



Administrative Instruction – Instruction Administrative

Ref. ICC/AI/2022/003

Date: 6 April 2022

**ADDRESSING DISCRIMINATION, HARASSMENT, INCLUDING SEXUAL
HARASSMENT, AND ABUSE OF AUTHORITY**

Pursuant to Staff Rule 110.4 (f), the Registrar, with the consent of the President and the Prosecutor, in accordance with sections 3.2 and 3.3 of the [Presidential Directive on Procedures for the Promulgation of Administrative Issuances](#) and with the [Administrative Instruction on Procedures for the Elaboration and Promulgation of Administrative Instructions](#), hereby promulgates the following:

Section 1

Purpose

- 1.1 The purpose of this Administrative Instruction is to ensure that all staff members and other personnel working at the International Criminal Court (“ICC” or “Court”) are treated with dignity and respect and are aware of their roles and responsibilities in maintaining a workplace free of any form of discrimination, harassment, including sexual harassment, and abuse of authority, to prevent any such conduct and, if it occurs, to take timely appropriate corrective action, while offering support to those targeted by any such conduct.
- 1.2 The Court has a zero-tolerance policy on discrimination, harassment, including sexual harassment, and abuse of authority. The Court will not remain silent or passive

in the face of reported incidents, regardless of the offender. The Court will actively work to protect and support affected individuals and ensure appropriate accountability for prohibited conduct as defined below.

Section 2

Definitions

2. For the purposes of the present Administrative Instruction, the following definitions apply:

- (a) "Prohibited conduct" shall collectively refer to discrimination, harassment, including sexual harassment, and abuse of authority. Disagreement on work performance or on other work-related issues is normally not considered prohibited conduct and is not dealt with under the provisions of the present Administrative Instruction but in the context of performance management.
- (b) "Discrimination" is any unfair treatment or arbitrary distinction based on a person's race, sex, gender, sexual orientation, gender identity, gender expression, religion, nationality, ethnic origin, disability, age, language, social origin or other similar shared characteristic or trait. Discrimination may be an isolated event affecting one person or a group of persons similarly situated, or may manifest itself through harassment or abuse of authority.
- (c) "Harassment" is any unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person, when such conduct interferes with work, is made a condition of employment, or creates an intimidating, hostile or offensive work environment. Harassing behaviour may be an isolated incident or may occur repeatedly. It need not be habitual. It is not the intention of the harasser that defines whether a particular type of conduct constitutes harassment. Harassment may take many forms, including but not limited to words, gestures or actions which tend to annoy,

alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another. Harassment may be directed at one or more persons based on a shared characteristic or trait as set out in section 2(b) above.

(d) "Sexual harassment" is any unwelcome conduct of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. Sexual harassment may occur in the workplace or in connection with work.

(i) While typically involving a pattern of conduct, sexual harassment may take the form of a single incident. In assessing the reasonableness of expectations or perceptions, the perspective of the person who is the target of the conduct shall be considered.

(ii) Sexual harassment is the manifestation of a culture of discrimination and privilege based on unequal gender relations and other power dynamics. Sexual harassment may involve any conduct of a verbal or non-verbal and physical or non-physical nature, including written and electronic communications. Sexual harassment may occur between persons of the same or different genders, and individuals of any gender can be either the affected individuals or the alleged offenders. Sexual harassment may occur outside the workplace and outside working hours, including during official travel or social functions related to work. Sexual harassment may be perpetrated by any colleague, including a supervisor, a peer or a subordinate. An offender's status as a supervisor or a senior official may be treated as an aggravating circumstance. Sexual harassment may also constitute sexual exploitation or abuse under the provisions of the Court's policy on prevention of sexual exploitation and sexual abuse, when available.

- (e) "Abuse of authority" is the improper use of a position of influence, power or authority against another person. This is particularly serious when a person uses his or her influence, power or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation, recruitment, selection, working conditions or promotion. Abuse of authority may also include conduct that creates a hostile or offensive work environment which includes, but is not limited to, the use of intimidation, threats, blackmail or coercion.
- (f) Discrimination and harassment, including sexual harassment, are particularly serious when accompanied by abuse of authority.
- (g) An "affected individual" is a person towards whom suspected prohibited conduct is directed, in the workplace or in connection with work.
- (h) An "offender" is a person who has engaged in prohibited conduct. An "alleged offender" is a person who is alleged to have engaged in prohibited conduct.
- (i) "Impacted individuals" may include the affected individual, bystanders, including witnesses to the suspected prohibited conduct or to the impact on the affected individual, and any colleague who intervened in the situation involving suspected prohibited conduct.
- (j) "Elected Officials" are the Judges, Prosecutor, Deputy Prosecutors, Registrar and Deputy Registrar.
- (k) Counsel" includes counsel as defined in article 1 of the Code of Professional Conduct for counsel, legal advisers pursuant to [rule 74\(10\) of the Rules of Procedure and Evidence](#), and members of their teams.
- (l) "Staff member" is any person holding a letter of appointment under the Staff Rules and/or Regulations.

- (m) “Non-staff personnel” are those individuals, other than elected officials, staff members and counsel, performing services in a direct or other agreed relationship with the Court and other than through a letter of appointment under the Staff Rules and/or Regulations, and include consultants, individual contractors, interns and visiting professionals.
- (n) “Supervisor” is either the immediate supervisor or the reviewer of an affected individual within the meaning of the [Administrative Instruction on Performance Appraisal System](#) as amended by the Updated [Annexes to the Administrative Instruction on Performance Appraisal System](#).
- (o) The “Head of organ” is the President for the Presidency and Chambers, the Prosecutor for the Office of the Prosecutor, and the Registrar for the Registry as well as the offices administratively linked to the Registry such as the Secretariat of the Assembly of States Parties and the Secretariat of the Trust Fund for Victims.
- (p) The “Responsible official” is the Prosecutor, for reported unsatisfactory conduct on the part of staff members serving in the Office of the Prosecutor, and the Registrar, for reported unsatisfactory conduct on the part of staff members serving in the other organs of the Court, as well as offices administratively linked to the Registry such as the Secretariat of the Assembly of States Parties and the Secretariat of the Trust Fund for Victims.
- (q) The “Court’s Ombudsperson” is the person who will perform, *inter alia*, functions as set out in paragraph 5.10 of the present Administrative Instruction, when available at the Court.

Section 3

Scope of Application

- 3.1 Reports of prohibited conduct which occurs at or away from the workplace of the Court, during or outside working hours, can be submitted by any person against any person, irrespective of whether such persons have a contractual status with the Court.
- 3.2 Action on the reports will depend on the status of the alleged offender. Staff members who are alleged to have engaged in prohibited conduct may be subject to disciplinary or other administrative action in accordance with the [Administrative Instruction on Unsatisfactory Conduct and Disciplinary Proceedings](#). Non-staff personnel who are alleged to have engaged in prohibited conduct may also be subject to action consistent with the terms and conditions of the contract governing their relationship with the Court. Elected Officials who are alleged to have engaged in prohibited conduct may be subject to disciplinary proceedings in accordance with [articles 46 and 47 of the Rome Statute](#). Counsel who are alleged to have engaged in prohibited conduct may be subject to disciplinary proceedings in accordance with the [Code of Professional Conduct for counsel](#).
- 3.3 Remedial measures for affected individuals depend on their legal status with the Court, in line with the provisions of the present Administrative Instruction.
- 3.4 Any person has the right to invoke the applicable procedures provided for in this administrative instruction without fear of intimidation, discrimination or unfavourable treatment. Any retaliation or adverse action or threat of these actions against an individual who reports prohibited conduct or who assists in the investigation of such a report may constitute, as applicable, unsatisfactory conduct within the meaning of Staff Regulation 10.2; a serious misconduct or misconduct pursuant to articles 46 and 47 of the Rome Statute; or a violation of the terms and conditions governing the relationship of the offender with the Court, leading to appropriate action.

Section 4
Prevention and Deterrence

4.1 The Court is committed to promoting a working environment free of discrimination, harassment, including sexual harassment, and abuse of authority, in which all people are treated with dignity and respect.

Obligations of the Court

4.2 The Court shall:

- (a) Take appropriate measures to promote a harmonious working environment and protect staff members, non-staff personnel and other individuals from prohibited conduct through preventive measures as set out in the present Administrative Instruction and under the [Court's policy on protection against retaliation](#);
- (b) Prior to appointment or engagement, undertake reference checks of external candidates during recruitment processes to verify whether those individuals have a documented history of sexual harassment and other prohibited conduct;
- (c) Request that contractors, suppliers and partners adhere to the Court's zero - tolerance policy on prohibited conduct and commit to taking adequate action if faced with allegations of prohibited conduct, and inform them that failure to do so may lead to the termination of contractual arrangements;
- (d) Develop standards, including a programme for targeted trainings, to be conducted preferably in person and aimed at building skills to effectively communicate with affected individuals and alleged offenders and to respond appropriately. The target audience for such programmes are managers, staff representatives, human resources officers, medical personnel and all personnel providing support or likely to provide support to affected individuals, especially those who are targets of sexual harassment;

- (e) Develop standards, including a programme for regular training, to be conducted preferably in person, to raise awareness of issues relating to diversity, respect and equality and to build skills on bystander techniques for intervening in situations of prohibited conduct, for all staff members, non-staff personnel and Counsel;
- (f) Ensure that information and mechanisms are accessible to all staff members, as well as - to the extent possible and taking into account the terms and conditions of the contracts with non-staff personnel and other applicable policies - interns, visiting professionals, consultants, individual contractors, Counsel, and other non-staff personnel and individuals who are beneficiaries of the provisions of this Administrative Instruction.

Obligations of Heads of Organ

4.3 Heads of organ shall:

- (a) Demonstrate their commitment to the creation of a harmonious work environment and the prevention of prohibited conduct, educate themselves about the issue, act as role models by maintaining a high standard of personal conduct with consciousness of the power their position holds and treat all colleagues courteously and with dignity and respect.
- (b) Address conduct coming to their attention that may be in violation of the present Administrative Instruction, take complaints seriously, respond promptly to complaints and ensure that the necessary actions for which they are responsible are diligently taken;
- (c) Endeavour to create an atmosphere in which personnel in their organs may express concerns about suspected prohibited conduct, including by maintaining open dialogues and an open-door policy with concerned personnel in their organs;
- (d) Encourage personnel in their organs to use the informal and formal processes in place to address suspected prohibited conduct;

- (e) Periodically provide training on prohibited conduct and its prevention developed as envisaged in sections 4.2 (d) and (e) above;
- (f) Monitor their organs for conduct that may be in violation of the present Administrative Instruction;
- (g) Communicate the terms of the present Administrative Instruction and applicable procedures to personnel in their organs on an annual basis through a dedicated meeting;
- (h) Monitor the situation, when it is brought to their attention in writing, that one or more staff members of their organ:
 - (i) Have availed themselves or are availing themselves of a formal or informal process under the present Administrative Instruction;
 - (ii) Have otherwise exercised their rights as a staff member, including when challenging a decision through a request for review;
- (i) Ensure that no unsatisfactory conduct, prohibited conduct or other adverse action is directed against such staff members as a direct result of the above-mentioned actions and address any such suspected unsatisfactory conduct, prohibited conduct or other alleged adverse action brought, including through the process set out in the Administrative Instruction on Unsatisfactory Conduct and Disciplinary Proceedings and the [Administrative Instruction on Investigations of Unsatisfactory Conduct](#).

Obligations of staff members, and non-staff personnel

4.4 Staff members, and non-staff personnel shall:

- (a) Familiarize themselves with the present Administrative Instruction and related policies and procedures, including the Court's policy on protection against retaliation for reporting unsatisfactory conduct and for cooperating with duly authorized investigations;

- (b) Undertake any mandatory training provided by the Court on the prevention of discrimination, harassment, including sexual harassment, and abuse of authority;
- (c) Attend other learning opportunities related to prohibited conduct to the extent possible;
- (d) Demonstrate a commitment to zero tolerance of any prohibited conduct and treat all people in the workplace courteously and with dignity and respect, as well as with an awareness of their own behaviour and how it may be perceived and/or received by others;
- (e) Refrain from encouraging others to engage in prohibited conduct;
- (f) Raise their awareness, through available training, of the very specific harassment threats that members of the LGBTQI+ communities can face, including transgender and gender non-conforming individuals;
- (g) Take action if they witness prohibited conduct, provided they feel comfortable doing so and, where possible, after consulting the affected individual, as well as supporting impacted individuals, as appropriate and to the best of their ability;
- (h) Report suspected prohibited conduct and cooperate with investigations, audits and reviews.

4.5 Performance appraisals, including through 360-degree reviews as applicable, may record instances of non-adherence by staff members to the principles in the present Administrative Instruction, where appropriate and in accordance with the Administrative Instruction on Performance Appraisal System, and any subsequent version thereof. Additionally, the appraisals shall reflect the compliance of staff members with mandatory training requirements.

Section 5

Early Intervention and Receipt and Handling of Informal Reports of Suspected Prohibited Conduct

Early direct action

- 5.1 Affected individuals may, on a voluntary basis, if they feel comfortable and safe doing so, approach alleged offenders about instances of suspected prohibited conduct and ask for such conduct to stop, as the alleged offenders may not be aware of the negative impact of the conduct on others. However, disparity in power or status, fear of retaliation or the nature of the conduct may, *inter alia*, make direct confrontation difficult, and there is therefore no requirement for such action to be taken.

Managerial intervention

- 5.2 Affected individuals who believe that they may have been subject to instances of suspected prohibited conduct may raise the matter with their supervisors if the situation allows and they feel comfortable doing so. Any supervisor approached by an affected individual shall inform that person that information about the options available to that person to address suspected prohibited conduct may be obtained from the Staff Counsellor, the Court's Ombudsperson or any other office or individual listed in section 7.3 below on a confidential basis. The supervisor approached shall keep a record of such communication.
- 5.3 Supervisors shall provide assistance and/or information in a timely, sensitive and impartial manner to an affected individual, in accordance with the provisions of the present Administrative Instruction. To address the matter promptly at the managerial level, supervisors may:
- (a) With the consent of the affected individual, bring the matter to the attention of the alleged offender, who may be encouraged to undergo training and/or coaching, as available.;

- (b) Agree with all concerned on other approaches to address the issues raised, including, after consulting the head of organ, the actions referred to in section 10.2 (a) to (g) below;
 - (c) With the consent of the affected individual, facilitate a discussion among the impacted individuals and the alleged offender about the conduct in question.
- 5.4 Supervisors shall submit a record regarding any managerial intervention carried out to the head of organ. Such intervention does not preclude the matter from being formally reported in accordance with section 6 of this Administrative Instruction.
- 5.5 Any supervisor who has been informed about instances of suspected prohibited conduct shall provide timely and sensitive support to an affected individual. Supervisors can seek advice on how to provide such support from the Staff Counsellor or inform the affected individual of the possibility to consult the Staff Counsellor to obtain psychological and/or emotional support. The affected individual may consult the Staff Counsellor at any time if in need of psychological and/or emotional support from a mental health professional, including if a supervisor cannot provide timely and sensitive support for any reason.
- 5.6 Supervisors shall provide an affected individual with a copy of the present Administrative Instruction.

Confidential support

- 5.7 Affected individuals may prefer and are encouraged to discuss their situation with the Staff Counsellor and/or the Court's Ombudsperson, in accordance with the following:
- (a) The services of the Court's Ombudsperson and/or the Staff Counsellor include discussing options and referrals according to the wishes of the affected individuals. Nothing is triggered automatically by contacting the Court's Ombudsperson and/or the Staff Counsellor. Affected individuals

visiting the Court's Ombudsperson and/or the Staff Counsellor remain in control of any decisions they may wish to make following such a visit to discuss options.

(b) Staff Counsellors are mental health professionals who may provide psychosocial support and discuss tools to address the emotional impact that the situation has on the affected individual, as well as guidance on potential referral to external mental health resources, if needed.

5.8 Consultations with the Court's Ombudsperson or with the Staff Counsellor may be held in person or through electronic means, depending on available resources and the location of the affected individual.

5.9 Both the Court's Ombudsperson and the Staff Counsellor are bound by strict rules of confidentiality under their respective terms of reference. Any discussion with them is strictly confidential, as per said respective terms of reference. Documentation and other information may not be shared with any other office without the consent of the affected individual or other person seeking support.

Informal resolution

5.10 Affected individuals may, on a voluntary and confidential basis, attempt to address a situation of suspected prohibited conduct in an informal manner, including with the assistance of the Court's Ombudsperson, whose services may include one-on-one conflict coaching to be able to give voice to concerns effectively, shuttle diplomacy to communicate with others through an intermediary without having to be in the same physical space, and facilitated discussions or mediation. All services of the Court's Ombudsperson are tailored to the specific circumstances of the case and nothing is done without agreement.

5.11 An unsuccessful attempt to resolve the matter informally does not preclude it from being formally reported.

Section 6

Submission, Receipt and Handling of Formal Reports of Suspected Prohibited Conduct

Formal reporting of suspected prohibited conduct

- 6.1 Formal reports of suspected prohibited conduct may be made by persons who consider that they are affected individuals or by persons who have knowledge of suspected prohibited conduct, including individuals who are not employed by the Court.
- 6.2 Formal reports of suspected prohibited conduct shall be made in accordance with section 4 of the [Administrative Instruction on Investigations of Unsatisfactory Conduct](#).
- 6.3 Formal reports of suspected prohibited conduct, including any suspected prohibited conduct having taken place prior to the entry into force of the present Administrative Instruction, are not subject to time limits.
- 6.4 Formal reports of suspected prohibited conduct may be made anonymously. However, the anonymity of reports of suspected prohibited conduct and the passage of time may render the initiation or completion of an investigation or disciplinary proceedings more difficult. Consequently, those reporting such information are encouraged to identify themselves, knowing that their names will be kept confidential, and that there are measures in place to protect them against retaliation.

Investigation process

- 6.5 Investigations of suspected prohibited conduct shall accord with the procedures set out in the Administrative Instruction on Investigations of Unsatisfactory Conduct and with the following additional requirements:
 - (a) The person formally reporting suspected prohibited conduct shall be informed of the Court's policy on protection against retaliation;

- (b) Where a formal report of suspected prohibited conduct is submitted by a person other than the affected individual, the investigator shall normally seek the views of the affected individual before deciding whether to proceed with an investigation;
- (c) If the Independent Oversight Mechanism (“IOM”) refers a case to the responsible official for action pursuant to sections 5.14 or 5.25 (b) of the [Administrative Instruction on Investigations of Unsatisfactory Conduct](#), the responsible official shall appoint, within 30 calendar days of receipt of the case from the IOM, appropriate and experienced individuals to conduct a full investigation, as defined in the above-mentioned administrative instruction;
- (d) The investigator shall periodically inform the affected individual and the alleged offender, as appropriate, at least every three months of the status of the investigation;
- (e) The investigator, at the request of an affected individual or alleged offender, shall respond, without undue delay, but normally within two weeks, to queries relating to the handling of the formal report of suspected prohibited conduct;
- (f) At the request of the affected individual or the offender or alleged offender, the investigator may provide a statement on the outcome of the investigation, which the affected individual or the offender or alleged offender may disclose to third parties, subject to the terms of Staff Regulation 1.2 (i). The statement shall respect the confidentiality of the process and preserve the privacy of those involved.

Monitoring during an investigation

- 6.6 Where the responsible official is aware of an ongoing investigation into suspected prohibited conduct, he or she shall take appropriate measures to monitor the status of the affected individual, the alleged offender and the work unit(s) concerned until such time as the investigation report has been submitted and any subsequent action has been completed. In doing so, the responsible official shall ensure that all parties comply with their duty to cooperate with the investigation, as appropriate, and that no party is subject to retaliation or any other prohibited conduct as a result of the complaint or the investigation. When the responsible

official, or any other participant to the investigation, considers that retaliation may have occurred, he or she shall refer the matter to the IOM as suspected unsatisfactory conduct in accordance with section 4 of the Administrative Instruction on Investigations of Unsatisfactory Conduct.

Referral to national authorities

- 6.7 Where an investigation reveals that criminal conduct may have been committed, such a matter may, upon consultation with competent legal offices within the Court, be referred by the responsible official to the relevant national authorities for possible criminal accountability. Suspected criminal conduct may also be reported directly to the relevant national authorities by an affected individual.

Section 7

Confidential Guidance and Support

- 7.1 The Court acknowledges that an affected individual may require guidance and support:
- (a) Before making a complaint regarding options to address the matter;
 - (b) During any informal or formal process; and
 - (c) At and following the conclusion of any informal or formal process or investigation.
- 7.2 Guidance and support to an affected individual may also be required when managing confidentiality requirements throughout the different stages described above.
- 7.3 The following offices and individuals can provide guidance and support to staff members, non-staff personnel, and, as applicable, other individuals,:
- (a) [HRS](#);
 - (b) [the Staff Union Council](#);

- (c) [the Staff Counsellor](#);
- (d) the Court's Ombudsperson;
- (e) the [IOM \(external website\)](#); and
- (f) [the Focal Point for Gender Equality](#).

7.4 The provision of information and options may include reference to information on:

- (a) internal avenues for assistance, such as that available from staff members who are medical professionals or otherwise trained to deal with psychosocial matters;
- (b) external local services providing support in the context of suspected prohibited conduct;
- (c) how to report to local authorities if the suspected prohibited conduct may constitute a crime; and
- (d) as applicable, possible compensation for service incurred injuries in accordance with Staff Rule 106.9, in accordance with the Court's administrative framework, and services available after separation, such as after-service health care in accordance with the Court-provided benefit framework.

7.5 The support listed in this section remains available, as applicable, for the duration of the affected individual's service with the Court. Thereafter, the following continued support may remain available for persons who have left the service of the Court:

- (a) right to health coverage/after-service health care, where available in accordance with the Court-provided benefit framework; and
- (b) compensation for service incurred injuries in accordance with Staff Rule 106.9, where available, in accordance with the Court's administrative framework.

- 7.6 Where appropriate and available, the guidance and support to affected individuals listed in this section is also available to impacted individuals.
- 7.7 Psychosocial support for affected individuals and alleged offenders will be available from the Staff Counsellor in person, by telephone or through other electronic means. The Staff Counsellor is also a resource to assist any staff member, non-staff personnel and Counsel throughout any informal or formal process, as applicable. All consultations with the Staff Counsellor are confidential.

Section 8

Support Person for an Affected Individual

- 8.1 A support person may provide emotional support to an affected individual during both the informal and formal processes, as applicable. Support may include emotional support.
- 8.2 An affected individual may nominate for the purpose of providing emotional support:
- (a) One or two staff members who confirm in writing their willingness and availability to undertake such a role and respect their confidentiality obligations when acting as support persons, are not or are not likely to be a witness to the suspected prohibited conduct if the matter is investigated, and are not otherwise potentially subject to a conflict of interest;
 - (b) An individual with non-staff personnel status, provided that that individual is willing and available to undertake such a role, has signed a confidentiality agreement with the Court, is not or is not likely to be a witness to the suspected prohibited conduct if the matter is investigated, is not otherwise

potentially subject to a conflict of interest, and is otherwise reasonably acceptable to the head of organ.

Section 9

Work Performance

- 9.1 When the head of organ is informed in writing that a person may be a target of prohibited conduct, the head of organ shall enquire whether the individual's work performance or conduct has been impacted. If performance or conduct issues have emerged, support will be offered to the affected individual with a view to appropriately addressing the issues, without prejudice to the Court's performance appraisal system.
- 9.2 Such support may include:
- (a) A new performance plan for the affected individual;
 - (b) Authorization of special leave and/or flexible working arrangements including those mentioned in the Administrative Instruction on Flexible Working Arrangements.
- 9.3 Due regard to confidentiality must be given when communicating such supporting measures to supervisors or colleagues, as appropriate.

Section 10

Interim Measures

- 10.1 After the head of organ is informed in writing that a person may be a target of prohibited conduct, the head of organ shall consider whether interim measures:

- (a) should be taken to prevent the occurrence or repetition of suspected prohibited conduct and/or address risks of possible retaliation;
- (b) should be taken to protect the integrity of any investigation, in consultation with the IOM as applicable ; or
- (c) would otherwise be in the interests of the Court or work unit.

10.2 Such measures may include, as appropriate:

- (a) Physical separation of the alleged offender and the affected individual;
- (b) Temporary reassignment of either the alleged offender or the affected individual with the consent of the person being reassigned;
- (c) Instituting flexible working arrangements for either the alleged offender or the affected individual;
- (d) Granting unplanned annual leave or suggesting to either the alleged offender or the affected individual to take annual leave;
- (e) Consideration of special leave for either the alleged offender or the affected individual;
- (f) Temporary changes in reporting lines;
- (g) Suspension of the alleged offender, with or without pay, in accordance with Staff Rule 110.5 and section 9 of the [Administrative Instruction on Unsatisfactory Conduct and Disciplinary Proceedings](#).

10.3 If the head of organ becomes aware of an allegation of prohibited conduct involving attempted or actual assault, including sexual assault, appropriate precautionary measures shall be taken, without delay, to address the safety and security concerns of the affected individual. This may include instituting flexible working arrangements or other means to achieve the physical separation of the affected individual and the alleged offender.

Section 11

Post-Investigation Review

- 11.1 Once an investigation has been completed and a decision on the outcome taken, the head of organ shall, through the relevant supervisors, take appropriate measures to keep the situation under review. These measures may include, but are not limited to, the following:
- (a) Monitoring for at least one year the status of the affected individual, the offender and the unit(s) concerned, at least every three months, in order to ensure that no party is subjected to retaliation or any other prohibited conduct as a consequence of the investigation, its findings or the outcome. When the head of organ suspects that retaliation has occurred, he or she shall promptly notify the IOM;
 - (b) Ensuring that due consideration is given to any special requirements for the affected individual as a result of the prohibited conduct; and
 - (c) Ensuring that any administrative or disciplinary measures taken at the conclusion of any investigation or disciplinary process have been duly implemented.

Section 12

Workplace Restoration and Aftercare

- 12.1 The Court's Ombudsperson and the Staff Counsellor, within their respective terms of reference and on a confidential basis, may assist in workplace restoration efforts through informal resolution methods. Examples of support offered are:
- (a) Post-investigation or post-disciplinary process interventions;
 - (b) Rebuilding trust between individuals; and
 - (c) Team interventions and coaching towards change.

Section 13
Data Collection

- 13.1 The IOM will collect data and information for the monitoring and analysis of formal reports of suspected prohibited conduct. Such information includes, if available, the number and type of formal reports, relevant demographics of affected individuals and alleged offenders, including information about sexual orientation, gender identity, gender disaggregation and gender expression, the work context such as staff level and type of contract, duty station, and the length of time required to complete the process of handling the formal reports.
- 13.2 Anonymized information on and analysis of formal reports of suspected prohibited conduct shall be published on an annual basis by the IOM, including disciplinary measures with respect to prohibited conduct, and made available on the Court's intranet.
- 13.3 Survey data will be collected periodically by the Court and will be analysed and shared through reports available to staff, management, the Court's Ombudsperson, the Focal Point for Gender Equality and others to inform them of outreach activities, interventions and updates to relevant policies, including the present Administrative Instruction, as needed.

Section 14
Implementation and Final Provisions

- 14.1 The present Administrative Instruction will be reviewed periodically with any revisions identified on an as-needed basis, but every two years at a minimum, taking into account lessons learned from monitoring of compliance with the present Administrative Instruction, including survey data, and any changes in the structures, complementary policies and the context of the Court that may impact the implementation of the present Administrative Instruction.

- 14.2 The present Administrative Instruction shall enter into force on the date of its issuance.
- 14.3 The present Administrative Instruction hereby supersedes the [Administrative Instruction on Sexual and Other Forms of Harassment \(ICC/AI/2005/005\)](#) with the following exceptions:
- (a) Investigations initiated prior to the entry into force of the present Administrative Instruction shall continue to be handled in accordance with the provisions of the Administrative Instruction on Sexual and Other Forms of Harassment (ICC/AI/2005/005);
 - (b) Sections 2 to 4 of the Administrative Instruction on Sexual and Other Forms of Harassment (ICC/AI/2005/005) shall apply in connection with new investigations of, and disciplinary proceedings concerning, suspected harassment, including sexual harassment, having taken place prior to the entry into force of the present Administrative Instruction.



Peter Lewis

Registrar