

Guideline for handling corruption cases

Purpose and target group

The purpose of this guideline is to advise *Union to Union* staff and board on how to act upon suspicions of corrupt activity. The guideline may also serve as inspiration for our cooperation partners in drafting similar guidelines. The guideline is based on *Union to Union's* anti-corruption policy.

Responsible

This guideline was approved by Union to Union's Head of Finance on January 30, 2017.

Background

Union to Union has routines and regulations to prevent corruption and other irregularities in its operations. The preventative routines are described in this guideline, which is updated when necessary, and can be found in the following documents:

- Formats for application and reporting
- Cooperation agreements and audit rules
- Policies and guidelines
- *Union to Union's* code of conduct

Preventative routines

Risk analysis in project applications is one example of a preventative measure, whereby our agreement partners must identify risks in their projects and describe how they will be mitigated. Furthermore, *Union to Union* conducts organizational assessments of all agreement partners. The purpose of such assessments is to identify weaknesses and suggest measures to strengthen the partners' capacity for financial and operational management as well as internal control.

Union to Union reviews the agreement conditions and current updates to them together with our cooperation partners during annual meetings in order to make sure that the basic conditions that must be met to receive support are known to all. Recurring meetings are also held with finance staff at the global unions to inform of and have a dialogue about current issues, seek uniformity in qualitative assessments and exchange experiences on routines and methods for quality assurance. Our agreement partners accept the responsibility of ensuring that existing rules and regulations are followed by agreement partners at subsequent levels.

A cornerstone of corruption prevention is having a system for internal control, a clear connection between responsibility and authorization and a great deal of transparency. Union to Union has a documented delegation of authority and rules for attestation in order to ensure that funds are only disbursed in accordance with the relevant agreement.

In case of suspected corruption

In case of suspected corruption the guiding principle is to *never accept, always take action and always inform*. It is important to always send a clear signal of what constitutes unacceptable behavior and to commit resources toward solving the case at hand.

Cases of suspected corruption can be based on observations by *Union to Union* staff, financial controllers, agreement partners, cooperation partners, global unions, auditors or any other person/whistleblower that takes note of irregularities. Information can be forwarded through our own communication channels or come from Sida.

Union to Union's case handling

Union to Union's anti-corruption policy states that the responsibility for overseeing the handling of suspected cases of corruption lies with the Secretary General and the Head of Finance. If the case concerns one of them, the responsibility is transferred completely or partially to *Union to Union's* board. The responsibility for day-to-day handling of the case lies with the relevant program officer and/or controller that is responsible for the project/agreement partner that is under investigation. The case shall be regularly reported on to the Secretary General and Head of Finance and all actions shall be documented.

The first step is a thorough internal investigation to clarify what has taken place and to sort out any misunderstandings. The handling of the case must be confidential in order to protect whistleblowers. Case material must not be shared with the person(s) under investigation. If financial or other reporting is missing or is incomplete, attempts should be made to assess the extent to which planned activities have taken place and how this can be verified.

Depending on the nature of the case an external forensic audit may be needed to investigate if there is evidence of corruption. As such audits are costly they should be used restrictively.

If an action during the investigation is assessed to be impossible or inappropriate this must be motivated and documented.

Examples of actions and sanctions that can be put into place during, or as a result of, an investigation:

- Planned disbursements can be withheld until the case is resolved.
- If the case concerns an employee: suspension, warning, or in severe cases dismissal.
- If reporting is missing: a written reminder with a clear deadline for reporting and clear information on what the consequences of non-compliance are.

- A written demand for the return of funds with a clear deadline, in accordance with the cooperation agreement. Information on consequences if the funds are not returned.
- If funds are not returned on time: requesting the assistance of the relevant enforcement authority or similar debt collecting agency. However, when doing so one must take into account the cost thereof, and possibility of getting funds back.
- Filing of a police report in the case of a suspected crime.
- Reporting to the relevant anti-corruption authority, government agency for NGO-registry or similar.
- If the concerned organization has filed for bankruptcy, this must be verified.

When there is a case of suspected corruption Sida's guidelines for framework organizations apply. This means that all cases where *Union to Union's* cooperation partners are unable to comply with the commitments they have made to Sida through the agreement with *Union to Union*, must be reported to Sida as "deviations".

Reporting to Sida

According to our agreement with Sida *Union to Union* must inform Sida as soon as there is a deviation. Sida requires information as soon as there is a suspicion of a deviation. It is better to inform "prematurely" and then retract the suspicion if it proves to be unfounded.

Note that the obligation to report to Sida only applies to cases where Sida funds are involved and that a deviation that is reported to Sida normally becomes a public record, according to Swedish law. It is always possible to consult with the responsible desk officer at Sida regarding whether or not a case should be reported.

A deviation case shall always be reported to the responsible desk officer at Sida. The report should be filed using a specific template (see appendix) in order to make sure that Sida receives all the relevant information.

Any new developments in a case must be reported to Sida by updating and re-sending the report template.

A list of the year's deviations shall be compiled annually and delivered to Sida by January 15th. The list shall include updated information on the handling of each case, as well as the current status of the investigation(s). The annual compilation serves to ensure that Sida has the most current information for their statistics. If a project's reporting is incomplete, making it impossible to report it to Sida in accordance with the agreement, the project should be listed as an "unreported project" in *Union to Union's* annual financial report. Information on unreported projects should as a minimum include the name of the cooperation partner, country, year, total project budget and the amount that has not been accounted for.

Responsibility for case handling

Union to Union takes full responsibility for handling deviations and we follow our own routines but can, if need be, consult with Sida during the process. If an external investigation

(such as a forensic audit) is decided upon, the draft Terms of Reference should be sent to the responsible desk officer and controller at Sida for approval, together with a deadline for Sida's response. *If Sida does not respond within the given time frame the draft will be considered to be approved.*

If deemed necessary, Sida can commission a separate audit of the case.

Sida's case handling

When a desk officer at Sida receives a deviation report from a framework organization Sida's corruption investigators and the unit's controller are informed. The corruption investigators are responsible for Sida's handling and record keeping of deviation cases.

An assessment is made of the framework organization's handling of the case and if necessary Sida will give advice on measures that should be taken. The desk officer may also assist the framework organization by consulting with Sida's corruption investigators, legal department or other expertise.

Swedish law requires that all documents that are submitted to a public agency (such as Sida) must be registered and at request be made available to anyone who asks to see them. Information that is received orally and that is of interest to a case, must be noted down and registered. There is however a possibility for Sida to classify certain sensitive information.

Union to Union should therefore inform Sida if the entire case or certain parts of it need to be classified.

In order to finance the investigation of a case it is possible to make redistributions within the agreed budget, in accordance with the rules that are stipulated in the agreement with Sida. Such redistributions must be made in dialogue with the responsible desk officer at Sida. *Union to Union* should also keep track of the time that is devoted to the investigation of the case.

Closing a case

A case can be closed in two ways:

- a. *Union to Union* receives satisfactory reporting in the case and the suspected deviation can be disproven. Sida's direct approval is not necessary to close a case. It is sufficient that *Union to Union* notifies Sida that the reporting is complete in accordance with the agreement between *Union to Union* and our agreement partner. The concerned project will later be included in the regular annual report to Sida.
- b. *Union to Union* assesses that we have done all that is possible to obtain satisfactory reporting, without success. In such a situation the case is reported as uncompleted to Sida.

In any case, a) or b), Union to Union shall submit a final report on the case to Sida as soon as it is closed.

Cases can be closed at any time.

As a minimum requirement the final report shall include:

- Name of the organization/project/program that the case concerns (including project/program year)
- Type of deviation
- Actions taken by the agreement partner (when relevant)
- Actions taken by *Union to Union*
- The assessment and/or analysis of risks made by Union to Union prior to signing the agreement with the concerned partner organization.
- The findings of any internal/external investigations, legal proceedings or similar.
- If the case is closed because it cannot be investigated further or is disproven after a complete investigation, *Union to Union* shall motivate the decision to close the case.
- An assessment of the extent to which the activities have been carried out in accordance with the activity plan and agreement.
- The total amount that was suspected to have been misused.
- *Union to Union's* lessons learned by the case.
- The amount of working hours and extra financial resources that *Union to Union* have used to investigate the case.

In case of alternative b) Sida will make an assessment of the report provided and decide how much *Union to Union* must repay to Sida. Prior to such a decision Sida's unit for civil society support will, if necessary, consult with Sida's investigators and legal advisors. Sida makes decisions on repayment throughout the year.

Appendix 1.

Template for deviation report

1. Name of framework organization
2. Number given to the case by the framework organization
3. Name of concerned agreement partner or cooperation partner
4. Name of support
5. Type of support
6. Country
7. Sector
8. Type of suspected deviation
9. Date when the suspicion was reported to the framework organization
10. Account of how the suspicion arose
11. If relevant, other donors
12. If relevant, forensic audit
13. If relevant, police report
14. If relevant, amount
15. Total project/program budget
16. Actions taken up to date
17. Planned actions

In case of a suspected deviation, use this template for the report to Sida. Fill in information under all headings if possible. Sida must be continuously informed on developments through updating of this template. Reporting on the case must be made to the responsible desk officer at Sida who in turn will inform the controller and Sida's corruption investigators. In addition to this, Sida requires an annual compilation of submitted/ongoing/closed cases. The compilation shall be sent to the responsible desk officer at Sida no later than January 15 the following year. Cases shall also be included in the regular annual report to Sida.

Guide for filling in the template

1. *Union to Union*
2. *Union to Union - 20XX-0X*
3. *Name of the concerned agreement partner and cooperation partner:* Name of agreement partner and if relevant further partners with which a sub-agreement has been signed.
4. *Name of support:* The name of the project/program according to the agreement.
5. *Type of support:* For example organizational, - core or project support.
6. *Country:* The country where the suspected deviation has occurred. May also be a region.
7. *Sector:*
8. *Type of suspected deviation:* A short description of the suspicion. For example it could be a case of embezzlement, conflict of interest, theft, non-compliance of procurement

rules, nepotism, bribery, blackmail, etc. Sida's definition of corruption is "The abuse of trust, power or position for improper gain".

9. *Date when the suspicion was reported to Union to Union*
10. *Account of how the suspicion arose:* For example it could be via an anonymous tip, media, audit, whistleblower, other donors, etc.
11. *If relevant, other donors:* Are there other donors in the same project? It is important for Sida to be informed about our dialogue with other donors.
12. *If relevant, forensic audit:* Is there a forensic audit or similar investigation? Note that Sida according to our agreement has the right to approve the Terms of Reference prior to the investigation. It is recommended that this possibility is made use of in order to ensure that the investigation includes all relevant aspects.
13. *If relevant, police report:* Is a police report relevant? Has one been filed? If yes, in which country and to whom (police, anti-corruption bureau, auditor general or similar)?
14. *If relevant, amount:*
15. *Total project/program budget:*
16. *Actions taken up to date:* Briefly describe in bullet points the actions taken so far.
17. *Planned actions:* Briefly describe in bullet points which actions are planned to be taken and when they will be taken. When is the next planned update to Sida?