



# FRAMEWORK FOR RESPONSIBLE BEHAVIOUR

## MÉDECINS SANS FRONTIÈRES

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"As staff and volunteers of MSF-OCA, our behaviour and actions are defined by the beliefs, values and principles of the organisation. We demonstrate this in our respect for all individuals and communities with whom we work. We hold each other accountable for our behaviour accordingly, and when we identify unacceptable behaviour or malpractice in the organisation, we address it."

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## Document control

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### History

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## General

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### Aim of this framework

The organisation Médecins Sans Frontières – Operational Centre Amsterdam (MSF-OCA) believes that for the realisation of its strategy and objectives it is essential that its employees observe the organisational (medical) ethical and social standards and values. While employees are personally responsible and accountable for their own conduct, in particular regarding abuse of power, MSF-OCA as an employing agency has a duty of care towards its employees to safeguard their physical and emotional well-being.

This framework intends to give a foundation for conduct that safeguards a culture of personal commitment, respect for medical ethics, humanitarian ideals and (international) human rights. The framework is not a legal document as such, but MSF-OCA's vision on conduct in the project countries and offices of MSF-OCA. The aim of the framework is:

- **To help employees:**
  - Understand and observe the basic rules for compliance and integrity applicable to humanitarian aid work;
  - Recognize that this line of work provides a certain position of power that is potentially subject to abuse;
  - Recognize when and where to ask for advice.
- **To create a *safe* working environment**

As elaborated hereafter, this framework is meant as a starting point.

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### Scope of this framework

Employee and MSF have a mutual interest to create, observe and maintain an employment relations structure within which all issues arising between them can be considered and resolved.

In principle, different labour laws and the Terms & Conditions of Employment (T&CE) of MSF-Holland regulate the employment relationship between MSF-OCA and its employees. Next to this legal framework, MSF-OCA imposes organisational standards and values by means of ethical rules and topics for further discussion.

The ethical rules embody standards and values on:

- **Operating with integrity**
  - Abuse of power / exploitation
  - Use of drugs, alcohol or other substance while at work
  - Use of organisational property
  - Handling organisational information
  - Accurate and complete bookkeeping and financial administration
- **Interpersonal behaviour**
  - Working environment without intimidation
  - Workplace romance
- **Professional ethics**

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#### 'A psychological contract'

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To formalize MSF-OCA's and the employee's commitment to what is laid down in the ethical rules, a psychological contract, a so-called Code of Conduct (see

Annex I on page 15), has been put in writing for every employee to sign upon hire. The contract makes reference to the ethical rules as part of this framework.

It is important to understand that the contract does not function as a legal status agreement, but a moral commitment. Nevertheless, the employee is made aware of certain ethical rules; a breach from which can result in an appropriate response from the organisation.

The ethical rules are first and foremost applicable to employees that have signed MSF-OCA's Code of Conduct in a private capacity. In addition, within the MSF movement the exchange of human resources has been regulated by framework contracts between sections. The Code of Conduct is an inextricable part of each framework contract concluded between a contracting section and MSF-Holland. As a result, each employee seconded by a contracting section to MSF-Holland will be managed by MSF-OCA on his conduct according the code. The ethical rules will also be applied to independent third parties<sup>1</sup> that act on behalf of MSF-OCA, in those cases where MSF-OCA can be held liable for their doings.

The ethical rules are applicable to all parts of the world. Employees bound to the code are expected to carry out its standards and values across the globe. To a certain extent the code is even applicable outside the regular office hours; in particular when it involves field employees living amongst the target population.

#### **Are all the rules one should know listed?**

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The code is a demonstration of MSF-OCA's commitment to integrity. However, it is not meant to describe each and every law or rule that can be applicable to an employee's conduct. It is the employee's responsibility to know what additional rules are applicable to him. For example:

- Each contracting section has its own terms and conditions of employment including obligations for the employee who has concluded a contract with that section. Some contracting sections even operate with an own code of conduct;
- Each MSF-OCA mission has specific rules and regulations (e.g. country policy and security guidelines);
- The offices of MSF-OCA can have 'office rules';
- Naturally the countries in which MSF-OCA runs a project have laws and customs which are applicable.

In case of contradicting rules or regulations, the code prevails. Unless the contradiction concerns a rule that is more precise within the contract, the local code or any ruling legislation. Whenever this framework document refers to legislation, it intends to trigger the employee to consider an issue beyond the code rather than to provide an exhaustive list of laws.

#### **Different laws in different countries**

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MSF-OCA realizes it has employed staff with different custom and work ethics, often on the basis of employment contracts governed by different (labour) laws of the countries of origin. Furthermore, it operates in areas where local laws and custom are applicable to our activities. MSF-OCA has committed to respect these different laws and custom. Notwithstanding the above, MSF-OCA maintains a willingness to challenge laws in the interest of our patients and will not accept laxity (or gaps) in the contracts or legislation as an excuse for malpractice or any practice in violation with the ethical rules as described in this booklet.

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<sup>1</sup> With the exception of contract workers of local Ministries of Health who are working in MSF-OCA projects on the basis of incentives

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## The starting point

The basis of the humanitarian mandate of MSF-OCA lies in the standards and values as described in the international Charter of MSF. These values need to be carried and defended on a daily basis through the choices we make, both by the organization and its employees. The Charter states as follows:

### **The Charter of Médecins Sans Frontières**

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Médecins Sans Frontières is a private organisation, which operates internationally and in which doctors, nurses and other health workers participate, as well as those professional groups that might be of use for the task the organisation has set for itself. They subscribe to the following principles:

1. Médecins Sans Frontières provides aid to people in need, to victims of natural and man-made disasters, wars and civil wars, irrespective of race, religion, ideology or politics.
2. Médecins Sans Frontières observes strict neutrality and is completely independent. Based on universally recognized principles of medical ethics and the right to humanitarian aid, Médecins Sans Frontières demands complete freedom in the performance of its task.
3. The members, volunteers and staff of Médecins Sans Frontières observe the medical code of conduct and maintain complete independence from any political, religious or economic power.
4. The members, volunteers and staff of Médecins Sans Frontières decide for themselves whether the risks and dangers of the work are acceptable and do not demand any compensation whatsoever for themselves or claimants aside from what the organisation can give them.

### **Chantilly and La Mancha**

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Additionally, all MSF sections have agreed on operating principles as laid down in the Chantilly document and its revisionary successor, the La Mancha document.

In the Chantilly document, MSF outlines its guiding principles and values of independence, impartiality and neutrality, medical ethics and respect for human rights and the voluntary nature of the organization. MSF goes further in Chantilly to state that: “[...] The principles outlined above govern MSF’s objectives and are the basis for a set of codes of conduct that have been adopted by all the sections.”

The following chapters are an elaboration on the overall guiding principles and values of MSF from an MSF-OCA perspective with a focus on two ethical domains: (1) **Operating with integrity** and (2) **Interpersonal behaviour**.

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## When does behaviour become unacceptable?

The legal framework in which MSF-OCA has to operate is complex, whereas ethical conduct covers an even larger and more complex domain. It is linked to personal values and principles. However, personal ethics become an issue for MSF-OCA when they have a negative impact on MSF, its employees or its beneficiaries.

## **Types of questionable conduct**

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There can be questions on conduct from three different perspectives: (1) conduct that is punishable by applicable law, (2) conduct that is ethically questionable or morally reprehensible and (3) poor performance. The first two are often referred to as misconduct.

### *Misconduct or serious misconduct*

If an employee engages in misconduct that is listed in the ethical rules, it does not necessarily mean that serious misconduct has automatically occurred. In every case MSF-OCA will consider all the facts and the employee's response before it decides whether serious misconduct has occurred. Anyhow, the seriousness of a wrongdoing should neither be hidden nor measured by emotions felt.

#### **Misconduct or serious misconduct**

'Misconduct' means some form of wrongdoing. Usually it will involve a deliberate act, but there may be circumstances where an employee acts so carelessly that it amounts to misconduct (i.e. gross negligence or recklessness).

'Serious or gross misconduct' involves serious wrongdoing. The misconduct involves a breach of the ethical rules in such way that it undermines the trust and confidence that MSF-OCA has in the employee (e.g. theft, sexual or other assault, or the use of illegal drugs at work).

### *Poor performance*

MSF demands a high level of professional competence. In the field, this is additionally challenging because of the emergency nature of work, the resource limited settings, cross-cultural communication and the particular vulnerabilities of the beneficiaries. Issues with performances are normally resolved in day-to-day discussions or performance interviews with the employee. This might involve providing clear direction about what is required, or support and training to assist the employee to do the job properly.

#### **Poor performance**

'Poor performance' is a situation where the employee's performance deviates from agreed expectations to such a degree that a disciplinary process becomes justified. This can occur by single-occurrence or repeatedly (after warning.)

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## **Impact**

It is important to note that the objective of addressing questionable conduct is to prevent adverse impact thereof on MSF, employees or beneficiaries. Discussions about questionable conduct should never be held on the basis of the individual's personal ethics.

### **Impact of other sections on MSF-OCA**

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The case may be that staff of other MSF sections displays questionable activities or behaviour within their projects. This can have an impact on MSF-OCA as well, in case we are active in the same country or region. It is therefore recommended, under all circumstances, to report on such issues to the MSF-OCA field management.

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## Operating with integrity

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### Abuse of power / exploitation

By the very nature of its presence in situations of human suffering, MSF-OCA places employees in positions of power that are potentially subject to abuse. MSF-OCA and its employees have an obligation to ensure that this power is not abused and that humanitarian aid is not used for purposes other than to alleviate suffering of populations in need. Cases that may arise in the field exploit the very people we are there to assist, while jeopardizing MSF-OCA's principles, mission, and image. There is no exhaustive list of conduct that MSF-OCA considers abuse of power or exploitation, however, MSF-OCA will not accept such conduct – whether or not by intent – within the following definitions:

#### **Abuse of Power**

The use of any power - real or perceived - under unequal or coercive conditions. This includes, but is not limited to: the undue exercise of influence or control, physical intrusion (actual or threatened,) and/or the infliction of harm (physical, sexual, emotional and/or psychological).

#### **Exploitation**

The act against an individual or group in a position of vulnerability, which includes but is not limited to, profiting economically, socially or politically from the exploitation of another. It also includes sexual exploitation.

For the legal protection of beneficiaries against abuse or exploitation, MSF-OCA refers to international human rights, and humanitarian and criminal law as illustrated in the next paragraph.

#### **Legal protection of beneficiaries**

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Abuse or exploitation is a violation of international human rights, and humanitarian and criminal law.

For example:

- The 'Convention on the Rights of the Child' protects children - defined as persons under 18 - from exploitation and abuse;
- The 'Convention On the Elimination of All Forms of Discrimination Against Women' protects women from 'impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field' (Art. 1) and prohibits all forms of trafficking or exploitation of prostitution of women (Art. 6);
- The United Nations Aide Memoire on Protection of Civilians in Armed Conflict (S/PRST/2003/27) prohibits exploitation of civilians by humanitarian aid workers and prescribes that assistance is provided impartially and without discrimination; and
- International criminal law penalizes rape and other acts that may result in inhumane treatment, torture or impair dignity.



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## Use of drugs, alcohol or other substance while at work

Performance requires a clear mind and the ability to react in an adequate manner: the safety of colleagues and beneficiaries may be at stake. Being intoxicated by drugs, alcohol or other substance, or incorrect usage of medicines diminishes the ability of an employee to act in an adequate manner. Many project countries in which MSF-OCA operates may have strict laws with regards to alcohol and/or drugs. Therefore MSF-OCA will not accept:

- Use of alcohol, illegal narcotics or prescribed medication in circumstances where this jeopardizes MSF-OCA's principles, mission and image, or is harmful for beneficiaries or colleagues.

Abuse of alcohol or narcotics is considered a serious conduct issue.

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## Use of organisational property

MSF-OCA demands from its employees that they use its premises and goods with respect and care, safeguarding the organisation's credibility. All goods on loan or otherwise in use, that have been obtained through MSFOCA remain its property, even if said goods are products of the employee's performance. On termination of employment - or on immediate request of MSF-OCA at any prior point in time - said goods must be handed over immediately. The employee may not, without written permission, keep said goods and the like in his private possession. In principle, the premises of MSF-OCA should not be used for non-work related activities unless with the permission of the appropriate authority. In the projects the Head of Mission (HoM) decides unless there is a conflict of interest, in which case the Operations Manager decides.

### Use of ICT products and services

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ICT products (incl. mobile devices) and related services are provided to staff for professional use only. For practical reasons, the employee may incidentally use these provisions briefly for private purposes unless it interferes with the daily duties, it disturbs the computer network or it involves (commercial) activities for own business or third parties. MSF-OCA does not permit the following activities:

- Sending, forwarding or saving messages (e-mail, SMS etc.) that are of a pornographic, racist, discriminatory, insulting, offensive or sexually intimidating nature or are legally prohibited;
- Sending messages designed to incite hatred and/or violence;
- Communicating messages externally, which in view of their nature, purpose and/or choice of words are intended purely for internal use;
- Visiting Internet pages with pornographic, racist, discriminatory, insulting, offensive or sexually intimidating material, nor to download or save such material;
- Using the Internet in a manner that can lead to situations which are potentially unsafe or unlawful, including the download of illegal or uncertified material (music, movies, software, etc.).

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## Handling organisational information

Information about the activities, strategies and data of MSF-OCA is property of MSF-OCA. The collection and processing of information by MSF-OCA is first and foremost to steer and monitor operations. Next it is for legitimate business

purposes like administration, reporting and auditing. All records that have been obtained through MSF-OCA remain its property. The employee may not, in so far that the employee's duties for MSF-OCA do not demand this, have them copied or allow third parties to see them.

### **Access to information**

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At the start of employment, the employee receives a user-ID and password to access the intranet, network and/or applications to enter and query records and other data. The employee is responsible for all activities that are done with his user-ID. When the employee suspects that his user-ID has been used improperly, the employee should notify his line-manager. Although in project countries it is more common that a user-ID is shared, it does not release the individual from his responsibilities.

### **Protection of confidential information**

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The present paragraph concerns the illicit disclosure of information that is confidential to MSF. This practice can disrupt MSF's operations and/or grant third parties an unfair advantage. 'Illicit disclosure' comprises, but is not limited to, the publication of confidential information through any medium (e.g. written or spoken press, web logs, social media and/or community websites). All current and past MSF-OCA employees are expected to treat all information acquired in the call of duty as potentially confidential. Any disclosure to external parties about the operational management of which the employee can reasonably suspect is harmful for MSF-OCA is considered inappropriate whistle blowing.

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## **Accurate and complete bookkeeping and financial administration**

The integrity and completeness of bookkeeping is not only organisational policy but also a legal obligation. Bookkeeping has to be done in accordance with the articles of association, internal regulations and contractual conditions. All our financial transactions should be recorded with accuracy and in accordance with truth. The management is responsible for the integrity of the bookkeeping and initiates internal and external audits to comply with this commitment.

### **Fraud and theft**

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Preventing fraud has a high priority for MSF-OCA, in order to protect the organisation's reputation as well as to prevent loss in money. MSF-OCA uses the following definition:

#### **Fraud**

The intentional deception or misrepresentation that an individual knows to be false or does not believe to be true and makes, knowing that the deception could result in some unauthorized benefit to himself/herself or some other person.

In cases of (suspicion of) fraud and theft, it is MSF-OCA's policy to immediately investigate and, when applicable, to proceed against the employee(s) involved. Considering that MSF-OCA is a non-profit organisation with donations as its main source of income, it explicitly condemns theft. This includes private use of office supplies, spending substantial office time browsing the Internet for private reasons or (excessive) claiming of expenses of which the employee can reasonably suspect that they are not chargeable to MSF-OCA.

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## Interpersonal behaviour

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### Working environment without intimidation

MSF-OCA does not condone any form of intimidation, such as threats, menacing behaviour, bullying or insulting. All line-managers should be attentive to possible acts of intimidation in the working environment or other places where employees assemble. Obviously this framework cannot provide an exhaustive list of conduct that is considered intimidation. In any case, MSF-OCA will not accept conduct – intentionally or not – as explained in the following definitions:

#### **Discrimination**

Any kind of distinction, exclusion or restriction due to race, ethnic origin, gender, sexual orientation, religious conviction, age or handicap by an employee. This also includes offending of, and instigating to hatred or violence towards an individual.

#### **Sexual intimidation**

Unwelcome sexual advances, requests for sexual favours, and other verbal or nonverbal harassment of a sexual nature.

#### **Aggression and violence**

Incidents where an individual is being psychologically or physically harassed, being threatened or attacked by an employee.

#### **Incitement to fraudulent actions**

Practice where an individual is forced to act in breach of the law or agreements and rules applicable to the organisation (whether through action or inaction) by use of intimidation or threats or some other form of pressure or force.

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### Workplace romance

MSF-OCA strongly discourages romantic or sexual relationships during employment, which have the potential to jeopardize MSF-OCA's principles, mission (or team dynamics) and image.

#### **Relationship between co-workers**

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It is not uncommon for romantic or sexual relationships to emerge in the workplace. Employees should be aware that this can lead to tensions in case of e.g. a 'bad' breakup or the appearance of favouritism when there is a hierarchical relationship. Employees should therefore proceed with caution and concern themselves with not disrupting the workplace.

#### **Relationship between employee and beneficiary**

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Beneficiaries are always in a position of dependence. Romantic or sexual relationships between employees and beneficiaries, likely based on inherently unequal power dynamics, can be interpreted as an abuse of the beneficiary's vulnerability and are therefore forbidden. MSF-OCA recognizes that there may be certain exceptions such as when people are employed while already having a relationship with a beneficiary, and that employees can be part of the population of beneficiaries themselves. The key here is transparency.

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## **Prostitute visits**

Because of the specific context and situations in which MSF-OCA operates, MSF-OCA considers the use of services of prostitutes in project countries as an act of abuse of power and therefore does not accept this.

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## Addressing behaviour

MSF-OCA conducts a fourfold procedure to deal with conduct issues: **prevention, reporting (disclosing), investigation and action**. These are further explained in the paragraphs hereafter.

This framework is still a starting point and therefore, does not translate the procedure in concrete actions. The HR departments of MSF-OCA are responsible for providing assistance or guidance when concrete actions are required.

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### Prevention

Part of prevention is recognizing inappropriate behaviour. This is a responsibility of all employees under the management of MSF-OCA. Each employee has to be conscious of (un)intended consequences of personal behaviour. Employees in project countries must be aware of the advantaged and high profile position they are in and therefore act even more responsibly. Inappropriate behaviour can derive not only from the context, but also from the structure of the organization (offices in different locations across the globe), or even from its work culture (e.g. predominantly Western work ethics within a highly diverse environment). It is important to understand that ethics can vary from person to person - what one person considers ethical behaviour, another may not.

Ethical obligations for solving workplace issues come down to the ethics held by an individual and by the workplace as a whole. Individual ethics are a moral responsibility that puts the onus on each person in the workplace to be responsible for their behaviour. Communal ethics, on the other hand, encompass the entire workplace, and are developed and communicated ethical expectations to which everyone adheres.

To develop and foster such communal ethics in the workplace, MSF-OCA distinguishes the following responsibilities:

- Proper leadership
- Ethics as part of the employee lifecycle
- Asking questions and discussing issues

#### **Proper leadership**

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Those in leadership positions have additional responsibilities when it comes to preventing issues in the workplace such as:

- Serving as an example to others: acting with integrity themselves and observing this framework and any other affiliated rules and regulations;
- Ensuring that employees have access to additional information or other means necessary to observe this framework;
- Monitoring whether employees are indeed observing this framework;
- Addressing conduct issues in the regular performance, appraisal or exit interviews, possibly with written agreements in case of problems;
- Addressing conduct issues in team meetings and face-to-face employee meetings;
- Supporting employees who – in good faith - ask questions with regards to compliance and integrity. This includes the absence of direct or indirect retaliation.

## **Ethics as part of employee lifecycle**

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The HR departments of MSF-OCA should recruit with attention to history of past conduct. As a result, most sections within MSF-OCA carry out reference checks (with consent of the candidate/employee) and some - subject to applicable law - even check police records prior to departure to the mission country.

MSF-OCA trainings should address conduct throughout an employee's career with MSF, as his role and experience develops and changes.

## **Asking questions and discussing issues**

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MSF-OCA believes in the importance of being a responsible employer and with that, facilitating an environment for open and honest communication. MSF-OCA does not have a straightforward procedure for asking questions or discussing ethical issues. Nonetheless, the most important thing is that a question or issue can be raised without restraint.

Under normal circumstances, reports on improper conduct of any nature, should be handled through the regular channels, such as via the management hierarchy, a position involving confidentiality, human resources, or, in case of expert advice required, one of the technical support lines (Med/Log/Fin). These regular reporting channels assume that issues can be resolved 'locally' at the workplace, though with some type of intervention.

Within MSF-OCA, besides management hierarchy the following actors can be approached for questions or to discuss issues:

Reason for consult	Field	HQ
For mediation in a dispute or to discuss issues concerning terms & conditions	HR-Coordinator	HR Specialist
For mental support	Psycho Social Care unit	Psycho Social Care unit
To discuss accounting issues	Financial Coordinator	Finance or Control unit
To discuss concerns about medical performance (ethics)	Medical Coordinator	Health Advisor

Apart from these channels, the employee can of course discuss issues with a colleague(s); either to address another's behaviour directly or to reflect one's own observance of certain behaviour. However, maliciously discrediting a person is in itself a serious conduct issue. Deliberately making false accusations may even lead to dismissal.

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## **Reporting**

MSF-OCA encourages direct communication between managers and employees to promptly resolve workplace concerns. While MSF-OCA has formal complaint procedures, employees are encouraged to use conflict resolution skills and resources to resolve differences where they believe this will successfully solve a workplace concern, issue and/or conflict. The best and most lasting solutions and resolutions are still those created by the people directly involved.

Occasionally the magnitude or confidentiality is such that a complaint will be escalated to a higher level in the organization, which may include forwarding of a case in the field to one of the OCA head offices.

## **Formal complaints**

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Within the scope of this framework, MSF-OCA recognizes three types of formal complaints:

- to 'blow the whistle' about substantial wrongdoings in the workplace that exceed the local management level. In case of issues from the field, these should therefore concern events in which the country management team (CMT) plays a role. Exceptionally, also offences of non-CMT employees can be taken up by the hotline. The circumstances of the particular case (magnitude and severity of the suspected wrongdoings) would be decisive.

The following (non-exhaustive) list of practices may be judged as substantial wrongdoings:

- a crime, illegal act or other deviation from legislation or regulations;
  - dubious accounting practices or incitement to fraudulent actions;
  - medical malpractices or dubious practices with regard to medical ethics;
  - (unfair) favouritism or disadvantaging based on arbitrariness, conflict of interest or discrimination;
  - the deliberate withholding, destruction or manipulation of information about the facts referred to above.
- to complain about the competency of a physician
  - to complain about discrimination, sexual intimidation, aggression and/or violence (a dispute between two or more persons).

You can find more information about the complaints scheme in Annex III on page 17.

## **Reporting line for escalation**

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In some events, 'local' handling of a reported matter results in the decision of a manager to suspend an employee, possibly with a request to the HR department for dismissal. In case a reported matter concerns a field expat, the manager (Head of Mission in most cases) can be requested to provide an advice about the employee's future employment with MSF-OCA. If there are any such concerns, a procedure can be launched at HQ to make a judgment about this with due diligence.

It is possible that certain wrongdoings are disclosed due to (witness testimony) evidence being found or provided, only after a field expat has already left the mission country. Should such evidence give concern about future employment of the employee involved, the Chair of HR platform needs to be informed. Depending on the extent of the disclosed information (and - where of interest - the employee's history of work conduct), disciplinary measures can be taken (up to and including termination of employment).

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## **Investigation**

Once a report is submitted, investigation may take place to verify whether the accusation is founded. Such investigation **should be conducted in line with the generally applicable standards in the jurisdiction concerned**, whilst ensuring that information is acquired in a fair and justifiable manner, proportional to the severity of the accusation. The privacy of an employee cannot simply be put aside.

In case a report from the field leads to investigation by HQ, those involved in the matter may be asked to return to the head office for hearings; if not already suspended. In principle MSF-Holland will always take the lead in taking on a report coming from the field.

## **Who launches the investigation?**

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As said, reports that cannot be handled 'locally' can be escalated to a higher level in the organisation, either by formal complaint or by escalation through regular reporting channels (e.g. MedCo to Health Advisor). Depending on the type of report and the severity of the accusation, different actors are in charge of deciding whether an investigation will be started. These actors are also responsible for ensuring that the appropriate procedure is started. See also the Complaints Scheme for a link to the various procedures.

## **Who investigates?**

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For certain types of reports, an operating unit (e.g. HR Pool management) or an established committee (e.g. the Medical Commission) will handle the investigation. In all other cases, it is at the discretion of the executive management whether or not to formalise a committee to investigate and/or give advice on the matter. Such ad-hoc committees can be formed with various actors from within the organisation or externally sourced, with the notion that any investigation method is governed by the applicable law.

Depending on the seriousness and extent of the report, sourcing a third party (e.g., forensic accounting, an external investigation office, et cetera) can be preferred; if there might otherwise be insufficient objectivity in the investigation.

## **How?**

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During the (internal or external) investigation and after the employee has been confronted with the findings of the report of facts, MSF-OCA - also in the context of 'good employership' - must grant the employee the opportunity to give his/her view on the suspicion/facts found (the principle of hearing both sides). At minimum the investigation is subject to MSF-OCA's general principles of inquiry. See also Annex III on page 17

After the employee's comments have been processed and the definitive statement has been drawn up, the investigation team informs the decision-maker(s) of their findings. The ball then lies in their court to decide whether to impose a disciplinary measure on the employee; for field employees this could mean they will never be sent out again ('NDPP').

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## **Action**

From the results of the investigation, the organization will have to formulate a response to the individual who made a report about an ethical issue or poor performance. Such a response may be:

- There is no case to answer and therefore no (disciplinary) action is taken;
- The matter is dealt with informally, if appropriate with support and or training to resolve the matter;
- Recommendation that there is a disciplinary case to answer and a disciplinary hearing should be arranged.

## **Discipline**

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A disciplinary measure should always take into account applicable law and should be proportionally to the severity of the employee's inappropriate behaviour/wrongdoings. MSF-OCA can choose to acquire legal advice before imposing any measure upon an employee.

There are two points for attention because of the special nature of the organisation:



- MSF-OCA field-management does not have the authority to dismiss international field staff (expats). It is even possible that the contracting section has to be involved whenever a line-manager wants to warn an expat in writing; E.g. dismissals in the UK require case-building by the formal employer. For this reason, the offices of MSF-OCA (e.g. Operations, HR departments) have to be involved whenever certain conduct evokes disciplinary measures. When applicable, they will consult with the contracting section for follow-up.
- A decision that someone cannot be sent out again with MSF-OCA can be taken by the Chair of HR platform on the basis of the Coloured-file procedure, but can also result from an (formal) employee complaint report (and possible further investigations). To safeguard that communication and administrative handling of this measure is done properly, the Chair of HR platform will be informed of any such decision following from the handling of a (formal) complaint.

MSF-Holland has formalised its sanctions in Art. 10.3 of the Terms & Conditions.

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## Annex I – MSF-OCA’s Code of Conduct

The Code of Conduct is the formalisation of both MSF-OCA’s and your commitment to what is laid down in the Framework for responsible behaviour. The framework finds its foundation in the Chantilly statement and MSF international charter. Both provide the criteria of specific (good) behaviour and attitude of its workers, namely, the basis of personal commitment, respect for professional ethics, humanistic ideals, human rights and humanitarian international law as well as a general attitude characterised by neutrality, impartiality and non-discrimination.

When working for MSF-OCA, you are representing the organisation and your behaviour influences the way the organisation is perceived. Your statements as well as your conduct can be interpreted as an expression of MSF’s point of view. If you do not observe the framework, you may bring yourself, your colleagues, your mission and MSF-OCA in danger. In short the framework embodies standards and values on:

- **Operating with integrity**
  - Abuse of power / exploitation
  - Drugs and alcohol while at work
  - Usage of organisational property
  - Handling organisational information
  - Accurate and complete bookkeeping and financial administration
  - Fraud and theft
- **Interpersonal behaviour**
  - Working environment without intimidation
  - Inappropriate relationships

By signing this code you have taken cognisance of the existence of the framework with its ethical rules and committed to the standards and values it embodies, as well as the responsibility to be aware and alert, and to signal and report possible conflicting behaviour to the line-management or colleague employee. Furthermore, the undersigned ethically commits to any code of practice applicable to his or her profession and any other policy paper related to the framework such as project country / office specific rules and regulations.

*Related policy papers cannot overrule or nullify the framework.*

Date:

Name and signature:

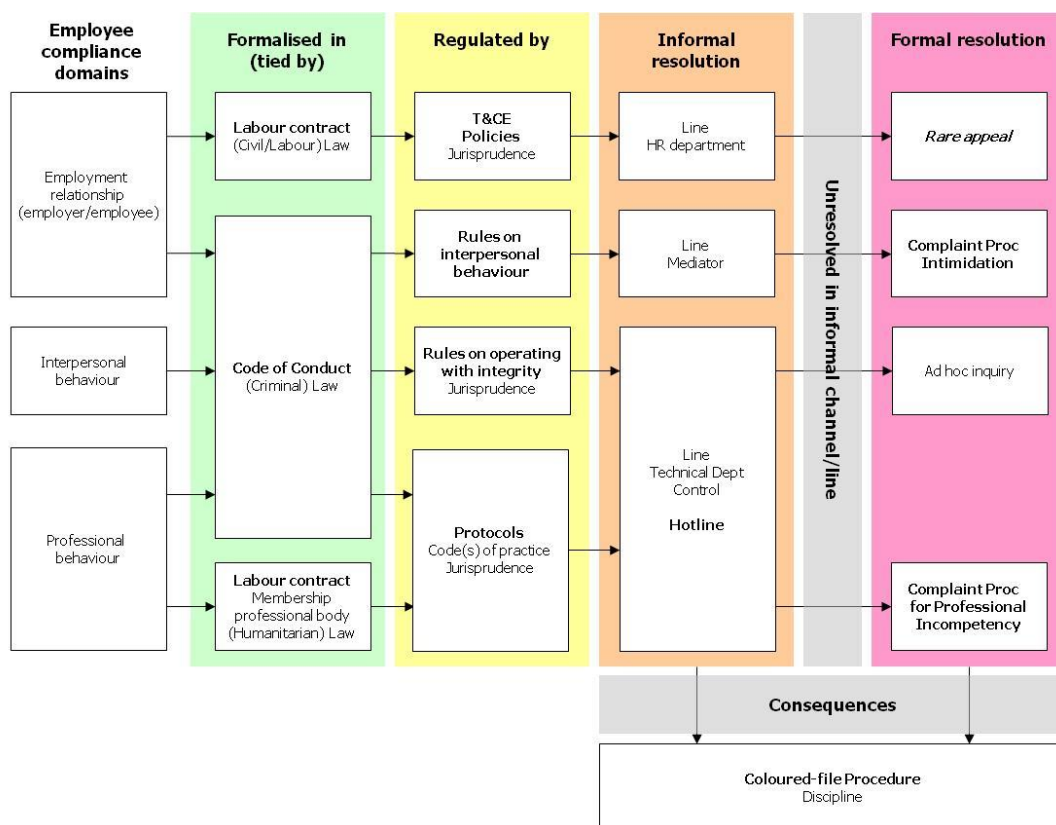
## Annex II – Set of instruments

In principle, different labour laws and the Terms & Conditions of Employment (T&CE) of MSF-Holland - of which the conduct-related articles apply to all international field staff - regulate the communal behaviour towards our environment as well as towards each other individually. Next to this complex legal framework, MSF-OCA imposes organisational standards and values that are partly regulated by the same Terms & Conditions of Employment but also by this framework document.

The organisation heavily relies on its internal resolution mechanism to solve any concerns in the workplace. However, should this not be sufficient, both employer and employee can fall back on an administrative frame which provides a complaint scheme and, in rare cases, appeal procedures (job appraisal, job rating, coloured-file procedure, and reorganisations). These *safety nets* should **not replace** any line intervention, and possible ensuing disciplinary measures, but are intended to operate subsidiary.

Above-mentioned safety nets are focused on two types of workplace issues, i.e. labour-related or interpersonal. For more general concerns of an employee on how the organisation operates, the organisation has installed a *hotline* where one can 'blow the whistle'. In contrast with before-mentioned procedures, here a) the person who reports should not have a direct personal interest in the matter, as he or she has not been personally affected as such and b) it involves (suspected) substantial wrongdoings that exceed the local management.

The overview below gives a representation of the different scopes with the different safety nets.



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## Annex III – Complaint scheme

Wherever possible, issues in the workplace should be resolved informally without recourse to formal procedures. A procedure should not be used as a substitute for normal day to day discussions. However, it is recognised that there may be occasions when it is not possible for an issue to be resolved informally. In such cases formal procedures should be followed. All parties should be absolutely clear whether any meeting is being held under the informal or formal stage of the procedure. It is expected that individuals will enter into a procedure in good faith, with the aim of resolving a particular issue.

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### General principles

The following principles will apply to the application of any complaint procedure in MSF-OCA:

- **Investigation/inquiry** - MSF-OCA will refrain from acting on hearsay. In case of a report of misconduct or malpractice, evidence will need to be gathered. Any such investigation will be done in line with the generally applicable standards in the jurisdiction concerned. MSF-OCA will also observe the privacy rights of employees who are subject to an investigation.

Employees who have been accused of misconduct or malpractice will have the opportunity to give their version of events at a hearing. The following principles will be subscribed to during the meeting with the employee:

- Prior to hearing the employee, the topics to be discussed in relation to the nature of the report are indicated;
  - The employee will be informed prior to the hearing that his/her cooperation is voluntary;
  - In principle, the employee may bring along someone to the hearing;
  - There will be at least two persons present on behalf of MSF-OCA;
  - Minutes will be kept and subsequently a statement is drawn up;
  - The statement is presented to the employee for comments. The employee concerned is given the opportunity to correct any factual inaccuracies in the statement.
- **Proportionality** - This principle should be upheld during the investigation as well as in the outcome. The investigator needs to ensure that information is acquired in a fair and justifiable manner, proportional to the severity of the accusation. The management needs to ensure that in the end 'the punishment fits the crime'.
  - **Confidentiality** - All parties involved in any of the procedures must ensure that they maintain, as appropriate, the confidentiality of the process within and outside the organisation. At the initial interview and during the investigation stage, all parties involved will be warned of the consequences if there is a breach of confidentiality. These consequences may include disciplinary action.
  - **Timescales** - Whilst every endeavour will be made to respond in a timely manner, due to the complexity and or specific circumstances of a case, any timescales mentioned should be seen as a preference and not a rule. In the event a timescale needs to be extended, the parties involved will be notified.
  - **Involvement of Human Resources** - The Chair of OCA HR platform will always be consulted and will advise on the formal process. When relevant, other HR staff involved in field staffing matters may need to be notified that a procedure has been launched against an employee.

- **Openness** - A formal complaint cannot be done anonymously. In order to act on a report, the organisation needs to be able to verify the allegations. This includes the ability to return with questions for clarification to the employee who has made the report. This obviously requires a safe environment for the person who files a complaint in good faith, see also next principle.
- **Repercussions** - MSF-OCA prohibits retaliation or any actions that can be considered as such, against the employee who – in good faith – reported an (suspicion of) abuse or cooperates in the investigation thereof. Moreover, it should not lead to a situation in which the employee's interests are affected. Acts of retaliation are considered as serious misconduct.
- **Pressing charges** - In case of criminal acts or serious violations of professional codes, MSF-OCA will report to the relevant authorities or professional bodies.

However, before reporting legal offences to authorities in a mission country, one has to understand the standards the country practices to implement their laws. These standards must be balanced against the interests of the aggrieved party. For example, reporting a rape case to the authorities in Pakistan might have severe repercussions for the victim as well. Consequently, prudence is of the utmost importance.

- **Impact of other managing sections on MSF-OCA** - It can be that staff working for other managing sections (OC's) is displaying questionable activities or behaviour within their projects. This can have an impact on MSF-OCA as well, in case we are active in the same country or region. However, the other OC may have different mechanisms or instruments to deal with inappropriate behaviour, which are effective for them. As a matter of fact, they do not have to share MSF-OCA's approach. Anyhow it is recommendable to report any issues to the MSF-OCA field management.

## Flowchart of procedures

