



Executive Director's Circular

ETHICS OFFICE

Date: 31 January 2008
Circular No.: ED2008/003
Revises:
Amends: ED2006/011
Supersedes:

**Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits and investigations
(WFP "Whistleblower" Protection Policy)**

Introduction

1. This Executive Director's circular announces policy with the objective of enhancing protection against retaliation for individuals who report misconduct, provide information in good faith on wrongdoing by one or more employees, or cooperate with a duly authorized audit or investigation. This policy has been updated to be fully aligned with the United Nations Secretary-General's bulletin on this subject.¹

Background

2. It is the duty of all employees to report any breach of WFP's regulations and rules to officials whose responsibility it is to take appropriate action² and to cooperate with WFP's oversight functions. An individual who makes such a report in good faith has the right to be protected against retaliation.
3. Retaliation against individuals who have reported or provided information concerning acts of misconduct violates the fundamental obligation of all employees to uphold the highest standards of efficiency, competence and integrity and to discharge their functions and regulate their conduct with the best interest of the Programme only in view.³

¹ Secretary-General's bulletin "Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations" ([ST/SGB/2005/21](#)), dated 19 December 2005.

² "Standards of Conduct for the International Civil Service", paragraph 19; issued in WFP through Executive Director's circular [ED2003/006](#), dated 30 June 2003.

³ FAO/WFP Staff Regulation 301.1.1

4. Retaliation means any direct or indirect detrimental action recommended, threatened or taken towards an individual who has reported misconduct or provided information concerning the same. When established, retaliation in itself constitutes misconduct, for which appropriate action will be taken.

Scope of application

5. Protection against retaliation applies to any WFP national or international staff member (regardless of the type of appointment or its duration), consultant, intern, service contract holder or special service agreement holder, United Nations Volunteer (UNV) or volunteer who:
 - i. reports the failure of one or more employees to comply with his or her obligations under WFP General Regulations and Rules, Staff Regulations and Rules, WFP Financial Regulations and Rules, the Standards of Conduct for the International Civil Service, United Nations or United Nations Development Programme (UNDP) regulations and rules as applicable, or other relevant administrative issuances. This includes any request or instruction from any employee to violate the above-mentioned regulations, rules or standards;
 - ii. provides information in good faith on wrongdoing by one or more employees; or
 - iii. cooperates in good faith with a duly authorized audit or investigation.
6. The present circular in no way prejudices the right of a supervisor, initiating body, or similar persons or bodies to apply regulations, rules and administrative procedures, including those governing evaluation of performance and non-extension or termination of appointment. However, in exercising this right, the burden of proof shall rest with Management, which must prove by clear and convincing evidence that it would have taken the same action absent the protected activity referred to in paragraph 5.
7. In order to receive protection under this policy, the individual must make the report (referred to in paragraph 5) in good faith, and must have a reasonable belief that misconduct has occurred. Reports of retaliation must be made as soon as possible and no later than one year after the alleged acts of retaliation have taken place. The transmission or dissemination of unsubstantiated rumours is not a protected activity. Making a report or providing information that is intentionally false or misleading constitutes misconduct and may result in administrative, disciplinary, or other appropriate action.

Reporting misconduct

8. It is the duty of employees to report misconduct. Confidentiality clauses and oaths in contracts of employment do not preclude such reporting.
9. Reports of misconduct should be made through the established internal mechanisms and following the established guidelines. Depending on the nature of the allegations, this may include:

- i. the head of the department or office concerned;
 - ii. the Office of Inspections and Investigations (OSDI);⁴
 - iii. the Director Human Resources Division (ADH);⁵
 - iv. the focal point appointed to receive reports of sexual exploitation and abuse.⁶
10. It is the duty of the individual or body receiving the report to protect the confidentiality of the person making the report and all communications in relation to the report to the maximum extent possible. The individual's identity should not be disclosed without his or her permission, and only if it is necessary for administrative, disciplinary or judicial action or in order to ensure due process in the investigation of the allegations made.

Reporting misconduct through external mechanisms

11. Notwithstanding Staff Rule 302.1.55,⁷ protection against retaliation will be extended to an individual who reports misconduct to an entity or individual outside of the established internal mechanisms, where the criteria set out in subparagraphs (i), (ii) and (iii) are satisfied:
- i. Such reporting is necessary to avoid:
 - a) a significant threat to public health and safety; or
 - b) substantive damage to WFP's operations; or
 - c) violations of national or international law;
 - ii. The use of internal mechanisms is not possible because:
 - a) at the time the report is made, the individual has reasonable grounds to believe that he/she will be subjected to retaliation by the person(s) he/she should report to pursuant to the established internal mechanism; or
 - b) it is likely that evidence relating to the misconduct will be concealed or destroyed if the individual reports to the person(s) he/she should report to pursuant to the established internal mechanisms; or
 - c) the individual has previously reported the same information through the established internal mechanisms, and the Programme has failed to inform the individual of the status of the matter within six months of such a report. Such notification does not confer an obligation to disclose the details of the investigation but rather requires that a complainant be

⁴ See *Notice from the Inspector General - WFP Hotline Guidance (OSD/2005/18.04.2005)*

⁵ See Executive Director's Circular "Policy on Harassment, Sexual Harassment and Abuse of Authority" (ED 2007/003), 14 February 2007

⁶ See Executive Director's circular "Special measure for protection from sexual abuse and exploitation in humanitarian crisis" (ED2005/004), 15 February 2005.

⁷ WFP/FAO Staff Rule 302.1.55: " Staff members shall not, except in the normal course of official duties, or with the prior approval of the Director-General, perform any one of the following acts, if such act relates to the purposes, activities or interests of the Organization:

- a. issue statements to the press, radio or other agencies of public information;
- b. accept speaking engagements;
- c. take part in film, theatre, radio or television productions;
- d. submit articles, books or other material for publication."

informed whether a case is under investigation or closed for lack of evidence.

- iii. The individual does not solicit or accept payment or any other benefit from any party for making such a report.

Reporting retaliation

12. Individuals who believe that retaliatory action has been taken against them because they have reported misconduct or cooperated with a duly authorized audit or investigation should forward all information and documentation available to them to support their complaint to the Ethics Office as soon as possible. Complaints may be made in person, by regular mail or by e-mail, by fax or through the Ethics Office helpline.
13. The functions of the Ethics Officer with respect to protection against retaliation for reporting misconduct are as follows:
 - i. to receive complaints of retaliation;
 - ii. to keep a confidential record of all such complaints;
 - iii. to conduct a preliminary review of the complaint to determine if:
 - a) the complainant engaged in a protected activity (see paragraph 5); and
 - b) there is a prima facie case that the protected activity was a contributing factor in causing the alleged retaliation or threat of retaliation.
14. Where the complainant can be contacted, the Ethics Officer will send an acknowledgement of having received the report of retaliation within one week and complete its initial review within 45 days of receiving the complaint of retaliation.
15. If, in the view of the Ethics Officer, there is a credible case of retaliation, s/he will refer the matter in writing to the Director Oversight Services Division and Inspector General (OSD) and will immediately notify the complainant in writing that the matter has been so referred. OSD will complete its investigation and submit its report to the Executive Director and the Ethics Officer within 120 days.
16. If there is an unavoidable delay in completing either the initial review or the full investigation, the complainant will be notified of this in writing and advised as to when the review or investigation will be completed.
17. Pending the completion of the investigation, the Ethics Officer may make recommendations to the Executive Director that appropriate measures be taken to safeguard the interests of the complainant, including but not limited to temporary suspension of the implementation of the action reported as retaliatory and, in consultation with the complainant, temporary reassignment of the complainant or placement of the complainant on special leave with full pay.
18. Once the Ethics Office has received the investigation report, it will inform in writing the complainant of the outcome of the investigation and make its recommendations on the case to the Executive Director. Those recommendations may include disciplinary actions to be taken against the retaliator.

19. If the Ethics Officer finds that there is no credible case of retaliation or threat of retaliation, but finds that there is an interpersonal problem within a particular office, he/she will advise the complainant of the existence of informal mechanisms of conflict resolution in WFP, such as the Office of the Ombudsman.
20. If the Ethics Officer finds that there is a managerial problem based on the preliminary review of the complaint or the record of complaints relating to a particular department or office, he/she will advise the Executive Director.
21. If, in the opinion of the Ethics Officer, there may be a conflict of interest in OSD undertaking the investigation, the Ethics Officer may recommend to the Executive Director that the complaint be referred to an alternative investigation mechanism.

Protection of the person who suffered retaliation

22. If retaliation against an individual is established, the Executive Director may, after taking into account any recommendations made by the Ethics Officer and after consultation with the complainant, take appropriate measures aimed at correcting negative consequences suffered as a result of the retaliatory action. Such measures may include, but are not limited to, the rescission of the retaliatory decision, including reinstatement, or, if requested by the complainant, transfer to another office or function for which the individual is qualified, independently of the person who engaged in retaliation.
23. The procedures set out in the present circular are without prejudice to the rights of an individual who has suffered retaliation to seek redress through the internal recourse mechanisms. An individual may raise any failures by WFP to fulfil its obligations under the present policy in any such internal recourse proceeding.

Action against the person who engaged in retaliation

24. Acts of retaliation constitute misconduct. Should an investigation establish that an individual engaged in such action, that person may be subject to administrative or disciplinary action.

Prohibition of retaliation against outside parties

25. Any retaliatory measures against a contractor or its employees, agents or representative, or any other individual engaged in any dealing with WFP because such person has reported misconduct by WFP employees will be considered misconduct that, if established, may lead to administrative or disciplinary action.

Effective Date

26. This circular takes effect immediately.

Josette Sheeran
Executive Director