEA Allegations involving Implementing Partners, the Secretary General Bulletin of 2003, etc. These instruments outline binding obligations on UN entities, which—in turn—create certain downstream obligations for the UN's NGO partners.² Moreover, these instruments outline a framework of shared responsibility between the UN and its partners.³ Whilst the 2018 UN Protocol is designed to facilitate the identification and resolution of any potential gaps in partner capacity, it also establishes that there are certain situations where the termination of a partnership agreement is required.⁴ These UN instruments are further complemented by the work of the IASC to reinforce minimum standards, such as the Six Core Principles Relating to Sexual Exploitation and Abuse.

Several partnership agreements were reviewed during the course of this study, including standard UN agreements and those drawn up by INGOs for use with their NGO partners. The agreements usually highlight the partner obligations and commitment to take "appropriate" or "reasonable" preventive measures and to respond to SEA incidents. They also provide for partnerships to be suspended or terminated if contractual obligations are not met. However, of the agreements reviewed, most did not indicate the level of support that partners could expect when they have

¹ In this report, the term "funding partner" is used to describe an entity/organization - whether it be a donor or a UN Agency or INGO when providing funds to NGO partner - when contributing funding in support of an NGO partner. The term "NGO partner" in this report refers to the NGO (which may be an INGO, a national/local NGO or civil society organization, a community-based organization etc.) that is in receipt of funding from the funding partner and that is required to perform humanitarian services.

² For instance, whilst "the UN is required to report allegations of SEA to the Secretary-General", it is also "the responsibility of implementing partners to promptly report allegations of SEA to the UN partner entity, as part of this reporting obligation".

³ For its part, the UN is required to inform its implementing partners of the standards of conduct listed in section of the Secretary General's 2003 Bulletin (which prohibits all forms of SEA) whilst, for their part, partners must provide a written undertaking that they accept and adhere to these standards. See Articles 6.1, 6.2, Secretary General's Bulletin: Special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13).

⁴ See paragraph 6.2, ST/SGB/2003/13; Article 3, 2018 UN Protocol on SEA Allegations involving Implementing Partners.

to improve their PSEA capacity to avoid being “high-risk”, or when they have to conduct SEA investigations which are safe, confidential, professional and survivor-centred. In practice, funding partners and NGO partners struggled to work effectively on sharing PSEA learning and knowledge, often in spite of long-term partnership arrangements. NGO partners may receive limited support and bear most of the costs using their core-funding.

The NGO partner’s role when a SEA incident arises consists mainly of providing victim assistance, reporting the incident immediately to the funding partner, investigating as required, taking actions and corrective measures as part of the case resolution, and reporting back on what it has done. For many NGO partners, the level of resources and support available is critical at all stages. The case study examples set out in the report demonstrate that the partnership response to SEA incidents varies from case to case and that funding organizations have different requirements and expectations. The key determining factors seem to be the level of trust between partners, a constructive, collaborative approach, good communications and also the effectiveness of the PSEA network in-country. Positive examples provided included sharing resources on investigations and joint working on survivor assistance. Less collaborative approaches were identified, which highlighted issues such as poor communications, lack of donor understanding of the context, making partners solely responsible for investigations and risk mitigation, irrespective of their capacity, and inadequate consortium arrangements. These factors tended to lead to poor outcomes, including lengthy processes, wasted resources, impunity and ongoing risks for survivors and communities.

Decisions about whether to continue, suspend or terminate the partnership are perceived to be solely the decision of the funding partner, and have a huge impact on the NGO partner’s staffing, programme and affected communities. The criteria for these decisions are not necessarily consistent across agencies or partnerships and are based on factors such as the partner contractual requirements; gravity of the allegations; timely reporting; incident management; standard of partner PSEA practices and awareness; risk to communities; media exposure and reputational risk; political considerations and public scrutiny; and signaling zero-tolerance for inaction.

A number of cases were reviewed where the outcome was suspension or termination of the partnership. There were some positive aspects of suspension, such as sending a strong signal on zero tolerance of inaction, as well as increased leadership and management of PSEA by the partner and also the wider humanitarian community. However, there were also negative

consequences, including lack of risk mitigation and severe disruption to critical life-saving services. In the specific cases reviewed, it appeared that some decisions by UN funding partners were not properly informed by a risk assessment and were made effective before the identification of other service providers to take on the activities. This led to an immediate serious impact on the health, wellbeing and dignity of the affected population. Risk assessment in this context thus needs to examine/incorporate 1) the measures taken by the NGO partner in addressing allegations and mitigating risks of future cases of SEA; 2) the availability of other suitable organisations that could step in to deliver the respective services, should a suspension/termination take place, 3) community consultation to assess perceptions regarding trust, impunity and inaction, 4) whether the partner is delivering a specific services related to SEA (for example one suspended partner was actually overseeing complaints and feedback mechanisms for SEA and other integrity violations), in which case any inaction or wrong step undertaken by the partner strongly questions the mandate given and 5) what support the funding partner will provide to enable risk mitigation.

A number of key learning points based on the specific cases studied were identified, which are further detailed in the report:

- i. Partnerships between funding partners and NGO partners often struggle to support NGO partners in meeting PSEA requirements of the international framework prior to SEA incidents occurring.
- ii. PSEA networks offer possible effective avenues for joint capacity building and sharing learning and knowledge, especially when all agencies work closely together and providing that all NGO partners become active/regular members.
- iii. Trusting NGO partners to conduct investigations is the appropriate overall approach and they have local knowledge, but considering that conducting the investigation is primarily the obligation of the partner, irrespective of their capacity, can expose victims to harm and compromise the quality of the investigation.
- iv. Victim assistance has been given a high priority, but survivor-centred approaches throughout investigation and case resolution have probably not been consistent across organisations/partnerships.
- v. The decisions by funding partners to suspend/terminate partnership agreements have not always been informed by an assessment of the risks for the affected communities or properly mitigated, leading to disruption of life-saving services/activities.

- vi. Funded partnerships are often perceived as unequal power dynamics, which means that NGO partners feel that they are more accountable than the funding partners.
- vii. Initiatives at global level from funding partners to develop harmonised frameworks and tools can translate into positive results at country and local level.

Overall, despite some good practices, the information obtained in this study suggests that the UN funding partners, and partners have struggled to implement the 2018 UN Protocol consistently across the various partnerships and contexts. Many agencies have supportive approaches and see it as their role to work with partners to build PSEA capacity together. However, they may have limited resources to meet the scale of the task. Most partnership agreements reviewed did not include any PSEA-specific activities or budget or refer to a PSEA assessment and capacity-strengthening implementation plan. This has led to situations where partners have been ill-equipped to fulfil their responsibilities of investigating and responding effectively when SEA cases have been reported. While there were good examples of collaborative joint working and decision making on support to the survivor, there were occasions where key decisions about the future of the partnership were taken without consultation or communication with the partner and affected community.

This report proposes recommendations for consideration by various stakeholders. Key points include aligning partnership agreements with the 2018 UN Protocol articles 14b, 16 and 19; providing sufficient support to NGO partners to enable them to conduct safe, professional and confidential investigations; engaging with communities and partners to conduct risk assessments and secure life-saving activities before suspending or terminating partnerships; and avoiding full suspension of operations (also by examining options for alternate partners or stakeholders to provide the respective services in case a suspension does take place), especially with respect to life-saving activities. This would reflect the zero tolerance of inaction, without exposing victims and affected communities to further harm. It would also reflect a more equal approach to partnership and promote mutual accountability.

2. Introduction and Background

In late 2020 SCHR and ICVA, in partnership with UNHCR, as part of the UN High Commissioner for Refugee's initiatives during his tenure as the Inter-Agency Standing Committee Champion on Protection from Sexual Exploitation and Abuse and Sexual Harassment, decided to conduct research into how partnership relations influence responses to sexual exploitation and abuse (SEA) by humanitarian workers. Terms of reference were drawn up for the study and GCPS Consulting was commissioned to carry out the research, overseen by a reference group composed of ICVA, SCHR and UNHCR representatives.⁵

The objectives of the study were defined as follows:

- To examine in what ways the nature of relations between partner organisations (UN, NGOs, donors) has affected the quality of the response to allegations of SEA, in particular the impact on survivors, communities and programme continuity.
- To identify and document good practices and learning in partnership response to SEA cases.
- To provide findings that may inform ongoing efforts by donor governments, UN Agencies and NGO's to collectively strengthen the framework for prevention of SEA.

To avoid potential protection or confidentiality issues, it was agreed that the study would not involve the examination of individual cases of sexual exploitation and abuse. The focus was instead to be on the response of partners during the management of SEA allegations.

It is hoped that the findings will be valuable for donors, UN agencies, INGOs and local partner NGOs in establishing and supporting best practices, as they work collectively to respond to, manage and ultimately prevent cases of SEA.

⁵ The study is an independent report and the views expressed and information contained in it are the responsibility of the authors who conducted the study. ICVA, SCHR and UNHCR do not necessarily endorse such views and are in no way responsible for such views or information or for any reliance placed on them. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and no organisation or person involved in producing this document accepts or assumes any liability, responsibility or duty of care for any consequences of anyone acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it, except to the extent permitted by law applicable to such organization or person.

3. Methodology

The review was carried out by GCPS Consulting during February–April 2021. A framework was drawn up with key questions to guide the document review and interviews (see Annex A). Primary case study countries were identified and agreed by the reference group.

The methodology included conducting a desk review of documentation made available to the team by the group and by organisations who agreed to take part in the study. Information was also drawn from publicly available sources in the media and on the internet about particular cases, contexts and stakeholders. A list of documents reviewed is available on request. Information was gathered relating to over twenty SEA incidents and situations from various regions: South Asia, East, West and Central Africa, Central America, the Middle East and Southern Europe. In a few cases, very specific detailed information was provided and in others the examples were more high level, depending on what interviewees knew or felt able to disclose. It should be noted that this study focussed particularly on humanitarian settings and therefore UN agencies, who have primary responsibility for humanitarian response, were often involved in the partnerships reviewed. Over thirty confidential interviews were conducted with representatives of a range of different organisations,

including UN agencies, INGOs, government entities and local organisations, as well as individuals who could offer a wider perspective and expertise on the topic. Meetings were held periodically with the reference group to review progress and priorities. All meetings and interviews were conducted remotely via Skype, Teams or other online platforms.

All information was then collated and analysed to produce this report. It should be noted that the available time and resources did not permit the research team to collect and review all relevant documents and there were limitations on the number of interviews and access to people with knowledge of incidents. The team has tried to take these limitations into account when balancing their observations and conclusions. Confidentiality guided the work throughout and may also explain some of the limitations in the provision of information and documents. There were some reservations expressed about participating in the study and an understandable reluctance to share certain types of information. Examples have been anonymised and selected from multiple contexts, in order to make it unlikely that they could be linked to specific cases, particularly where cases have not reached the public sphere.

4. The international framework relevant to PSEA and partnership co-operation

International and regional law requires states to criminalise some acts of sexual abuse and exploitation and others are, fairly consistently, criminalised by national legislation. Of course national legislation does not limit itself to “sexual exploitation” and “sexual abuse” perpetrated by aid worker(s). In contrast, the 2003 UN Secretary General’s Bulletin concerns itself only with “sexual exploitation” and “sexual abuse” when allegedly perpetrated by UN personnel, as well as any personnel of non-UN entities or individuals with which the UN partners. The scope of this study limits itself to allegations of SEA perpetrated by aid worker(s).

The UN has a website dedicated to Preventing Sexual Exploitation and Abuse⁶, which provides links to relevant documents and initiatives. A number of core documents were identified which overall define the obligations of the UN and NGO partners; these were used as a basis for developing the research framework, collecting the information, reviewing the findings and drafting the report. Please see Annex C for more details of these. The key points are set out below.

UN framework for PSEA.

The UN framework on PSEA is based on the UN SG Bulletin 2003, which is aligned with the IASC core principles on PSEA which defines “sexual exploitation” and “sexual abuse” and establishes mandatory requirements whenever the UN enters into partnership agreements with non-UN entities or individuals. It highlights, inter alia, the management responsibility to have reporting procedures in place, contribute to an environment that prevent SEA and stipulates that failure of entities or individuals to take preventive measures against SEA, investigate allegations, or take corrective action when SEA has occurred, shall constitute grounds for termination of any cooperative arrangement with the United Nations. The 2018 UN Protocol on management of SEA allegations involving partners (21 March 2018) details the UN and partner responsibilities. Articles 15,

16, 17 and 19 are particularly important for this study, highlighting the joint responsibilities of UN entities and NGO partners to take corrective measures when the partner capacities on PSEA are assessed as weak and also establish complaint reporting mechanisms. The UN framework on PSEA has the following key documents:

- UN Secretary-General’s Bulletin: Special Measures for Protection from Sexual Exploitation and Abuse (2003).
- UN Protocol on allegations of SEA involving implementing partners (21 March 2018) (hereinafter 2018 UN Protocol).
- UN Implementing Partner PSEA Capacity Assessment: (Interim) Harmonized Tool, UNICEF, UNFPA, UNHCR, and WFP in consultation with IASC members and the UN SEA Working Group (September 2020).

IASC framework for PSEA.

The Inter-Agency Standing Committee (IASC) framework has evolved from defining core principles on PSEA in 2002 to detailing the Minimum Operating Standards on PSEA that each organization should comply with and a plan for strengthening PSEA system across organizations and agencies in 2010. The recent IASC strategy to address SEA allegations in March 2021 includes the necessity to support partners which have low level of capacities to ensure victim assistance and professional investigations, including through access to the investigations fund managed by OCHA⁷. The IASC framework on PSEA has the following key documents:

- PSEA The IASC Six Core Principles (2002, updated 2019).
- IASC PSEA Minimum Operating Standards (2010).
- IASC Strategy “Protection from and response to SEA and sexual harassment” (March 2021).

⁶ UN website on PSEA : <https://www.un.org/preventing-sexual-exploitation-and-abuse>

⁷ https://www.unocha.org/sites/unocha/files/OCHA_SEA_Fund_flyer%20%281%29.pdf

- PSEA networks at global, national and regional level.
- IASC core humanitarian principles.
- IASC Plan for Accelerating Protection from Sexual Exploitation and Abuse in Humanitarian Response at Country-Level.

To simplify and streamline the implementation of the 2018 UN Protocol, IASC has developed a UN Implementing Partner PSEA Capacity Assessment. This common assessment tool removes the need for duplicative assessments of the same partner by various UN entities, and provides a standardized 5-year validity period for partner assessments. It is being rolled out in 2021 by an interagency taskforce, as well as individual agencies, to simplify the partner assessment process, with particular attention to supporting partners in meeting the requisite standards of the 2018 UN Protocol and 2003 Secretary General's Bulletin. It

was developed through extensive consultation with partners, including through several rounds of discussion and feedback with NGO members of the IASC Results Group on Accountability and Inclusion (Results Group 2).

The Development Assistance Committee of the OECD recognized the IASC standards in its Recommendation on Ending Sexual Exploitation, Abuse, and Harassment in Development Co-operation and Humanitarian Assistance, 2019.⁸

In addition to the UN and IASC frameworks, many INGOs, NGOs and donors have incorporated PSEA and safeguarding into their own organisational strategies and frameworks, for example through developing and implementing relevant policies and procedures and in individual partnership agreements. Although this differs from one agency to another, organisational commitments to zero tolerance of sexual abuse and exploitation are now widespread.

5. How have partners worked together to meet their binding obligations on SEA?

The Global Humanitarian Platform, created in July 2006, brought together UN and non-UN humanitarian organizations on an equal footing to develop Principles of Partnership⁹ which committed them to a solid partnership based on mutual accountability. The five principles are equality, transparency, result-oriented approach, responsibility and complementarity. These principles should underpin all aspects of partnership, including the response to SEA.

5.1 The obligations by the different partners in a co-operative agreement.

Several partnership agreements were reviewed in the course of the study, including standard UN agreements, such as the UNICEF Programme Cooperation Agreement (PCA), UNHCR Project Partnership Agreement, WFP Field Level Agreement and UNFPA Implementing Partner Agreement, as well as agreements drawn up by INGOs for use with their NGO partners.

⁸ <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-5020>

⁹ https://www.unocha.org/sites/unocha/files/OCHA_SEA_Fund_flyer%20%281%29.pdf

NGOs have consistently expressed concern about the term “implementing partner” used in UN documents, pointing out that their contribution goes beyond simply implementing. The term “NGO partner” is used instead in this study.

The UN entity agreements usually highlight the NGO partner obligations and commitments to take “appropriate” or “reasonable” preventive measures and to respond to SEA incidents in compliance with donor and UN requirements. They often do not provide much guidance on what “appropriate” or “reasonable” preventive measures might look like in the core-document of the agreement. However, they make a clear reference to UN policies on PSEA.

These agreements do not contain much information about commitments from the UN to work with the NGO partner to improve its PSEA practices. Partnership agreements do not necessarily reflect the spirit of the 2018 UN Protocol or, for example, the expectations outlined in the UNICEF PSEA assessment questionnaire and toolkit (February 2020) or UN partner PSEA capacity assessment (September 2020). Few of the agreements seen refer directly to the 2018 UN Protocol, although there are exceptions, e.g. UNFPA and UNHCR; in the latter case the agreement was updated in the light of the recent harmonized UN Implementing Partner PSEA Capacity Assessment. They do not usually indicate the level of support that the partner can expect from the UN agencies in terms of assessing and strengthening its capacities to prevent and respond to SEA incidents. Therefore, they do not include any specific content in relation to the shared responsibilities between the UN entities and the partner to take corrective measures when the partner capacities on PSEA are weak or clarify the shared responsibility for establishing complaint mechanisms for communities to report their concerns. No direct references were seen to the Principles of Partnership in the agreements reviewed.

The 2018 UN Protocol relates to partnerships established by UN Agencies. This means that NGOs and government donors in partnership with other entities than UN Agencies are not bound by the 2018 UN Protocol. Such co-operation/partnership agreements therefore do not generally refer directly to the 2018 UN Protocol or to inter-agency responsibilities on PSEA. However, most make reference to policies and requirements on PSEA, safeguarding and Codes of Conduct and may give links to resources online. Examples include the UK Foreign, Commonwealth and Development Office (FCDO) reference to its Supply Partner Code of Conduct and the DAI development agency’s Code of Business Conduct and Ethics. The FCDO agreement has a clause with a list of “reasonable measures” in its agreement¹⁰.

FCDO “reasonable measures” expected of partners in relation to PSEA/safeguarding



Clear and detailed policies and guidance.



Developing, implementing and monitoring a safeguarding plan.



Regular training.



Clear reporting lines and whistle-blowing policies.



Maintaining detailed records of any allegations of serious misconduct and reporting to FCDO.

One of the INGOs interviewed has a devolved process for local partnership agreements or Memorandum of Understanding (MOU). All include reference to the INGO’s detailed safeguarding standards and a commitment to working co-creatively with partners and build capacity, with the obligation to capitalise on experience on both sides. Training is provided, and partners are currently being consulted through a survey, including questions about their perspective on what it is like to work together. The aim is to promote a two-way relationship with accountability on both sides. The agreement sets out how incidents or concerns will be dealt with - in some cases it might be the partner investigating, sometimes the INGO may help if the partner does not have the necessary capacity.

Another INGO which works mainly in Asia includes in the partnership agreement its commitment to providing technical support for improving the partner’s policies and PSEA capacity development, including in relation to investigations.

¹⁰ UK, Foreign, Commonwealth and Development Office, FCDO: Standard Terms and Conditions – Service Contracts. September 2020.

Partnership agreements generally underline the obligation for the partner to inform “promptly” the relevant funding partner of any SEA incident¹¹ involving its personnel (to follow the requirements of the UN Protocol 2018), often within 24 or 48 hours. They are required to conduct the investigation and either to share the investigation report (UN agency requirement) or a redacted version/ high level information detailing actions and outcomes (most other agencies). However, it appears that most agreements do not indicate the level of support that partners may get to build their capacity on conducting SEA investigations and ensure that they are safe, confidential, professional and survivor-centred. In the context of high insecurity, an SEA investigation can lead to serious risks for the victim, alleged perpetrator and the investigators themselves. This aspect is not considered in the 2018 UN Protocol or most of the PSEA network Standard Operating Procedures (SOPs) that were reviewed for this study (one exception being the recently launched SOPs of the PSEA network in Lebanon). In relation to victim assistance, a victim-centred approach is a guiding principle in the 2018 UN Protocol, but the partner agreements reviewed do not refer specifically to victim assistance in the event of an SEA Incident. One donor noted that they make it clear to partners that they are required to provide support to victims and increasingly expect partners to be prepared for this.

All agreements reviewed contain clauses that provide the legal basis for the suspension or termination of co-operation/partnership agreement by the funding partner if there is an SEA incident and if the NGO partner has failed to take the necessary PSEA preventive measures, inform the funding partner immediately or conduct the investigation. It is usually provided for this to happen without further justification or any liability, especially in a situation where the partner has failed to report immediately to the “donor” agency or take corrective and preventive measures. None of the agreements seen mention any prerequisite to the suspension/termination, such as assessing, mitigating or managing the risks or impact on the affected population. No conditions are highlighted related to continuity of services, even for life-saving activities, as part of fulfilling the humanitarian imperative.

Some of the obligations are set out as exclusive obligations of NGO partners in the co-operation/partnership agreements, whereas they are in fact shared obligations of the UN entities and partners in the 2018 UN Protocol on SEA allegations involving implementing partners (articles 14.b, 16 and 19). This may mean that co-operation/partnership agreements with UN entities should be adapted to align with the 2018 UN Protocol,

particularly in relation to taking corrective measures to address gaps in the assessed PSEA capacities of partners and setting up complaint mechanisms. This would also avoid a risk transfer approach among partners in the relationship. Additionally, in line with how the reporting obligation is structured under the Secretary General's Bulletin (ST/SGB/2003/13), co-operation agreements generally do not reflect any obligation on the UN to inform partner NGOs if there are allegations about UN personnel when they are jointly implementing a project. In order to improve transparency, the UN has established a common database of reported allegations which is accessible to all and efforts are underway to improve it¹².

Several interviewees appeared not to be clear about the stipulations in the co-operation agreements regarding their obligations to report or take PSEA preventive measures. A director of one NGO partner stated that the agreements with UN entities did not mention the obligation to report an SEA allegation immediately to UN entities (even though this was mentioned in all the co-operation agreements seen).

It should also be noted that two NGO partners who failed to report incidents immediately to the UN entities had not established complaint reporting mechanisms in their project locations, despite having

One different aspect of the challenges in partnership in relation to PSEA was highlighted by one INGO interviewed who had experienced resistance from certain agencies (e.g. corporate partners) to agree to safeguarding clauses in contracts and agreements. A partner from Scandinavia refused to have a safeguarding clause and stated it was not necessary, as they did not work with children and their general commitment to human rights should suffice. They eventually agreed to abide by references to the organisational Code of Conduct and after intervention by the CEO. The interviewee noted that this is not the case with local NGO partners, that can be asked to do a self-assessment and report on any cases. According to the interviewee, if a local partner said “no” to safeguarding wording in the co-operation agreement, then they would not get any funds.

In general, the PSEA/safeguarding clauses are now mandatory in most co-operation agreements both for local and INGOs. It is however of utmost importance to properly clarify the applicable rules to prevent perceptions of unequal treatment and power imbalances between funding partners/ donors and national/local organisations.

¹¹ UK, It should be noted, however, that the necessity of ensuring that SEA survivors are referred to assistance is well-established within the GBV Area of Practice and corresponding IASC GBV Guidance.

¹² For current reporting please see: <https://conduct.unmissions.org/table-of-allegations>

5.2 Partner commitments as members of PSEA networks or in a consortium.

The PSEA network Standard Operating Procedures (SOPs) or protocols reviewed for this study have highlighted the obligations for the NGO members of the network to implement PSEA activities, report SEA incidents and undertake the investigation when there is an allegation. The role of the PSEA network, often led by UN entities (occasionally in co-leadership with NGOs, for example the North West Syria PSEA network) is to raise awareness amongst all network members, including NGOs and local CSOs, on PSEA standards and requirements, provide access to capacity building and resources, support the development of reporting procedures and complaint mechanisms, share information and coordinate efforts.

However, in-country information sharing protocols are currently a topic of debate. Whilst there could be benefits in terms of cooperation, there are also concerns on data protection and exposure of victims to risks. Moreover, many locations do not have a PSEA coordinator and there are also other differences about how the networks function.

The PSEA network in Greece has been “re-energised” since the UN entities harmonised their efforts and has come up with new resources to train and raise awareness of organisations and communities. The Lebanon PSEA network SOPs (March 2021) recognise that SEA investigations capacity and procedures are a challenge for many local humanitarian actors with low capacity and expertise, and state that the network “will work towards establishing a pool of independent investigators at the national level (...) to provide support to internal investigations, where this is a gap.” In addition, it refers to the IASC/OCHA investigations fund already cited and states that “where appropriate and warranted, consideration should be given to conducting joint investigations”. This is in line with the latest IASC strategy “Protection from and response to SEA and sexual harassment” issued in March 2021 and referred to in section 4 above.

Not all UN agencies, INGOs and partners are signatory members of the PSEA network SOPs or have an active/regular presence in the operations reviewed. This may result in NGOs not receiving support from these networks. Usually, the local CSOs are under-represented. For example, two NGO partners which were both involved in a serious crisis in a country in Central Africa were not signatory members of the 2018 Information-sharing Protocol and Reporting Allegations of Sexual Exploitation and Abuse between MINUSCA, UN agencies, INGOs and local partners.

Several interviewees highlighted the challenges in clarifying PSEA roles and responsibilities when working in a consortium, leading to delays when responding to incidents. Consortium agreements now often include clauses on procedures for dealing with SEA/safeguarding issues. These tend to refer to following the individual processes of one or more of the consortium partners, depending on the nature of the incident reported and which agency or partner is implicated in the allegation. One clause reviewed (a consortium of small agencies, working on a project with partners in different countries) outlined briefly the process to be followed and arrangements for communications between consortium partners, ensuring the necessary confidentiality. No reference was made to supporting the survivor nor to what would happen if the allegation involved local partner staff.

The Joining Forces Alliance¹³ has been set up between Plan International, Save the Children International, SOS Children's Villages International, Terre des Hommes, Child Fund and World Vision. The Heads of Safeguarding in each organisation came together to map out how to deal with cases and set minimum standards, putting in place an *Inter-Agency protocol for reporting and responding to safeguarding incidents*, with a designated lead for each country. This is operating in certain countries, for example Bolivia. It was suggested that this had for the first time enabled these agencies to work together effectively on response to cases.

5.3 Provision of support to partners prior to cases arising.

The provision of support and capacity building to enable partners to understand PSEA requirements and be prepared for preventing, receiving and addressing SEA incidents was found to be mixed. UN entities and most INGOs and other donors now have assessment or “due diligence” processes in place for potential partners which include an assessment of their PSEA/safeguarding capacity. This will often lead to a PSEA capacity-strengthening implementation plan for the NGO partner to implement within a certain period, involving policy development, capacity development and training, setting up reporting mechanisms etc. Many INGOs and UN entities have good intentions about supporting partners in capacity building, but also recognise that it takes time and resources and is a slow process if it is to be done properly. This slow process can become problematic when swift response is needed or when partners operate in a high-risk environment, such as humanitarian contexts, where preventive and

¹³ <https://joining-forces.org>

corrective measures must be implemented quickly, especially victim assistance.

In February 2020, UNHCR partnered with ICVA to launch an interagency PSEA Community Outreach and Communication Fund¹⁴. This aims to support NGOs in community awareness-raising and prevention activities in relation to PSEA, as well as investing in community-led efforts to help ensure that victims/survivors know how and where to safely report SEA, and to help improve complaints and feedback channels where necessary to better meet local and diverse needs. A total of 19 national NGOs have received funding in 2020, many of them for initiatives to mitigate the specific SEA risks exacerbated by COVID-19.

While most stakeholders are using PSEA/safeguarding experts to conduct PSEA assessments, comments were made that some funders use auditors with a very limited understanding of safeguarding or the country context to carry out due diligence processes. This can lead to a misunderstanding of partner capacities and needs – for example, expectations that partners have adequate knowledge and expertise because they have policies and have undertaken some training, or that they are incapable because the auditors are unable to communicate effectively with partners working in different contexts.

As already referred to in section 4 above, UN entities and the IASC launched a common partner assessment tool in September 2020¹⁵. This is intended to provide the necessary assurance of partner organizational capacities on PSEA, determine monitoring and support activities, and serve as a baseline for tracking progress, in line with the PSEA minimum standards of the IASC and the 2018 UN Protocol. To avoid duplicative assessments of the same partner by various UN entities, common partners will only be assessed by one UN entity, which should also normally develop the PSEA capacity-strengthening implementation plan with the partner and the results will be uploaded on the UN Partner Portal. The UN may utilize local coordination structures, such as the PSEA network, to agree on a lead agency to manage the process. UNHCR piloted the tool in 13 operations in 2020, including Greece. An inter-agency pilot of the tool is underway in the DRC, and a virtual training on the assessment process was provided to DRC-based PSEA stakeholders. Further developments are planned, including a joint inter-agency resource kit and updating the UN Partner Portal with a specific PSEA functionality, which will be accessible to all UN funding partners of a shared partner.

One INGO in CAR, a partner of several UN entities, appeared to have received an induction in 2019 on the local protocol for sharing information and SEA allegations, combined with other training on PSEA, organised by the in-country PSEA network. However, it is unclear to what extent this helped the partner fulfil or internalise its obligations or how this was monitored by the UN or donors. In 2020, its capacity-strengthening implementation plan, drawn-up after a PSEA assessment was conducted jointly by various UN agencies as a result of a reported SEA incident, was showing major gaps, including a lack of complaint reporting mechanisms and staff training.

Another INGO partner, in the same country, has been awaiting the PSEA assessment process since February 2020. It had received no specific technical support throughout its partnerships with the UN over the recent years to assess and build-up its PSEA knowledge to enable it to meet the required standards. It had not attended PSEA network training or established complaint reporting mechanisms in its project locations, which are in very remote and isolated places. This partner therefore had (and still has) a very weak PSEA system in place when an allegation of SEA against a child involving one of its personnel was reported to UN agencies. It had previously had agreements with UN agencies (prior to the incident) and three agreements were still active. None of these agreements referred to a PSEA assessment or included PSEA activities or a capacity-strengthening implementation plan. This INGO also operates in other countries.

Several interviewees, including UN HQ staff, reported that the whole process of partner PSEA assessments takes considerable effort and is often longer than anticipated to complete. There have been significant delays in some countries: one interviewee who supported a UN entity in West Africa to conduct the PSEA self-assessments of its partners noted that the process had not been completed by the end of 2020, despite eight months of work and the fact that a majority of the 55 partners had been scored as “high-risk”. The UN entity had to postpone the deadline twice and further delay the process. The PSEA assessment is not an end in itself, but just the diagnosis that leads to a detailed action plan. Partners often struggle to develop and then achieve these, even when they receive considerable support and monitoring. It was reported that all agencies have limited core-funding for PSEA activities and the current support from donors on internal policies and procedures remains limited. Some people suggested that these action plans were unrealistic and set partners up

¹⁴ <https://www.unhcr.org/uk/psea-community-outreach-and-communication-fund.html>

¹⁵ <https://interagencystandingcommittee.org/system/files/2020-09/UN%20IP%20PSEA%20Common%20Assessment%20-%20Final.pdf>

to fail, unless they included significant extra resources and support.

In a different example, a community-based organisation was set up in a country contending with a humanitarian emergency in 2016 by former migrants, who were acting as volunteers, supporting new incoming migrants. No PSEA assessment was done by the UN entity prior to the partnership agreement, although its PSEA focal point did initial training for partner staff and volunteers. Supervisors were then deployed to monitor partner staff behaviours and attitude, especially in relation to management of victims of gender-based violence and carrying out interviews. Despite the initial training, the staff had internalised values and practices that were not in line with UN PSEA and safeguarding values. This was not addressed at the outset. This may have been a factor in the serious safeguarding issue that later arose within the organisation and its mismanagement by the partner.

However, there was also a very positive example of a GBV partner in this country which had received significant support from a UN agency in building their PSEA system. This resulted in the development of core policies on PSEA, inclusion of PSEA in human resources procedures and increased knowledge and awareness of the code of conduct and referral mechanisms through training all its staff. The organization is a signatory member of the PSEA network led by UN agencies and receives ongoing support and tools. This partner has a significant geographical coverage and has proven to be instrumental in detecting and reporting incidents, as well as providing comprehensive assistance to SEA victims, including legal support during proceedings with the police and public prosecutor.

Many small NGO partners have relied on UN-funded PSEA networks for training and guidance. A recent study from IOM on good practices in-country¹⁶ has shown that PSEA networks around the world have taken various initiatives to build-up the capacities of their members. In Yemen, culturally sensitive awareness-raising materials have been created for the staff, local partners and communities, with images and messaging designed by the PSEA focal points. In 2019, the network in Chad created visual materials to raise awareness on SEA and sexual harassment in the workplace. In Ethiopia, the PSEA focal points trained interested community volunteers in PSEA and community-based complaints mechanisms to conduct events in their communities. In Mozambique, the PSEA network uses the www.humanitarianresponse.info as a PSEA database where it can store relevant material and there are spaces for

“upcoming events” for meetings and training. In Mali, in 2016, the network provided funding for independent investigation. In Iraq, the PSEA Coordinator carried out training of trainers for sector coordinators.

In Bangladesh it was reported that the PSEA network in Cox’s Bazaar is very active, but has only one or two dedicated staff to support 40 organisations. The network included building partner capacity in its terms of reference in 2017¹⁷ and at the emergency onset, the PSEA coordinator worked with human resources staff to support and harmonise the process of induction for incoming surge staff. In 2018-19 the PSEA network developed a strategy with a plan for training and capacity building of its members¹⁸. However, although these documents highlight the NGO partners’ responsibility to conduct investigations, they do not explain if/how partners can get the intensive support needed when an allegation arises. A former INGO PSEA manager who participated in the planning exercise in 2018 recalled that the network members were concerned about the weak capacities of the humanitarian actors to set up safe reporting mechanisms and conduct confidential and professional investigations, in a situation where the PSEA network did not have adequate resources or a clear mandate for support. It was noted that the network is now producing training videos, but the people who most need the guidance and support do not have access to technology, so this does not work on the ground in terms of building confidence and empowering partners and communities. Language is another strong and potentially very serious barrier, which is often overlooked. One INGO interviewed provided an example of the support given to a local partner when a case arose, including drawing on local PSEA “champions” who had been trained in conducting investigations, but this relied on the resources of the INGO rather than the PSEA network. It is noted that PSEA Networks are coordination structures, and may not have resources to support investigations by individual network members.

Some major donors have decided that they will not fund organisations that do not meet certain criteria in the due diligence process or PSEA/safeguarding assessment. After high profile safeguarding cases came to light in 2018, the European Commission required EU-funded charities to explain their PSEA measures and over 200 aid organisations signed an agreement with the EU commission as a precondition for funding in February 2018. The signed agreements included measures to “ensure ‘zero tolerance’ for sexual exploitation and abuse.” The Canadian government development agency, Global Affairs Canada (GAC), has two main

¹⁶ http://themimu.info/sites/themimu.info/files/IOMs_Country_Examples_of_PSEA_Practice_2019.pdf

¹⁷ https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/terms_of_reference_for_cxb_psea_network_-_final.pdf

¹⁸ https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/psea_network_strategy_coxs_bazar_-_19.6.18.pdf

¹⁹ <https://www.international.gc.ca/development>

requirements, which are set out on its website and in its partner agreement¹⁹: a partner must have a Code of Conduct and established reporting mechanisms in place. There are stipulations about the minimum provisions expected for the Code of Conduct. GAC does not offer specific capacity building to enable potential partners to meet the required standards, but instead has set up Digna²⁰, a resource hub to support best practice and build the capacity of the sector, which all organisations have access to. Potential partners can get help for any of GAC's expectations – for example templates for a Code of Conduct, access to training resources, advice on legal issues, database of investigators. This is similar to the UK safeguarding Resource and Support Hub (RSH)²¹ set up by FCDO in the UK, with which it has links. GAC is also funding independent journalism through “The New Humanitarian”, as part of its commitment to promoting accountability and change in the sector.

Some INGOs have recognised the potential value in partnering with and supporting non-traditional organisations such as grass-roots women's rights organisations on PSEA issues. Most examples cited were from countries in Asia or South America. One UN PSEA focal point in Greece also gave an example of partnership with community-based organisations as a very effective way to enhance awareness of communities and detect incidents through more effective outreach (whilst also pointing out the challenges in responding to these incidents). These grass-roots women's rights organisations have a good understanding of gender-

based violence issues in the local context, as well as influence in the community, but may have a limited ability to comply with formal systems and the standard contractual requirements. A number of other examples were provided of different approaches to partnership, with the aim of developing more equal “peer” relations between partners and counteracting the inherent imbalance of power. This involves a holistic way of programme planning and implementation with feminist approaches and consultations, taking time for mutual understanding, with the intention of integrating PSEA as part of a two-way learning process. However, in practice, the partnership documents reviewed (from Asia) had very limited reference to PSEA. This holistic approach may feed confusion between PSEA and gender/protection programming and detract from the necessary focus on PSEA issues. It was not possible in this study to get further evidence about how this type of partnership arrangement has impacted on the response to SEA.

Overall, despite some good practices, the information gathered suggested that funding partners and their NGO partners have struggled to implement fully and consistently the 2018 UN Protocol, particularly in relation to articles 14b²², 16²³, and 19²⁴, across the various partnerships and contexts. Many agencies have supportive approaches and see it as their role to help build the PSEA capacity of their partners. However, they may have limited resources to meet the scale of the task.



²⁰ <https://www.digna.ca/>

²¹ <https://safeguardingsupporthub.org>

²² “If a UN partner entity selects an implementing partner that is assessed as having weak capacity to prevent or to mitigate risks of SEA, that UN partner entity is required to: (...) implement appropriate risk mitigation measures, including capacity building and monitoring”

²³ “UN partner entities shall take into consideration the capacity of implementing partners to prevent and respond to sexual exploitation and abuse when designing the programme document/work plans for programme activities and managing associated risks”

²⁴ “It is the shared responsibility of both the UN partner entity, and the respective implementing partner (...) to provide support for the establishment of reporting mechanisms at field level.”

6. How have decisions been made when SEA allegations have been reported?

In the situations reviewed, the course of action for the NGO partner consisted mainly of providing victim assistance while reporting the incident to the funding partner, conducting an investigation, taking actions and corrective measures as part of the case resolution and reporting back on what it had done. It may also have involved the completion of a PSEA risk management plan. For many partners, the level of resources and support available were critical at all stages.

In parallel (or ideally, after the investigation), the course of action may involve deciding whether or not to continue the partnership and whether any sanctions are required, including suspension, termination or non-retention of a partner where this is identified as the measure required under the 2018 UN Protocol, the SG Bulletin and the specific partnership agreement, or that is required from a 'do no harm' perspective after a comprehensive risk analysis. From the cases reviewed, for some NGOs this decision appeared to be solely the decision of the funder, based on the partner contractual obligations, the safeguarding/PSEA risks (which may be assessed based on case management documentation shared by the partner), and/or media/reputational risks ("the noxiousness of the case" as one of the interviewees put it). For the NGO partner, this decision can have a huge impact.

Several interviewees highlighted that the funding partners have different approaches to the management and reporting of incidents and investigations and it would be more efficient if this could be harmonised. One suggestion was that the local PSEA network could develop a common approach, but of course this is in fact a global problem.

The PSEA network in Lebanon seems to offer a promising opportunity in relation to this. Like others, it produces a number of resources and provides technical support to its members, but more importantly, as already noted, in March 2021 the network developed SOPs that create a strong accountability framework for UN entities and its partners for mutual support on investigation and victim assistance. If there is a need for a third party to investigate, the PSEA network will take responsibility for this. It will also refer the partner to the GBV sector and pathways for victim assistance.

The case study examples set out in the sections below demonstrate that the course of action varies from case to case and from one funding partner to another. Each partnership "survives" or "adapts" differently to a PSEA incident, but the key determining factors seem to be the level of trust between partners, a constructive approach and good communications.

6.1 Reporting and investigation.

The basic premise of most partnership agreements is that if a SEA incident arises within an NGO partner, it is the responsibility of that entity to report it immediately to the funding partner, to investigate and then provide information about the outcome (the investigation report in the case of the UN) and follow-up actions. The funding partner may reserve the right to undertake an investigation itself, for example if documents shared suggest that the process has not been conducted properly, or the partner is perceived as not having sufficient capacity/competence or there are factors involved that could have damaging negative reputational

impact. If a partner fails to report immediately to the funding partner, in breach of its contractual obligations, examples gathered during this study indicate that this creates a situation of distrust that is not conducive to a constructive approach and may call into question the future of the partnership.

In most of the cases studied, the NGO partner conducted the investigation and provided progress reports as required. Few examples were found of cases where a funding partner investigated on behalf of a partner. In one case in South Asia a UN agency had a partnership where the person who reported allegations was then harassed for reporting. Normally, the UN agency would only investigate allegations against its own staff. In this case the partner investigated and uncovered serious problems, but did not implement sanctions against the individuals involved. Therefore, the UN agency decided to fund its own investigation. An investigator was contracted, and partner was reported to be cooperating. It was noted that there was no clear policy on this, but the case was unusual with several different types of allegations. There were also examples of the UN HQ investigation unit doing a review of a partner's investigation report and asking for clarification, for example in CAR and in Greece. Similar examples were given for other funding partners. In addition, interviewees reported some examples of good inter-organisational collaboration at global and country level.

Some partnership agreements allow the partner to request help with the investigation when they report a case. Some PSEA network protocols also refer to offering this support. There were limited examples of how effective this support is and what it involves in practice, other than referrals to organisations which can help with investigations (e.g. one UN entity referred a partner to the organisation "Lawyers without Borders") or support with victim assistance from GBV specialists. In one case studied, the partner asked UN agencies to deploy an investigator to help with the investigation, as this was the first incident they were managing and the person nominated to investigate was not trained and had never done an investigation. Unfortunately, the UN agencies were unable to "second" anyone for this. Networks are coordination structures, and may not have resources to support investigations by individual network members.

Some major donors have decided that they will not fund organisations that do not meet certain criteria in the due diligence process or PSEA/safeguarding assessment. After high profile safeguarding cases came to light in 2018, the European Commission required EU-funded charities to explain their PSEA measures and over 200 aid organisations signed an agreement with the EU commission as a precondition for funding in February 2018. The signed agreements included measures to "ensure 'zero tolerance' for sexual exploitation and abuse." The Canadian government development agency, Global Affairs Canada (GAC), has two main requirements, which are set out on its website and in its partner.

Examples of collaborative/coordinated approaches to reporting and investigation

Working relationships based on trust.

One NGO in South Asia, funded mainly by a UN agency, had an SEA incident in a medical facility. The NGO partner informed its global team, as well as the UN, and an investigation was launched. This found that there were no security guards working at the time of the incident. An action plan was developed, and disciplinary action was taken. The NGO put mitigating measures in place for the future, including deploying a security guard. Due to the severity of the case and high-risk rating, the UN entity visited the site and was satisfied with the partner's actions and ongoing monitoring arrangements. In this case, the partnership worked well as the NGO involved had good systems in place, including investigation capacity and support services for survivors. Both the NGO and the UN agency referred to having a good working relationship based on trust.

Guidance provided by UN agency.

One UN entity reported having about 25 partners in a South Asian country and stated that most of them were able to conduct investigations themselves, even if there was always room for improvement, and take any necessary disciplinary action. It was stated that they could request support if needed. The NGOs provide a report on what they have done, and if the UN entity has observations, they follow this up. In one case the UN entity had queries about the investigation conducted by one of its local partners. They worked with them on the report provided to check if the NGO had missed points in their investigation and then asked them to review what they had done. It appeared that the NGO partner was grateful for the guidance provided. One UN PSEA coordinator reported that she supports partners with field visits when issues arise, to help determine whether an investigation is needed.

INGO taking responsibility for lack of capacity building.

In East Africa, there were allegations that a local partner organisation was involved in sexual abuse of minors in the programme. The INGO thought they would have to close the programme as this was a “red line” issue. The INGO did a fact-finding exercise and found that one individual had been involved with adult women in the community who became pregnant. This was then fully investigated, and the local partner was not found to be specifically at fault. The INGO pressed the local partner to sack the staff member and do enhanced training and awareness. The INGO also realised that they had been negligent – the planned training and awareness had been impacted by COVID and no alternative means of awareness-raising had been implemented. The INGO reviewed the whole safeguarding programme with the partner and made recommendations about reporting and awareness training.

Teamwork and sharing resources on investigations.

examples were provided of joint investigations and decision-making. In one case, an INGO staff member was reported to have sexually exploited local women when staying in the guesthouse of another INGO in Africa. Although time was wasted initially engaging at HQ level, due to concerns about confidentiality and sharing information, eventually safeguarding staff from the two agencies came together to commission a joint investigation by a GBV specialist, who interviewed the survivors. It was agreed to terminate the staff member’s contract on the basis of probabilities. This was reported to be a rich learning experience and paved the way for further joint working. In a similar example an INGO staff member was accused by UN staff of harassment and bullying. TOR for the investigation were drawn up jointly between the INGO and UN agency, which provided access to an experienced investigator from a regional office. The report was shared between the two agencies and decisions made together about the necessary sanctions.

Division of labour between partners.

Another good example of collaboration was provided in case where the subject of concern (SOC) was a member of the INGO's staff, but the victim was a client with other agencies. The case had been reported to the police. The INGO focussed on dealing with the perpetrator's breach of the organisational Code of Conduct, while another agency dealt with investigating the incident itself. The agencies communicated about progress on the investigation, undertaking prevention activities and ensuring survivor assistance, maintaining confidentiality by only sharing information on a need-to-know basis.

Trust and open communications.

Several interviewees referred to the issue of trust. One major government donor noted that a partnership approach means having the lines of communication open, so that partners do not have the reflex to cover up. They stated that they had delegated a lot of responsibility and trust; they follow-up and engage with the partner, but partners investigate cases and therefore the communications line is very important.

Examples of less collaborative approaches or challenging situations in working

Lack of trust leading to time/resources spent on ongoing queries.

A large INGO explained how trust worked at local level with partners, noting that partners in-country know the local context. An example was given of a case where a young girl was sexually harassed by a staff member of a partner community organisation. The CBO investigated and resolved the problem and reported back to the INGO, which offered support as needed to the CBO, including funding to build up their capacity. Their approach was to be led by the needs of the CBO and not impose. Although this was a successful outcome, the government donor has continued to ask more and more questions, even when it was reported that the case had been referred to the authorities. The case has been very time consuming and very expensive at several levels, involving staff in the INGO's UK office, international office and country office, and the local partner. All were scared of saying no to the donor. It was suggested that this approach ran the risk of reducing reporting, which would be counterproductive. It potentially reinforced the perception that reporting indicated failure, rather than being a positive indication of systems working.

Lack of donor understanding of context.

There have been cases where the donor has been very demanding about what should be done and it was suggested that this is often due to their lack of understanding of the context, together with preconceived ideas about what the outcome should be. In West Africa, a donor representative visited a project being delivered in a consortium through a specialist partner organisation. The visitor made a complaint about a local community volunteer and said they were not comfortable with the person working on the project. The volunteer was suspended pending investigation by the partner, which did a thorough investigation. The allegation was proved to be unfounded, but some recommendations were made. The donor put pressure on the lead INGO to take over the investigation, then wanted to bring in their own investigator and would not accept the outcome of the investigation, asking many intrusive and detailed questions. The project funding was discontinued. Distrust built up as the partner NGO was well thought of by the community and there was considerable bad feeling and suspicion. The project was part of a wider country programme, so the INGO country office made adjustments to ensure that programme continuity was not interrupted. Funds were made available from elsewhere to mitigate the potential impact on people with disabilities involved in the programme.

Lack of understanding of risks.

One INGO described the pressures that can sometimes arise in relation to referring a case to the statutory authorities when a criminal act has been committed. Difficulties arose with one case (country not stated) when it was reported to the national authorities, who kept asking about involving the police immediately, whereas the INGO was in the middle of conducting risk assessments and consulting other local partners. The regulator did not seem to understand the context or that this could put the survivor at risk, despite the explanations given. The INGO felt extra pressure in an already difficult situation. After the agencies involved had agreed what would be appropriate, it was decided not to report to the police and the regulator eventually accepted this after further discussions. The INGO noted the importance of looking at the case from the survivor view point – for example, they may have reported but not wanted to be identified (family, reputation etc), but at the same time, as an agency, they wanted to demonstrate that they would report to law enforcement when appropriate. They had learned from the experience about explaining risks more clearly.

Poor consortium arrangements.

In relation to consortium working, difficulties and delays were reported in responding to incidents when there was no agreement in place about the procedure to follow, or the agreement turned out to be inadequate. It was stated that when there were multiple large INGOs involved, there was a tendency to jostle for position and have disagreements about who would take the lead on different aspects of the response, including conducting the investigation. An example was given of a case in East Africa where time was spent on resolving which agency's processes would be followed and who would do what, rather than focussing on the survivor and case resolution. In a different scenario, four smaller agencies in an advocacy-related consortium for a project in Latin America had included a clause on safeguarding in their consortium agreement. However, this proved inadequate when incidents came to light after a joint event. Poor communications and confusion about the responsibility for investigating led to lengthy delays and potentially ongoing risks to project participants. On the plus side, all the agencies involved have now reviewed and improved their safeguarding policies and procedures, as well as putting in place safeguarding protocols for future events and conferences.

Corruption and impunity.

in South Asia an INGO received a complaint from a partner agency about a senior manager harassing partner staff. An investigation was conducted by the INGO which confirmed the abuse, but no action was taken as the senior manager concerned was linked to the government and the country director refused to get rid of him because of his connections. Instead the PSEA staff member who worked on the investigation was exited from the organisation. Staff saw that it was not safe to raise complaints.

Examples of responses to failures to report immediately to UN entities in breach of contractual obligations

Lack of donor understanding of context.

There have been cases where the donor has been very demanding about what should be done and it was suggested that this is often due to their lack of understanding of the context, together with preconceived ideas about what the outcome should be. In West Africa, a donor representative visited a project being delivered in a consortium through a specialist partner organisation. The visitor made a complaint about a local community volunteer and said they were not comfortable with the person working on the project. The volunteer was suspended pending investigation by the partner, which did a thorough investigation. The allegation was proved to be unfounded, but some recommendations were made. The donor put pressure on the lead INGO to take over the investigation, then wanted to bring in their own investigator and would not accept the outcome of the investigation, asking many intrusive and detailed questions. The project funding was discontinued. Distrust built up as the partner NGO was well thought of by the community and there was considerable bad feeling and suspicion. The project was part of a wider country programme, so the INGO country office made adjustments to ensure that programme continuity was not interrupted. Funds were made available from elsewhere to mitigate the potential impact on people with disabilities involved in the programme.

Incident reported in the media.

In the same country, the director of another NGO partner was implicated in SEA allegations against two boys. The allegations were disclosed in the media and shortly afterwards, the UN funding partners suspended their partnerships with the NGO Partner. This was also announced in the media, noting that the partner had failed in its obligations to report immediately to the UN entities, even though it was aware of the case before it went public. It was suggested by certain interviewees that the partner had tried to cover up the case and that the concerned UN entities would probably not have been informed, if the case had not been in the media. The fact that the partner was said to have signed the local protocol for sharing information and SEA allegations and had received two PSEA training sessions from the PSEA network was also mentioned.

In these two cases, the suspension may have been necessitated by the obligations in the bilateral partnership agreements and the 2018 UN Protocol to immediately report allegations of SEA. In the latter case, the partner managed complaint mechanisms, including on reporting SEA allegations, and measures may also have been required in order to prevent harm to the beneficiaries and rebuild community trust, which had been eroded by the nature of the incidents and continuing impunity.

The NGO partners had both conducted the investigation on their own with existing resources. One partner was able to rely on “institutional backstopping” and outsourced a trained investigator. The other deployed a local coordinator, who was inexperienced and not trained in SEA investigation, to conduct the investigation, with the support of the authorities in the area. Please see section 7 below for more details of the impact on services and communities of these decisions to suspend.

6.2 Suspension/termination/continuation of a partnership.

This section describes decisions taken about whether or not to continue with partnerships after an SEA incident. Information relating to communicating these decisions is covered in section 6.3.

Examples related to termination of contract and suspension of operations

Lengthy process and suspension after media disclosure.

One NGO partner in Central Africa had partnership agreements with multiple UN entities at the stage when a serious incident arose. The concerned UN entities fully suspended their partnerships with the NGO partner, did an assessment of the partner PSEA capacities four months after the suspension and maintained the suspension until six months after the partner implemented a PSEA capacity-strengthening implementation plan. The completion of this plan required the organization's own core funds, the support of several INGOs and PSEA technical advisors, including the deployment of an external expert. The suspension lasted 18 months.

Partner deemed high risk.

The operations of another partner in the same country have been suspended and are still on stand-by after eight months, six months after the partner shared its investigation report with concerned UN funding partners. It was reported that the review of this report and the NGO partner's PSEA policies showed significant gaps, suggesting the partner was high-risk. The concerned UN entities were said to be currently discussing the relevance of an external investigation and a PSEA assessment which would result in a capacity-strengthening implementation plan for the partner to implement to be eligible for lifting the suspension. However, the process seems not to be entirely clear, as there has been no further notification to the partner or the UN PSEA focal points of what is required. That partner also had a partnership in another country with another INGO funding partner who suspended the partnership and subsequently terminated it just a month after it started.

Co-operation agreement not renewed after poor management by partner.

In another country, a community-based organization was implementing a GBV programme for which the partnership was ending. The UN funding partner decided not to renew the co-operation agreement (2016). The official reason given to the CBO partner for the termination was lack of budget, but in fact the management wanted to shift the programme from GBV case management to legal support only. In addition, the investigation and management of a SEA incident by the partner showed that the partner had not internalized the PSEA values and principles of the UN funding partner: the partner investigation had further blamed and harmed the victim, a vulnerable woman, and the partner's managers were hesitant to take disciplinary measures against staff.

Weak partner PSEA systems.

In MENA, around three years ago, a local organization working in partnership with the Netherlands and a UK charity, providing services for the LGBT community in Lebanon, was involved in an SEA allegation. The LGBT community reported sexual harassment and exploitation by seven staff of the organization. The Dutch partner mandated a third party to conduct an independent investigation, which confirmed the allegations and pointed to a very weak PSEA and accountability system. The partnership was terminated as a result of the investigation.

Partnership suspended for political reasons.

The study found a few examples of decisions to suspend partnerships being made at government ministerial level for political reasons. This was in the context of high risk and high levels of media/public scrutiny.

Cases where the partnership was maintained

Suspension only as last resort

The UN entity PSEA focal point of one country in West Africa recalled the case of two partnerships which had not been suspended despite allegations of SEA having been made and substantiated. In one of the cases, the UN entity supported the partner to address the SEA incident and during the case resolution, the UN entity and the partner detected and managed two more SEA incidents. According to the UN focal point, the partner would probably not have reported these additional PSEA incidents if the initial decision of the UN agency had been to suspend the partnership and operations. It was considered that the suspension of operations should be used only when the partner failed to report or collaborate, or obstructed the case resolution.

Dealing with perception of impunity and ongoing risks.

In Europe, a staff member of the entity in charge of camp management was accused of sexual harassment of women in the camp. The case was reported to the police and investigated by the public prosecutor, in accordance with the reporting procedures applying in the humanitarian response. According to one interviewee, the investigation did not confirm the case, as it was not able to substantiate that the woman was a beneficiary of humanitarian assistance (commercial sex is not unlawful in the country). Concerns were reported to the UN funding partner's investigation mechanism, as this incident was reinforcing the perception of impunity and it was decided to re-open the case. During the case management, the alleged perpetrator continued to work in the camp and potentially be in contact with the victim and other vulnerable women. The partnership was not suspended during the process, nor terminated afterwards. Several interviewees mentioned that alleged perpetrators are not necessarily suspended during public prosecutions, which creates a significant risk. In another case, the UN funding partner and its GBV partner supervised the evacuation of the victim(s) to another location (to avoid further harm) while the public prosecutor was conducting the investigation and referring the perpetrator to the judicial authorities.

INGO taking responsibility in difficult context.

There were examples of INGOs with community partners working in a context of very traditional social norms and patriarchal approaches. One INGO interviewed stated that its partners were doing well, but the mindset was very traditional and concepts of Do No Harm and respect were challenging. The INGO provides capacity building to its partners, including on investigations, but has also taken the view that SEA issues should not be managed on the ground, but should be dealt with at institutional level. A case came through about a partner staff member who had been harassing community members. The case was reported by a whistleblower to the INGO funding partner. It was sent through to the safeguarding lead and central team in the capital city and an independent investigation was conducted with a three-person team. In such cases local investigators who have received training from the PSEA network may also be part of the team. The organisation works to the principle of not having too many layers to ensure confidentiality. The allegation was found to be substantiated and the investigation report was sent to the central safeguarding committee for decision. This led to the partner agreeing to terminate the employment contract of the person involved. There was no question of discontinuing the partnership, as the INGO's approach is to honour partnership agreements and support partners to resolve issues. It was stated that the aim is to work collaboratively with partners so that they can become sustainable and resilient organisations. This case appeared to have been well-managed by the INGO in consultation with its community partner, but the latter was not interviewed to get their perspective.

It appears from these examples that the decisions about whether or not to suspend partnerships resulted from the consideration of various factors:

Factors in decisions about whether to continue partnerships

- a. Requirements of the 2018 UN Protocol, when applicable.
- b. Contractual requirements in the co-operation/ partnership agreement.
- c. Gravity of the SEA allegations (e.g. if the victim was a child or the perpetrator a senior staff member or director).
- d. Whether or not the partner reported the incident in a timely manner.
- e. How the partner responded and managed the incidents observing minimum standards.
- f. Whether the NGO partner acted in good faith in regard to reporting, case management and disciplinary, administrative and operational measures.
- g. Consideration of risks and whether communities were being exposed to a high level of harm.
- h. Media exposure and reputational risk of all stakeholders involved.
- i. Political decisions arising from public scrutiny and concern.
- j. Sending a message on zero tolerance.
- k. Whether there was evidence that the partner had been fully informed of their obligations.
- l. Best course of action to rebuild community trust.
- m. Mitigation of future risks of SEA.

The partnership decisions taken by the funding partner were not necessarily agreed upon or understood by all parties, even though NGO partners interviewed acknowledged the requirement to be held accountable for SEA incidents involving their staff. One NGO partner complained that a full

and unilateral suspension is a “disproportionate and counterproductive” decision with huge implications for staff, programmes and the affected communities. The issue of partner consultation and communications is explored further in the next section.

It has not been ascertained that the factors listed in the box above apply consistently across partnerships or funding partners, or lead to consistent decisions on the course of action. There are no guidelines or agreed list of criteria or conditions in relation to the course of action. The steps taken can also be influenced by the various perceptions or the nature of the relations/interactions or the experience/ expertise of the individuals involved.

6.3 Partnership communication during SEA incidents.

Decisions by funding partners relating to suspension were found to have been communicated to NGO partners by letter, email or even announced in the media, in one case which had already been disclosed in the media. Partners and communities were not involved in the discussions or decisions of the funding partners. There were two examples where the formal communication referred to the partner’s breach of the obligation of the co-operation agreement to report a case immediately to the concerned UN funding partners. This was clearly stipulated in the notification letters made available for this study. These letters about suspension did not make any reference to an assessment of the risks or impact of the suspension on the communities, or the risks of disruption to services.

Some NGO partners stated that communication with some UN funding partners had been a challenge throughout the resolution of the incidents. They noted the delays and repeated demands and shared their perception that the concerned UN funding partners were acting as police rather than partners, despite all their efforts. They considered that the concerned UN funding partners shared some level of responsibility for their weak PSEA system, due to a lack of comprehensive support during their partnership. They mentioned the need for more constructive approaches and communications from the concerned UN entities. One partner stated that they had been given no chance for discussion.

UN and other PSEA staff on the ground do not always receive information about the progress of cases, due to confidentiality and separation of responsibilities.

Where investigations are being dealt with or overseen by HQ investigation units, the staff in-country (PSEA focal points etc.) are often not involved. Some agencies explained that they have systems in place to ensure that country staff get updates on a “need to know” basis. However, the PSEA focal points of UN entities in two countries shared concerns that country staff were not routinely informed of the results of an investigation and perpetrators might be re-employed by different agencies/actors as a result of this. Lack of information had also occasionally impacted their ability to provide appropriate support to survivors.

Even INGOs that are well-resourced stated that they would like more understanding and support from funders in relation to investigations, which are vastly time and resource-intensive. One interviewee commented that he could not remember ever being asked by funding partners if more support was needed for investigations. However, others did receive support for victim assistance in particular and some larger NGOs were able to provide this support from their own resources (see further below).

It was reported that interpreters are sometimes needed for investigations and it would be useful if the local PSEA network could provide support on sourcing interpreters who offer a confidential service. It is also essential to communicate effectively in the right languages at grass-roots level when doing awareness-raising about SEA and setting up reporting mechanisms. Problems tended to arise when the partner did not have the necessary systems in place or where there were poor communications between the various partners.

6.4 Partnership working to ensure an effective survivor centred response.

The section refers not only to victim assistance (access to safe and quality services and safety and security), but also to the need for a comprehensive approach to investigations that takes the victim into account at all stages. SOPs of PSEA networks seem to give more detail of partner obligations to ensure victim assistance, than of their obligation to take into consideration victim needs, views and protection during the investigation.

During the study, interviewees from a range of agencies have highlighted that NGO partners often do not have the capacity to investigate an SEA incident properly, which can further harm the victim. Funding partners have limited resources and capacity to provide the necessary support. None of the core international framework and partnership documents appear to take this problem of resource limitations into consideration

(2018 UN Protocol, UN standard co-operation or partnership agreements, etc.). UNHCR has developed a policy on a victim-centred approach which sets out relevant principles and guidance²⁵, and is launching an e-learning programme for partners on investigation of allegations of sexual exploitation and abuse that emphasizes a victim-centred approach.

While some good examples were found of partners working together to ensure an effective response (see section 6.1 above), other case studies suggested that partners have often struggled to meet the standards of a survivor-centred investigation and, on some occasions, they have failed. One partner, a global organization, stated that if they had not received the financial and technical support from their members to recruit a trained investigator, they would not have been able to deal with the SEA incident properly. One senior technical expert, hired to help partners implement the capacity-strengthening implementation plan, stated that for smaller NGOs without institutional support, it is practically impossible to meet the requirements of funding partners.

In relation to the case studies from Central Africa where the co-operation agreement was suspended, the partners involved funded and completed the investigation on their own and also referred the incidents to the authorities for public prosecution. The investigation report from the partner which used an inexperienced investigator was criticized by the concerned UN funding partner for its poor quality and the UN entity's HQ investigation unit asked for a number of clarifications a few months after the investigation was done. Both partners managed to meet and provide the victim(s) with psychosocial support, with the support of other INGOs. According to one UN PSEA focal point in that country, in one case, the victim assistance was delivered very late and only after it had referred the partner to the GBV sub-cluster; one of its members provides comprehensive assistance to GBV/SEA survivors and enabled the partner to meet the victim and her mother and provide psychosocial and education support.

In a country in Europe, the community-based partner organization conducted the investigation while the concerned UN funding partner provided victim assistance through a GBV partner. The UN entity reviewed the investigation report and made some recommendations in terms of disciplinary sanctions (in that case, the termination of the employment contract for two staff). The UN entity PSEA focal point said that the investigation had re-victimized and further harmed the victim and recommended that if partners do not have the capacity or trained investigators, they should not conduct investigations.

7. What has been the impact of the course of action?

The study found that UN funding partners routinely expected their NGO partners to provide a full copy of the investigation report. While this could sometimes be necessary in the case of a partner where there were concerns about PSEA capacities, it was noted that other funders (government, INGOs) did not normally require this and instead asked for a high-level summary of the findings and action taken. This calls into question what detail funding partners really need to know and how that is balanced with protecting the victim and confidentiality issues, including the principle of sharing on a “need-to-know” basis only, to a lack of comprehensive support during their partnership. They mentioned the need for more constructive approaches and communications from the concerned UN entities. One partner stated that they had been given no chance for discussion.

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The question of the management of the risks or impact on communities of partnership decisions during the case resolution, especially suspension or termination of partnership, does not appear to be addressed in any of the key documents reviewed for the study (frameworks, co-operation/partnership agreements, SOPs, guidance etc.). This section draws mainly on information from the two cases in Central Africa already cited where operations were suspended.

The positive impact of the decision to suspend the operations: setting an example and increasing management leadership on PSEA.

Firstly, it was stated that the decision of the concerned UN funding partner to suspend its partnership agreement with an NGO Partner (example previously cited) sent a strong signal to the rest of the humanitarian community on the “zero tolerance” approach, which raised their awareness on their obligations to implement preventive measures on PSEA and report any SEA incident immediately to funding partners. It was reported that other humanitarian actors increased preventive measures as a result of these decisions. In some circumstances, suspensions can contribute to rebuild community trust by countering perceptions of impunity.

Secondly, the positive impact is connected with the pre-conditions of lifting the suspension: the implementation of the PSEA capacity-strengthening implementation plan by the partners. One partner reported that this had been a learning process throughout the case resolution and that the plan had contributed to huge improvements in its PSEA systems. The risks associated with its programmes had been reduced. This partner dedicated around \$150K to the resolution of the case. It implemented a significant number of PSEA

²⁵ UNHCR: *Policy on a Victim-Centred Approach in UNHCR's response to Sexual Misconduct*. December 2020.

preventive measures in a short time, including assigning national and local PSEA focal points, training for staff and PSEA focal points by external experts and setting up complaint mechanisms.

In addition, both the partners involved took initiatives to enhance overall organisational standards. One partner developed an additional management standard on safeguarding, which covers the minimum core standards of the IASC and has been rolled out in all its country offices worldwide. The partner also nominated regional PSEA focal points, with the role of supporting and monitoring the implementation of these core standards by the country offices under the leadership of the country director, with technical support from the national PSEA focal point. The other partner improved its PSEA policies and procedures and also developed a draft community-based complaints mechanism to address under-reporting, which is under review by the organisational HQ.

The positive impact of the decision to suspend the operations: setting an example and increasing management leadership on PSEA.

The section refers not only to vThe concerned NGO partners asserted that the suspension of the partnerships disrupted life-saving activities and had a serious impact on the affected population. The evidence collected for this report reinforced the need to conduct a risk and impact assessment prior to instituting a potential suspension of funding or activities, particularly when a disruption to life-saving or other critical services may result. It was found that, in addition to examining anticipated impacts on the affected population as a whole, any potential suspension should also be viewed in terms of its potential effect(s) on relevant investigations and other interventions, including safety management and the provision of needed services, with respect to specific victims/survivors.

Similarly, the situations surveyed reinforced the importance of examining, in advance of potential suspension, whether alternative service providers could be identified to replace a suspended partner to ensure continuity of services to affected people. Where there are no alternatives, the impact can be significant and there are one or two cases where NGOs partners noted that the suspension of their activities had left communities without access to important services, including in the health domain. They had carried out an assessment and documented the impact on households, including both adults and children. Respondents provided specific details of the numbers of people affected by the lack of access to services such as nutrition programmes, drug distribution, WASH and provision of mosquito nets.

Another critical element identified is the importance of developing, together with partner, clear capacity strengthening plans that outline the conditions that must be met, in line with the 2018 UN Protocol, for a suspension to be lifted, along with support and advice in meeting these conditions.

These important considerations notwithstanding, whilst the 2018 UN Protocol is designed to facilitate the identification and resolution of gaps in partner capacity, it also establishes that there are certain situations where the termination of a partnership agreement will be required. The potential risks associated with not suspending a partnership agreement also need to be examined, including in relation to sustaining community trust, combating perceptions of impunity and considering situations where a partner facing potential suspension is responsible for particularly sensitive areas of delivery (such as managing complaints and feedback mechanisms, GBV prevention and response, child protection interventions, etc.).

In the cases examined, the concerned NGO partners also stated that the suspension of partnerships also led to serious management difficulties. In one case, according to them the suspension jeopardized large-scale funding and resulted in stopping the salaries of over 200 staff. This meant insecurity for the employees' families. There was a serious security incident for one director at local level and he had to escape and hide. 50 local staff of the other partner became unemployed, precipitating a serious human resources crisis. The coordination team of this latter partner remains "in post", while not having been paid for more than eight months.

One partner conducted a mission to evaluate the impact of the suspension on its communities and a representative of the internally displaced persons (IDPs) in one location complained that "in fact, it is not only the operations (of the organisation) that are suspended but we, the vulnerable persons, are also suspended not only from the assistance itself but the good modality of receiving it (...) We have not been prepared morally to this suspension and we are hurt".

There was also an impact on a planned vaccination campaign. One of the partners had signed a co-operation agreement for a vaccination campaign to be carried out in late 2020 which did not happen. In addition, a planned year's programme to address the Covid-19 crisis in a nearby country was stopped after just one month; the partner had to transfer back the first disbursement received and terminate the employment of the project team which had just been recruited. It was not clear what happened to these programmes and whether the funding partners were able to implement them with another partner.

One of the NGO partners challenged the decision to suspend life-saving operations, invoking the humanitarian imperative (the suspension of operations was referred to as “an abuse of power”). The other partner contested the legality of the termination of one of its partnerships. It appears however that communications between the NGO partners and the concerned UN agencies were maintained despite the challenges. GBV/SEA survivors and enabled the partner to meet the victim and her mother and provide psychosocial and education support.

In a country in Europe, the community-based partner organization conducted the investigation while the concerned UN funding partner provided victim assistance through a GBV partner. The UN entity reviewed the investigation report and made some recommendations in terms of disciplinary sanctions (in that case, the termination of the employment contract for two staff). The UN entity PSEA focal point said that the investigation had re-victimized and further harmed the victim and recommended that if partners do not have the capacity or trained investigators, they should not conduct investigations.

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8. Key learning points

Learning 1: Partnerships between funding partners and NGO partners struggle to consistently support the NGO partners in meeting PSEA requirements prior to SEA incidents.

- Most of the partnership agreements reviewed between UN funding partners and NGO partners did not reflect the 2018 UN Protocol, nor did they refer to the partner PSEA assessment and capacity-strengthening implementation plan.
- In some of the cases reviewed, the partners involved in SEA incidents had very poor PSEA systems and practices, despite a long-lasting partnership with UN entities.
- The UN Implementing Partner PSEA Capacity Assessment tool was launched in September 2020 to have a consistent approach to addressing gaps; it is currently being rolled out by individual agencies in co-ordination by an interagency Task Force to ensure coherent implementation and to incorporate lessons learned into the assessment process.
- Resource hubs have been set up by major government donors with the intention of supporting NGOs in best practice.
- There were some examples of INGOs which give priority to working together with partners to improve their capacity to prevent, mitigate the risk of and address SEA. This has paid dividends in terms of ability to respond to SEA incidents.

Learning 2: PSEA networks offer possible effective avenues for joint capacity building and sharing learning and knowledge, especially when all agencies work closely together and providing that all NGO partners become active/regular members.

- NGO partners which have received support in humanitarian settings received it mainly via PSEA networks in the form of training, referral to GBV services etc.
- Many NGOs and CSOs are still not members or active members of these PSEA networks.
- PSEA networks have limited capacities and resources to address the scope of the work.
- Good examples of PSEA networks which have been “re-energised” include Greece and Lebanon, with updated PSEA inter-agency SOPs.
- PSEA networks tend to work well where there is involvement of all stakeholders, not just UN agencies, and a supportive respectful approach, offering guidance materials, training and meetings to share best practice.
- It is a challenge when there are many small NGOs or CBOs involved, with different levels of expertise and knowledge. One interviewee noted “Syria, Iraq, Bangladesh, Somalia, there are dozens of small NGOs..... We should not judge organisational abilities before they come to the table. We need to balance inclusivity with the need to have productive meetings”.

Learning 3: Trusting NGO partners to conduct investigations is the appropriate overall approach and they have local knowledge, but making the investigation the exclusive obligation of the partner, irrespective of their capacity, can expose victims to harm and compromise the quality of the investigation.

- The results of investigations conducted by partners unable to afford a trained investigator were often found to be of poor quality, and/or further harmed the victim or left the alleged perpetrator in contact with vulnerable people and potentially the victim(s).
- Despite operating a policy of trust in partners, funding partners sometimes get too involved in the detail of cases, asking excessive questions, wanting to talk to the survivor or whistle-blower, demonstrating a lack of understanding of the local context, appearing to have preconceived ideas about the outcome of investigations.
- Some UN HQ investigation units appear to have been reactive rather than proactive and not perceived to be very useful, according to some NGO partners.
- Investigations are mostly funded through core-funding as funding partners/donors may not make specific funding available for PSEA activities and SEA incident management.

Learning 4: Victim assistance has been given a high priority but survivor-centred approaches throughout investigation and case resolution have probably not been consistent across organisations/partnerships.

- Support provided by a UN agency to a GBV organisation operating in a European country led to comprehensive assistance to SEA survivors in multiple locations.

- Several agencies have victim support services in place, while in other cases, the victim assistance may consist of referral of NGO partners to the GBV sub-cluster.
- Joint investigations where agencies have pooled expertise and resources have led to some good examples of survivor-centred processes. One interviewee noted “The more you expose experienced teams to other agencies the more you can improve practice”.
- Sometimes, donors push NGOs to report to the police when this has inherent counterproductive risks and/or against wishes of survivor.
- Challenges in consortium working were highlighted: lack of agreed procedures can lead to compromising investigations and potentially impunity, neglect of the survivor and exposure to further risks. Having an agreed protocol in advance is key.

Learning 5: The decisions by funding partners to fully suspend/terminate partnership agreements have not always been informed by an assessment of the risks for the affected communities and properly mitigated, leading to disruption of key life-saving services.

- Suspensions of agreements should be informed by an inclusive risk assessment and mapping of available services, and an agreed mitigation plan, to avoid serious consequences for the life, health and dignity of the affected population, including children.
- The SG/SGB/2003/13, the 2018 UN Protocol and bilateral co-operation/partnership agreements provide a legal basis for the suspension or termination of agreements. However, in some cases, the conditions for terminating or restoring partnerships when there have been SEA incidents, or risks have been identified, are not set out clearly and fully and may not be clear to all parties.²⁶

²⁶ The criteria for terminating a partnership are set out in relation to the ongoing partnership management or relationship under the UN harmonised partner assessment tool, for example, when a partner assessed as “high risk”, after a PSEA capacity assessment, fails to improve its compliance. However this process is irrespective of whether or not the partner has to investigate or manage a reported SEA incident.

- The introduction of the UN Implementing Partner PSEA Capacity Assessment, and the development of a joint capacity strengthening and monitoring implementation plan aims to prevent the suspension of agreements.

Learning 6: Funded partnerships often involve unequal power dynamics which mean that NGO partners believe they are more accountable than funding partners.

- The standard of communication by funding partners has sometimes been a challenge for NGO partners. Where NGO partners would expect quick feedback, answers to questions or solutions to problems, they often experience delays in feedback, repeated or additional demands/questions.
- In the case studies, the NGO partners received limited technical support and borne most of the costs for victim assistance, investigations and implementation of the PSEA capacity-strengthening implementation plan.
- While there were positive examples of partners working together to mitigate risks, there was also some evidence of transferring the responsibility for mitigation of risks to NGO partners and communities rather than this being seen as a joint role.
- Funding partners have good intentions about supporting NGO partners and building knowledge together, but do not always recognise that this takes time and resources. They set the requirement but do not always lead by example.
- Many INGOs are wrestling with how to overcome the current inherent imbalances of power in the standard approaches to working with NGO partners, in order to have a more equal relationship that will encourage open and transparent communications and collaboration on PSEA/ safeguarding challenges and reporting. “Local

partners are more accountable to us than the other way around. The onus is on us to act with integrity and listen, to get a more equal relationship”. (Child rights INGO). “Contracts have always had an imbalance, about how to protect risks for the INGO and donors.” (INGO).

Learning 7: Initiatives at global level from funding partners to develop harmonised frameworks and tools can translate into positive results at country and field level.

- The UN Implementing Partner PSEA Capacity Assessment prevents overlapping PSEA assessment processes; it is currently being rolled out by individual agencies in co-ordination by an interagency Task Force to ensure coherent implementation and to incorporate lessons learned into ongoing improvement of the assessment process.
- The Joining Forces Alliance²⁷ protocol set up between major child rights INGOs for consortium working is enabling these agencies to provide an effective joint response to cases.
- IASC organizations and affiliated partners that have limited investigations capacity can apply to the OCHA Fund for investigations into sexual exploitation, abuse, and sexual harassment by sending a proposal to ochapseafund@un.org.²⁸
- Interesting websites provide NGO partners with good resources such as the PSEA taskforce, the IASC PSEA network, UN website²⁹ and the FCDO and GAC resource hubs.³⁰

²⁷ <https://joining-forces.org>

²⁸ https://interagencystandingcommittee.org/system/files/ocha_sea_fund_flyer.pdf

²⁹ <https://pseataaskforce.org/> and <https://psea.interagencystandingcommittee.org>; <https://www.un.org/preventing-sexual-exploitation-and-abuse/>

³⁰ <https://safeguardingsupporthub.org> and www.digna.ca

9. Conclusions and recommendations

Overall, despite some good practices, the information obtained during this study suggested that funding partners and their NGO partners have struggled to implement fully and consistently relevant regulatory instruments including the 2018 UN Protocol, particularly in relation to articles 14b, 16, and 19, across the various partnerships and contexts. Many agencies have supportive approaches and see it as their role to work collaboratively with partners to build PSEA capacity at all levels. However, they may have limited resources to meet the scale of the task and identify the weaknesses of their partners while designing the project or before signing the agreement. UN funding partners have not always conducted an initial PSEA assessment of their NGO partners, nor have they taken joint responsibility for implementing corrective measures as part of the partnership. Most agreements seen did not include any commitments to PSEA activities or budget or refer to a PSEA assessment and capacity-strengthening implementation plan. This has led to situations where partners have been ill-equipped to fulfil their responsibilities of investigating and responding effectively when SEA cases have come to light.

In relation to decision-making, while there were good examples of collaborative joint working and decision making on support to the survivor, key decisions about the future of the partnership were often solely the decision of the funding partner, based on the partner obligations according to the co-operation agreement, risk assessments and media/reputational risks. NGO partners should be consulted about these decisions and risk assessments should be undertaken as to the possible impact on the beneficiaries of assistance and essential services. Decisions about when and how to take sanctions against a partner for its management of SEA allegations should be consistent, transparent and predictable.

A number of “tensions” or potential discrepancies were identified in the course of this study:

- a. Discrepancies between the co-operation/partnership agreements on the one hand and the 2018 UN Protocol on the other hand, in relation to the division of roles and responsibilities amongst partners
- b. Tensions between the NGO partner obligation to conduct safe and professional investigations, and their capacity to do so, versus the capacity of the funding partner to support them, particularly as UN HQ investigation units often limit their role to reviewing partner investigation reports.
- c. Tensions around the decisions to fully suspend partner operations versus the humanitarian imperative/core humanitarian principle.
- d. Tensions in relation to funding PSEA activities and preventive measures, as funding partners tend to consider that partners need to implement these activities through their core funds.
- e. Tensions in relation to unequal power dynamics within partnerships and the seeming one-way accountability of NGO partners.

This study has only scratched the surface of partnership ways of working on the challenging issues associated with how to address allegations of SEA effectively. However, it has highlighted the importance of good communications between partners and relationships based on trust and respect. This is a key factor in effective response to SEA incidents. A number of promising initiatives are underway to improve PSEA partnership working, including exploring ways of developing more equal partnerships, joint initiatives from UN agencies, collaborative approaches between INGOs and useful protocols, capacity building and resource-sharing activities from PSEA networks and resource hubs. It will be important to review the progress of these various initiatives and identify lessons learned for future good practice.

A number of recommendations are proposed for consideration by stakeholders at all levels:

General recommendations for all funding partners.

- a. Ensure all NGO partners understand their contractual obligations in the co-operation/partnership agreement and consequences of not meeting them; work together on culture change, not only to comply with PSEA minimum standards but to ensure that all parties internalise PSEA values and principles and perceive receiving reports as a positive result of effective reporting systems, rather than as a failure leading to sanction.
- b. Refer to the partner's PSEA capacity-strengthening and monitoring implementation plan, or other capacity building requirements in the partnership agreement, and provide for core funding to be used for PSEA mechanisms and practices.
- c. Recruit personnel who have understanding and experience of working in humanitarian settings to ensure more realistic expectations, without compromising guiding principles and values.
- d. Consider how effective and timely technical support can be provided to NGO partners which have limited capacity, expertise or resources to conduct investigations themselves, including on how to use the OCHA/IASC fund for SEA investigations.
- e. Where an NGO partner conducts the investigation, the norm should be for the funding partner to request only a high-level summary of the investigation report and measures taken, with the full report only being requested on an exception basis if the information needs to be clarified.
- f. Consider the necessity and proportionality of a proposed partnership suspension and its duration. Consider the continuation of services: document and implement the mitigation measures agreed with the NGO partner and communities, especially life-saving services, before suspending partner operations.
- g. Ensure that the risk/impact assessment and mitigation plan of the partnership decision results from an inclusive dialogue involving partners and communities as well as the funding partner as necessary and includes consideration of the risks associated both with potential suspension/termination as well as with not pursuing suspension/termination.
- h. Provide an opportunity for NGO partners to challenge the decision to suspend a partnership agreement or suspend operations (for example, through an appeals mechanism)
- i. Prioritise open and transparent communications between the funding partners and NGO partners to foster trust and constructive, mutually accountable and supportive working relationships.
- j. Undertake joint preparations in advance of problems arising, to understand and agree what the process will be when an SEA case is reported, including considering the use of interactive methods such as simulation or role-play of scenarios.
- k. Ensure more timely, relevant, constructive and solution-oriented communications between the various stakeholders when a serious incident arises, focusing on the best interests of the victim(s) and affected communities throughout the PSEA case management.
- l. Implement learning processes where all stakeholders work together to review lessons learned from the joint management of SEA incidents, to identify and implement recommendations for the future. This should include compiling and examining good practice on support to partners on victim assistance and investigation.
- m. Consortia to put in place detailed PSEA/safeguarding protocols in their consortium agreements, to be ready to deal with incidents when they arise.

Specific Recommendations for UN funding partners.

- a. Ensure that the 2018 UN Protocol, especially the articles 14.b, 16 and 19, is reflected in the partnership agreements by the UN entities, especially in relation to joint accountability for addressing gaps in partner PSEA systems and establishing community complaint mechanisms.
- b. Build on the new the IASC Strategy on PSEA (March 2021) and the proposed "championship" role and priorities.
- c. Explore how the UN PSEA Focal Points staff in-country could be better informed about the results and recommendations of investigations undertaken by head office, to enable them work with NGO partners on any necessary follow-up and prevent recruitment of confirmed SEA perpetrators.³¹

³¹ See also the inter-agency Misconduct Disclosure Scheme - <https://www.schr.info/the-misconduct-disclosure-scheme>

- d. Review the current mandate, capacities, ways of working and quality of the support that HQ investigation units provide to NGO partners who have to conduct SEA investigations.

Recommendations for inter-agency PSEA networks.

- a. PSEA networks to audit their activities and explore how to improve, including getting additional support from larger member organisations to work with local NGOs and Community-based organizations (CBOs) on sharing learning and knowledge.
- b. Replicate good practice from other networks, including having an inclusive approach and involving organisations at all levels, large and small. This could include opening up services and resources to non-members for mutual benefit.

Recommendations for NGO partners.

- a. Take steps to know, understand and respect the obligations in the co-operation/partnership agreement on PSEA and the consequences of not meeting them.
- b. Implement good human resources practices, including safe recruitment and training of leaders and managers on PSEA.
- c. Aim to be active members of the PSEA network and signatory members of the PSEA network SOPs, protocols and accountability frameworks.
- d. Include PSEA activities in proposals to funding partners, based on PSEA risk assessment and identified mitigation measures.



Annex

The IASC Six Core Principles (2002, updated 2019)

IASC encourages agencies to integrate the principles below into their code of conduct. IASC has also produced Minimum Operating Standards based on these principles. https://interagencystandingcommittee.org/system/files/3_minimum_operating_standards_mos-psea.pdf

1. Sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination of employment.
2. Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief regarding the age of a child is not a defence.
3. Exchange of money, employment, goods, or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour is prohibited. This includes exchange of assistance that is due to beneficiaries.
4. Any sexual relationship between those providing humanitarian assistance and protection and a person benefitting from such humanitarian assistance and protection that involves improper use of rank or position is prohibited. Such relationships undermine the credibility and integrity of humanitarian aid work.
5. Where a humanitarian worker develops concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, whether in the same agency or not, he or she must report such concerns via established agency reporting mechanisms.
6. Humanitarian workers are obliged to create and maintain an environment which prevents sexual exploitation and abuse and promotes the implementation of their code of conduct. Managers at all levels have particular responsibilities to support and develop systems which maintain this environment.

The Secretary-General's Bulletin: Special Measures for Protection from Sexual Exploitation and Abuse (2003) (ST/SGB/2003/13)

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

- Incorporates the PSEA key principles defined by the IASC
- Stipulates that SEA may be grounds for administrative action or disciplinary measures, including summary dismissal
- Obliges UN staff and all entities and individuals who have cooperative agreements with the UN to report incidents of abuse
- Sets as an obligation for all personal, especially the managers, to create a safe and protective environment
- Notes that failure of entities or individuals to take preventive measures against sexual exploitation or sexual abuse, to investigate allegations, or to take corrective action when sexual exploitation or sexual abuse has occurred, shall constitute grounds for termination of any cooperative arrangement with the United Nations.

The UN Protocol on allegations of SEA involving implementing partners

- Outlines the obligations of the UN entity to carry out an appropriate screening process before entering in partnership (article 14), provide information about expected standards of conduct (article 15), consider the capacity of IPs to prevent and respond to SEA when designing the activities, offer capacity building activities and regularly monitor compliance with PSEA requirements in higher risk situations (articles 16-18).
- Highlights the obligation of the IPs to promptly report SEA allegations to the UN entity and the shared responsibility between UN entity and IP to provide support for the establishment of reporting mechanisms at field level (article 19).
- The UN entity has the right to investigate SEA allegations involving NGO partners and its associated personnel, notwithstanding related investigations undertaken by the partner or national authorities. Where the investigation is not conducted by a UN entity directly, the UN partner entity will seek all relevant information to determine whether the NGO partner has taken appropriate investigative or corrective action
- In the case of credible allegations, the UN entity is entitled to withhold further cash and/or supply transfers to the IP, to determine with the IP the corrective actions partner capacity development, and monitor their implementation. A failure to implement corrective measures could result in termination of co-operation agreement (articles 22-23). Reference is also made to the SG bulletin (article 6.3).
- "The UN does not partner with entities that fail to address sexual exploitation and abuse through appropriate preventive measures, investigation and corrective action. Such failures shall constitute grounds for the termination of any cooperative arrangement with the UN.", guiding principle 1.

Note: the UN protocol 2018 does not state how the UN entity would support IP to ensure/access necessary expertise and capacities to conduct safe investigations.

The PSEA Assessment and the PSEA Toolkit for CSO partners, UNICEF, February 2020

UNICEF developed this Guide and Toolkit to enable PSEA self-assessment and support partners to understand their organisational strengths and areas of improvement needed in PSEA policies and practices, in order to meet their obligations in the UN SG Bulletin 2003 and the IASC-MOS-PSEA. It gives partners a baseline for tracking progress of their capacities against core standards, which are aligned with the UN Protocol 2018, the IASC-MOS-PSEA and the Core Humanitarian Standard on Quality and Accountability (CHS). It provides links to extensive resources from IASC, PSEA, KCS, CHS etc., for all the core-standards.

- Core Standard 1: Organizational Policy: an organizational policy on PSEA exists and describes appropriate standards of conduct, other preventive measures, reporting, monitoring, investigation and corrective measures.
- Core Standard 2: Organizational Management and HR Systems: The organization's management and HR systems account for PSEA: the organization's contracts and partnership agreements include a standard clause on PSEA and HR recruitment includes a systematic vetting for job candidates.
- Core Standard 3: Mandatory Training: the organization holds mandatory trainings for all personnel on the organization's SEA policy and procedures.
- Core Standard 4: Reporting: the organization has mechanisms and procedures for personnel, beneficiaries and communities to report SEA allegations (safe, confidential, transparent, accessible) and ensures that beneficiaries are aware of these.
- Core Standard 5: Assistance and Referrals: The organization has a system to ensure survivors of SEA receive immediate professional assistance.
- Core Standard 6: Investigations: the organization has a process for investigation of allegations of SEA and can provide evidence that it has appropriately dealt with past SEA allegations, if any, through investigation and corrective action.

IASC Harmonized Implementation Tool
UN Implementing Partner PSEA Capacity Assessment, UNICEF, UNFPA, UNHCR, and
WFP in consultation with IASC members and the UN SEA Working-Group, September
2020,
Endorsed by IASC Operational Policy and Advocacy Group

IASC developed a harmonised tool which is similar to the UNICEF toolkit above and has the following core standards:

- Core Standard 1: Organizational Policy: an organizational policy on PSEA exists and describes appropriate standards of conduct, other preventive measures, reporting, monitoring, investigation and corrective measures.
- Core Standard 2: The organization's contracts and partnership agreements include a standard clause on PSEA.
- Core Standard 3: The organization's HR recruitment includes a systematic vetting for job candidates
- Core Standard 4: Mandatory Training: the organization holds mandatory trainings for all personnel on the organization's SEA policy and procedures.
- Core Standard 5: Reporting: the organization has mechanisms and procedures for personnel, beneficiaries and communities to report SEA allegations (safe, confidential, transparent, accessible) and ensures that beneficiaries are aware of these.
- Core Standard 6: Assistance and Referrals: The organization has a system to ensure survivors of SEA receive immediate professional assistance.
- Core Standard 7: Investigations: the organization has a process for investigation of allegations of SEA and can provide evidence that it has appropriately dealt with past SEA allegations, if any, through investigation and corrective action.

Organisation for Economic Cooperation and Development, Development Assistance Committee

Recommendation on Ending Sexual Exploitation, Abuse, and Harassment in Development Co-operation and Humanitarian Assistance, 2019

The purpose of this DAC Recommendation is to provide a comprehensive framework that can support, guide, incentivise, and help DAC and non-DAC members having adhered to it (referred to as the “Adherents”) in their capacity as donors, cross-government and international community stakeholders to implement more comprehensive, coherent and aligned measures, consistent with international standards and taking into account national laws, to prevent and respond to SEA in their activities in the disbursement and/or management of aid. This includes putting survivors and victims first, supporting organisational cultural change, building capacity, strengthening accountability, and bolstering the integrity of the international aid sector.

The document recognises the “Inter-Agency Standing Committee’s Principles and Minimum Operating Standards on Prevention of Sexual Exploitation and Abuse (MOS-PSEA), and the Core Humanitarian Standard on Quality and Accountability (CHS), as essential international standards”. Therefore, the DAC Recommendation is not creating a new standard, but focuses on donors’ application of the IASC and CHS standards.

Governments who are members of the Development Assistance Committee and any organisation who works with them should ensure their SEAH work is guided by it. Governments and organisations who are not members of the Development Assistance Committee are also encouraged to ‘adhere’ to the document and several United Nations organisations have done so.



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