

FREQUENTLY ASKED QUESTIONS

(Source: Inter-agency training for Focal Points)

These FAQs are designed to assist facilitators with questions that commonly arise regarding sexual exploitation and abuse by UN personnel and partners. They are grouped into various categories to assist facilitators in providing responses throughout their sessions. Facilitators should use good judgment when answering questions. If they do not know or are unsure of an answer, they should say so and offer to check it and get back to the questioner.

General application of the SGB:

1. To whom does the SGB apply?

The SGB applies to:

- All internationally-recruited and locally-recruited UN staff, including staff of separately administered organs, funds and programmes of the United Nations;
- All categories of UN peacekeeping personnel (see General Assembly Resolution 59/300 of 22 June 2005), including military members of national contingents, experts on mission, including police officers, corrections officers and military observers; and members of national formed police units;
- Personnel or employees of non-United Nations entities or individuals that have entered into a cooperative arrangement with the UN, including interns, JPOs, international and local consultants, and corporate and individual contractors, including day labourers; and
- United Nations Volunteers.

2. Where and when does the SGB apply?

The SGB is not location-specific and applies to all UN personnel at all times, including while they are off duty or on leave.

UN personnel are obliged to comply with the standards of the SGB as well as with local laws. Where the SGB establishes a higher standard than local laws, the standards of the SGB will prevail.

- Example: A staff member engaging the services of a prostitute – whether in a peacekeeping mission, in New York (where prostitution is illegal) or in the Netherlands (where prostitution is legal) – is in violation of SGB which prohibits the exchange of money, goods, or services for sex.

3. Does the SGB apply outside my duty station/mission country? Does it apply when I travel for work to New York or Europe, or to a neighbouring country?

Yes, the SGB applies to all UN personnel at all times, wherever they are, for as long as you are on assignment with the United Nations. As long as you are working for the UN, you are expected to abide by its conditions of employment and policies, including the SGB. Your behaviour always reflects on the United Nations.

4. “Sexual exploitation and abuse is a problem that exists primarily in the Democratic Republic of Congo. It is not likely to happen in my duty station.”

Sexual exploitation and abuse, in a variety of different forms, have been found to exist to a greater or lesser extent in all duty stations. Regardless of your perceptions of the problem in your duty station or the likelihood of it occurring, all UN personnel and partners have an obligation to create and maintain an environment that prevents sexual exploitation and abuse and to uphold the standards of conduct.

5. Aren't the rules on sexual exploitation and abuse an intrusion into my private life? Isn't what I do in the privacy of my own home, or outside of office hours, my own business?

When you are serving with the UN, you are a representative of the Organization during your free time as well as during your working day. You do not have the same freedoms in your “private life” as you do when you are in your home country or working for another organization. You accept this when you accept the job. You are held to a very high and very strict standard of conduct because your behaviour, both professional and personal, is always associated with and reflects on the image of the Organization.

6. Are UN personnel expected to be celibate for the entire time they are on mission?

No, you are not expected to be celibate. However, working with the UN is not a “normal” job. Not everyone is suited for it. If you do not feel that you can meet the high standards of conduct required, then you should not be working with the Organization. You are not completely prohibited from having sexual relations at your duty station, but they must not violate the SGB.

7. We wish to respect the rules of SEA, but mission life is often lonely and not always easy. WE are targeted by prostitutes and constantly solicited by them. What is the UN doing to protect me from this constant harassment?

Once again, working with the UN in some areas can be a very difficult occupation and it is not for everyone. You must have a great deal of personal discipline. You will be subject to a wide variety of dangerous, frustrating and awkward situations, including desperate people soliciting you to violate the UN standard of conduct. Your response is to continue to say no.

8. After all you have said, why doesn't the UN simply prohibit sexual relationships for mission staff?

The UN is not concerned with preventing sexual relationships but with preventing abuse, particularly of vulnerable populations. As long as a sexual relationship does not violate the SGB (or other UN policies), it is allowed.

9. If someone is in the field for a long time, it's not fair to prevent them from having sex.

The SGB does not prevent people from having sex. It prohibits UN personnel and partners from engaging in acts that are sexually exploitative or abusive (as defined in the SGB). These rules are in place to prevent people from being harmed. It is not a question of fairness.

10. Why should we have to follow UN rules when the laws of [country] say something different? Shouldn't the UN respect local customs?

The SGB sets out the standards of behaviour expected of UN personnel and partners and forms part of our contractual obligations. The UN should respect local customs. Having an additional set of standards does not mean that the UN does not respect local laws and customs, it simply means it has adopted an additional higher standard and requires its staff to behave in a particular way. The two are not contradictory.

11. Is the SGB implying that everyone in the host country is vulnerable? Isn't this insulting?

No. The SGB does not imply that everyone in the host country is vulnerable (which would be insulting). The SGB is concerned with the behaviour of UN personnel and partners and prohibits them from engaging in sexual exploitation and abuse with anyone. Sexual exploitation includes abusing a position of vulnerability for sexual purposes. The SGB acknowledges that we frequently work amongst vulnerable populations and that there is an inherently unequal power dynamic between staff and beneficiaries of assistance. The SGB requires all UN personnel and partners to show good judgment and to be conscious of the impact of our actions. If there is any risk that a sexual act might constitute exploitation or abuse, it is better to err on the side of caution.

12. Does sexual exploitation and abuse apply to staff members?

Sexual exploitation and abuse can be committed against staff members, as well as members of the community. The definitions are concerned with staff behaviour and not with the person against whom the act is committed. The sexual harassment policy also covers staff members. Any act that constitutes sexual exploitation, sexual abuse or sexual harassment is serious misconduct and should be reported. The person reporting does not have to specify which category applies; they just need to report the relevant information.

Specific standards:

13. Do sexual exploitation and sexual abuse constitute serious misconduct?

Yes. Sexual exploitation and sexual abuse are considered acts of serious misconduct (SGB, section 3.2(a)) and constitute a basis on which:

- All staff members, whether internationally or locally recruited, may be summarily dismissed by the Secretary-General (staff regulation 10.2 and ST/AI/371 (Revised disciplinary measures and procedures), paragraph 9(c)).
- A military member of a national contingent, an expert on mission (including police officers, corrections officers and military observers), a

member of a national formed police unit or a United Nations Volunteer may be repatriated.

- A cooperative arrangement with a non-United Nations entity or individual, including contractual arrangements with an intern, international or local consultant, or individual or corporate contractor, may be terminated.

14. Can I have sex with a national from the host country?

Yes, as long as it is not exploitative or abusive and in violation of the SGB.

15. So you are saying no sex with prostitutes and no sex with under 18 year olds – then is it OK to have sex with a national who does not fall under the previous categories and she/he consents?

The focus is not on the individual or whether there is consent, but on the nature of the relationship. If the relationship is an abuse of a position of vulnerability, differential power or trust for sexual purposes, it is sexual exploitation and is prohibited. UN personnel are often in a position of considerable power over the local population. They have money, food and shelter whereas the local population is often very vulnerable and does not have easy access to these essentials. Because of the risk of abuse of power, sexual relationships between UN personnel and the local population are strongly discouraged.

16. How can I know if the person I am having sex with is over 18 or not?

That is your responsibility. People lie and even have false birth certificates or identity documents. If you are not sure, don't do it.

17. Are there any exceptions to the prohibition on sexual activity with children?

Sexual activity with persons under the age of 18, regardless of the age of majority or age of consent locally is prohibited (section 3.2(b) of the SGB). Mistaken belief in the age of the child does not constitute a defence.

The prohibition on sexual activity with children does not apply where the member of the United Nations staff or UN-related personnel is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship (section 4.4 of the SGB). The legality of a marriage for the purposes of the SGB is to be determined by reference to the law of nationality of the member of the United Nations staff or UN-related personnel.

18. In some countries, people under the age of 18 are married. Can staff marry someone under the age of 18?

The prohibition on sexual activity with children does not apply where a member of UN personnel is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship (SGB, s.4.4). The legality of the marriage is determined by reference to the law of the staff member's nationality. However, sexual activity with persons under the age of 18, regardless of the age of majority or age of consent locally is prohibited (section 3.2(b) of the SGB). This means that the exception only applies when a legal marriage has taken place. An intention to marry or a promise to marry is no excuse for sex with children.

19. What does it mean to “strongly discourage” sexual relationships with beneficiaries of assistance?

Sexual relationships between United Nations staff or UN-related personnel and beneficiaries of assistance are “strongly discouraged” (SGB, section 3.2(d)). Sexual relationships between UN staff and beneficiaries of assistance are strongly discouraged because they are based on inherently unequal power dynamics. The interpretation of the term “beneficiaries of assistance” should be guided by and adjusted according to the particular mandate of the United Nations office or programme, peacekeeping operation, political or peace-building mission or humanitarian operation in question. Where a UN peacekeeping operation has a mandate to serve the population at large, “beneficiaries of assistance” should be broadly interpreted to cover the local population.

However, the focus should not be on whether someone is a “beneficiary of assistance” but on whether the relationship is an abuse of a position of vulnerability, differential power or trust for sexual purposes. Because of the risk of sexual exploitation occurring, relationships between UN staff and beneficiaries are strongly discouraged. The SGB does not impose a blanket prohibition on such relationships but by discouraging them, it requires UN personnel to show good judgment and vigilance to ensure that a relationship with a beneficiary of assistance is not sexually exploitative or abusive. Any relationship that is sexually exploitative or sexually abusive is prohibited by the SGB. The determination of whether a relationship with a beneficiary of assistance is sexually exploitative or sexually abusive is made by the employing organization on a case-by-case basis.

The standards in the SGB are minimum standards of behaviour. If there is any doubt, the relationship should not be entered into. UN personnel are expected to uphold the highest standards of conduct. Even the perception of sexual exploitation and abuse can result in damage to the credibility of the individual and the Organization.

20. I am a national staff member in a country where the legal age of consent for sexual activity is lower than 18 years of age. Do the UN standards apply to me?

Yes. The UN standards of conduct still apply to you. There is one standard of conduct for UN personnel regardless of what country or culture they are from and regardless of the country or culture in which they are serving. The SGB is the minimum standard of conduct, irrespective of local laws. When you agree to work for the UN, you agree to abide by its standards of conduct. Because of the nature of our work, the UN is held to a high standard of conduct.

21. I am a national contractor working for the mission. Do the UN standards of conduct apply to me?

Yes. Under the SGB, the UN should receive a written undertaking from all contractors that they agree to abide by the standards. In case of breach of these contractual conditions, the contract may be terminated.

Prostitution:

22. What is wrong with having sex with a prostitute if the person is an adult and fully consents to it? I'm not harming anyone and in my home country/culture as well as the mission country/culture, prostitution is legal and using the services of prostitutes is accepted.

There is one standard of conduct for UN personnel regardless of what country or culture they are from and regardless of the country or culture in which they are serving. The SGB is the minimum standard of conduct, irrespective of local laws. When you accept an assignment with the UN, you accept to abide by its standards of conduct. Because of the nature of our work, the UN is held to a high standard of conduct. Furthermore, prostitution in war-ravaged societies, developing countries and in countries hosting a peacekeeping mission frequently involves extremely vulnerable women and children, including persons who have been trafficked for sexual exploitation. The vast majority of women in prostitution don't want to be there. Few seek it out or choose it, and most are desperate to leave it. The lack of economic options for women in vulnerable circumstances may result in prostitution and exploitative sex being one of the few avenues they have for obtaining money to meet basic needs. It comes from a lack of choice; the only person with choice is the exploiter.

23. Prostitution with an adult is a victimless crime. Why is the UN interfering with consensual sex between adults?

Prostitution is not a victimless crime. On the contrary, it is well documented that prostitution is inherently harmful and dehumanizing, and fuels trafficking in persons, a form of modern-day slavery. The vast majority of women in prostitution don't want to be there. Few seek it out or choose it, and most are desperate to leave it. Field research in nine countries concluded that 60-75 % of women in prostitution were raped and 70-95 % were physically assaulted. A recent study has revealed high rates of post-traumatic stress disorder (PTSD) in prostitutes stemming from physical and sexual assault. The study included male and female prostitutes aged from 12 to 61 who worked on the street and in brothels in Africa, Thailand, Turkey and the United States. In the study, the measure of PTSD severity of prostitutes was higher than that of Vietnam War veterans.

24. Is it possible to enforce a prohibition on sexual activity with prostitutes? Is it realistic to have such strict rules on sexual conduct? How will the UN be able to enforce them?

Strictly upholding the UN standards of conduct is both realistic and necessary, including the prohibition against sex with prostitutes. Standards of conduct are now being applied, investigations are being stepped up and colleagues involved in sexual exploitation and abuse are facing disciplinary action, and where appropriate, also criminal action.

25. Is the solicitation of a prostitute also a violation of the Secretary-General's SGB?

Yes, the definition of sexual exploitation refers to actual or attempted abuse and thus includes solicitation.

Reporting:

26. When are staff members and UN-related personnel obliged to report sexual exploitation or sexual abuse?

Always. Staff members and UN-related personnel are obliged to report concerns or suspicions regarding sexual exploitation or abuse to the appropriate office within their organization or to OIOS. It is for the appropriate UN authorities, and not the individual, to investigate and confirm those concerns or suspicions.

However, reports should be made in good faith. The submission of allegations with knowledge of their falsity constitutes misconduct. Persons who report allegations that subsequently prove to be untrue will not face repercussions where the reports were made in good faith.

Sexual harassment:

27. What is the difference between sexual harassment and sexual exploitation and sexual abuse?

In the UN Secretariat, ST/AI/379 (Procedures for dealing with sexual harassment) defines “sexual harassment” as any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature, when it interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. Similar definitions exist in the UN Funds and Programmes.

The SGB defines the term “sexual exploitation” as any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. It defines the term “sexual abuse” as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

There is often confusion about whether a particular action or conduct would constitute sexual harassment, sexual exploitation or sexual abuse. Sexual harassment is associated with the workplace. Not all sexual harassment involves an abuse of a position of vulnerability, differential power or trust or the actual or threatened physical intrusion of a sexual nature. If it does, it also constitutes sexual exploitation or sexual abuse. Sexual harassment and sexual exploitation and abuse are all considered serious misconduct. All three should be reported. The person reporting does not have to specify which category the conduct falls into.

Zero-tolerance:

28. What does zero-tolerance mean?

Zero-tolerance means that the culture of impunity and complacency toward sexual exploitation and abuse will no longer be tolerated. Zero-tolerance for impunity means that active measures are being introduced to prevent sexual exploitation and abuse and appropriate disciplinary action will be taken against all persons who are found to have violated the UN standards of conduct.

29. You talk about zero tolerance for sexual exploitation and abuse, but we know that nothing happens to people who violate the SGB.

People have been sanctioned for violating the standards of conduct on sexual exploitation and abuse. UN staff have been summarily dismissed, UNVs have had their contracts terminated and uniformed personnel have been repatriated and faced courts-martial. Commanders have also been sent home for failing to take preventative action in relation to troops under their command. We still have a lot to do to eradicate the problem and the UN is currently improving the system for receiving and investigating complaints and ensuring appropriate action against everyone who is found to have violated the standards.

HIV/AIDS and condoms:

30. Why does the UN provide condoms in peacekeeping missions and at the same time tell us not to have sex?

The availability of condoms is a health and safety issue and not a license for sexual abuse. Condoms are made available to all peacekeeping personnel – international and national staff and uniformed personnel – to prevent the transmission of HIV/AIDS.

Reporting obligation:

31. What if I report of rumour of sexual exploitation that is revealed to be false?

Under the SGB, all staff are required to report their concerns and suspicions regarding sexual exploitation and abuse. All reports should be made in good faith. If you have made a report in good faith which turns out to be false, there will not be any consequences. If you maliciously made a false report, you will be subject to disciplinary consequences.

Rumours must be taken seriously. If left unchecked, rumours may damage the individual(s) concerned and the mission. Rumours can serve as early warning of a greater problem. All rumours must therefore be reported and investigated. However, you should not conduct any investigations or try and find out more information; your obligation is only to report your suspicions or concerns.

Victim assistance:

32. What is the victim assistance policy statement and comprehensive strategy and why is it important?

Although the need is widely recognized, there is currently no comprehensive UN policy or system for providing victim assistance. The proposed strategy issued in June 2006 aims to address this gap. Responding adequately to the needs of

victims is also a means of prevention. Support to victims allows them to participate more actively in the investigation process, enhancing the ability of the United Nations to hold perpetrators accountable and inform the design and implementation of better prevention measures. It also restores the reputation of the UN as an organization that acts responsibly towards the communities it serves.