

Report of the Ombudsman¹

1. As part of the Ombudsman's accountability, WHO ombudsmen report annually to the Executive Board on their activities.² This report describes the activities of the Ombudsman during 2022, outlines the most relevant systemic issues identified during that period and follows up the administration's response to the issues addressed in previous reports.³ The administration's response to the recommendations made by the Ombudsman is described in a separate document.⁴

2. As an independent and neutral interlocutor, the Ombudsman's primary role⁵ is to provide confidential impartial assistance to staff members and other members of the workforce who voluntarily approach the office.⁶ The Ombudsman does so by listening to the issues brought to his/her attention by the visitor; identifying their needs and interests; and guiding them through a full review of the options for resolution and the possible consequences of each option, including "reality testing" to provide a more complete perspective of the matter than the visitor's views alone. Thereafter, the visitor may choose to take action themselves, which usually involves the Ombudsman engaging in conflict coaching to help the visitor to address the issue in an effective way. Other options are also pursued, such as the active engagement of the Ombudsman through discussions with the visitor and other parties or key stakeholders; the facilitation by the Ombudsman of discussions between parties; or the holding of structured mediation sessions.

3. In carrying out its mandate, the Ombudsman must not only ensure that the Organization understands that it is a confidential and independent resource for the workforce, in line with its principles,⁷ but it must also ensure that it is seen as such by the workforce. It is therefore essential that all discussions with the Ombudsman remain confidential,⁸ unless the visitor agrees to disclosure, thereby allowing the individual to retain control of the issue that they have chosen to share with the Ombudsman.

¹ This document is submitted in line with the conclusions of the Board at its 141st session in May 2017 regarding the recommendation of the United Nations Joint Inspection Unit that all legislative bodies in the United Nations system "make it possible for the ombudsman to report to them on identified systemic issues on a regular basis" (see document EB141/2, noted by the Board at its 141st session, and document EB141/2017/REC/1, summary records of the first meeting, section 6). This report has been issued to the Executive Board since 2018.

² This document has been prepared by the Office of the Ombudsman and Mediation Services in consultation with all WHO's regional ombudsmen. It reflects the views of all WHO ombudsmen and thus any mention of the Ombudsman refers to the work of both the Office of the Ombudsman and Mediation Services and the regional ombudsmen.

³ Documents EB150/INF./4 and EB150/INF./5.

⁴ Document EB152/INF./4.

⁵ See annex for background information on the role of the Ombudsman and the structure of the Ombudsman's services.

⁶ Hereafter referred to as "visitors".

⁷ These principles are aligned with the international standards of practice developed by the International Ombuds Association; see Staff Rule 1215.5.

⁸ Except for matters that could lead to the bodily harm of the individual or others with whom the individual is in contact.

The distinct features of the Ombudsman's role – independence, impartiality, informality and confidentiality – are cited by visitors as the key reasons for their meeting with the Ombudsman, notwithstanding the fear of retaliation that some continue to report.

4. It is also on the basis of confidential conversations with the workforce and frequent interactions with stakeholders that the Ombudsman monitors trends to enable the early detection of systemic issues of potential relevance, providing feedback to management and advising top leadership on appropriate preventive and remedial action. A key message of this report is the concept of “informal first”, whereby staff members, supervisors, teams and the Organization will consider informal actions as their first response to workplace issues, concerns or disputes.

CHALLENGES AND THE WAY FORWARD

5. Based on confidential interactions with visitors and discussions with stakeholders, the Ombudsman has singled out three systemic issues that have been the object of subsequent discussions with senior management:

- (i) the place of informal resolution in the internal justice system: informal first;
- (ii) one workforce: one respectful workplace; and
- (iii) a hybrid working environment.

THE PLACE OF INFORMAL RESOLUTION IN THE INTERNAL JUSTICE SYSTEM: INFORMAL FIRST

6. The Organization's robust approach to preventing and responding to sexual exploitation, abuse and harassment is commendable. The large increase in the number of allegations investigated and the transparent approach to the work in this area has not gone unnoticed by staff.

7. Moreover, there has been a gradual change in the discourse of staff in respect of these issues. The first change is that there is a much better understanding of the conduct that the Organization classifies as harassment and a stronger shift towards believing that it will be addressed. The transparent reporting of actions taken to investigate complaints has contributed significantly to this shift. The second change is the increased willingness of staff to consider accessing the formal avenues available to them, whether by filing a whistleblower complaint, contacting the Office of Compliance, Risk Management and Ethics or engaging with the Office of Internal Oversight Services, again because there is a greater trust that their complaints will be acted upon.¹

8. While fully supportive of the implementation of measures to tackle sexual exploitation and abuse and sexual harassment, staff have expressed the hope that the same energy and commitment will be given to addressing instances of conduct that makes their working environment toxic. Mirroring the comments of staff who express this view in internal meetings, there remain a high number of cases

¹ Noting the interest with which these processes are followed, the Ombudsman highlights the importance of reminding the workforce of the presumption of innocence until all allegations have been proven, and of ensuring that those under investigation are fully informed of not only their obligations but also their rights, including the right to access the Ombudsman. The Ombudsman also urges the Organization to be vigilant throughout the process in protecting the reputations of all involved and to ensure that when claims are not proven, special care is taken to repair any reputational damage that has occurred.

brought to the attention of the Ombudsman in which the visitor alleges abuse of authority, harassment or an overall toxic working environment.

9. The office of the Ombudsman is the primary pillar for the pursuit of informal resolution of work-related difficulties within the Organization. It comes as no surprise, therefore, that the most staff who contact our offices opt for an “informal first” approach to addressing work situations that they see as toxic or even as harassment or sexual harassment. The reasons cited for this choice include the desire to offer the other party an opportunity to improve. There is also a belief that there could be negative consequences for “escalating” the matter through a formal process. In addition to the fear of retaliation within WHO by the person against whom a formal complaint is made, there is a fear of retaliation within external networks that are outside the purview of WHO protection measures. For individual visitors, as well as visitors with supervisory responsibility struggling to resolve issues among colleagues in their team, informal resolution is also chosen because it affords them a measure of control over the options to be explored. Determining whether an option could have the outcome that best responds to the concern raised is a central component of informal resolution – such control is often lost when matters are addressed through formal forums. The Ombudsman therefore recommends that the “informal first” approach should be promoted to facilitate informal resolution, which is usually more rapid and involves less psychological struggle for the affected parties and less cost to the Organization.

10. At the same time, experience gathered through the implementation of informal resolution within the Organization has highlighted areas that could benefit from focused attention to further strengthen this form of dispute resolution.

11. One such area of concern is the time taken to make and implement decisions. Often, even when a solution has been identified that could resolve the situation for all parties involved, there is a lengthy process leading from identifying a reasonable solution to making a decision and then implementing it. Unfortunately, in some cases such delays have had a negative impact on the mental health of the affected individuals as they wait for resolution. The absence of quick resolution also worsens situations that were already complex and often end up affecting the whole team.

12. The Ombudsman has observed that an impediment to prompt action is the reluctance that some managers have to make a decision, often because they do not feel sufficiently empowered (lack of information on the available options and resources to put them in place) or because the Organization’s policies do not allow them to take action. To address this issue, the Ombudsman suggests that decision-making authority be delegated to a larger group of managers at varying levels – with appropriate checks and balances. Granting more discretionary authority to managers would accelerate the time taken to make decisions and at the same time make them accountable for those decisions. Quicker response times from key stakeholders would also help alleviate the suffering of staff confronted with delayed decisions. Identifying the types of decisions involved and the appropriate level of the delegation of authority could be the subject of discussions within the Secretariat, as legal and policy considerations will need to be taken into account.

13. Another area that should be strengthened is the recourse to mediation by staff and management. The Ombudsman is responsible for the coordination of mediation processes within the Organization, including by appointing internal or external additional mediators if necessary. Mediation is an informal, voluntary, confidential process that aims to resolve work-related concerns, clarify differences and promote shared understanding on an issue, whereby a mediator – an independent, impartial and neutral third party – facilitates effective communication between the parties with a view to assisting them in finding a mutually agreeable resolution of their work-related concerns. It is a mechanism available to all staff members and does not affect their rights to pursue their concerns through formal mechanisms – as set forth in the WHO eManual (Chapter III.12.2). Mediation can also occur after the initiation of a

formal resolution process, either at the request of the staff member or further to a mediation referral by a WHO official involved in a formal resolution process.¹

14. The recourse to mediation, including informal facilitated conversations, is currently infrequent and at present is only initiated at the request of staff members. The low uptake of this mechanism has been acknowledged by the Ombudsman in various forums, including in discussions with top management, in order to better understand the reasons for the reluctance of parties to engage in mediation. The reasons cited include a lack of trust in the intentions of the other party who would be a party to the mediation; previous failed attempts to speak to the other party and therefore no desire to be engaged in additional conversations; and the refusal of the other party to engage in what is currently a voluntary process. Once the formal process has begun, the Ombudsman has observed a continued use of negotiation settlements, without a concurrent referral of cases to the formal mediation process.

15. The key advantages of mediation are the possibility of preventing conflicts from escalating, which allows for relationships to be mended based on increased mutual understanding and a shared commitment of the parties to work on highlighted issues, as well as an overall reduction in time and costs for both the parties and the Organization. Increasing the use of mediation as a means of dispute resolution is therefore important. Accordingly, in addition to continuing to systematically present this as an option for staff to consider when addressing issues of concern, the Ombudsman has begun to explore with management how it can more frequently consider and utilize mediation even after a formal process has begun.

16. Looking forward, the Ombudsman will strengthen its outreach efforts with a view to increasing the understanding of staff about the mediation process and its benefits, as well as exploring the most efficient manner in which to integrate the core principles of mediation in conflict-training for supervisors, who are often the first “port of call” for individuals with grievances. The Ombudsman notes in this regard that there is a perception that the Ombudsman does not take into account the concerns of managers, instead serving primarily as a vehicle for staff complaints. Through measures that strengthen the capacity of managers to deal with conflict situations, whether through mediation techniques, targeted coaching, support in dealing with performance management issues or a focused approach to team situations, the Ombudsman will further reinforce the message that the Ombudsman provides support to all individuals facing work-related concerns, irrespective of their place in the Organization’s hierarchy.

17. The expedited reassignment of staff members who face untenable situations remains an effective means for resolution, whether the reassignment be of a long or a short duration. However, based on the experience of an inter-service group,² the Ombudsman suggests strengthened follow-up for those who have been reassigned, including to ensure minimal negative impacts on an individual’s career trajectory. It is also suggested that a process for the review and implementation of measures to address the situation that led to the reassignment should be put in place. Finally, while recognizing that the opportunities for resolution may be different in regional or country offices, the Ombudsman still underscores the benefits of establishing an inter-service group involving the relevant stakeholders who may each have been separately contacted by the same individual(s). Accordingly, the regional Ombudsman will explore with the Secretariat how and whether to establish similar groups in the regions to consider options for informal resolution and related systemic issues.

¹ Referring authorities include but are not limited to the Director of the Department of Human Resources and Talent Management, the Assistant Director-General, Business Operations or the Chair of the Global Board of Appeal.

² See document EB150/INF./4.

18. Overall, the Ombudsman firmly acknowledges that the success of any informal resolution effort is dependent on strong collaboration among stakeholders, whereby respect, good faith and trust are the markers of a good working relationship. Building on this, the Ombudsman encourages the Organization to adopt an “informal first” approach to dealing with these and all other types of workplace issues, using the opportunities available to remind all staff that informal contact with the Ombudsman offices is always a safe first step that does not preclude the use of formal mechanisms.

ONE WORKFORCE: ONE RESPECTFUL WORKPLACE

19. The WHO value of people caring about people¹ applies to all members of the workforce, and the Organization has issued policies and guidance, delineating the proper use of the various contract types. The Organization has launched a review of current contract modalities to ensure that the contracts that the Organization issues are fit for purpose and are properly used, acknowledging in this regard that there are members of the workforce who are non-staff and administered through a range of different administrative arrangements.² Certain individuals have been contributing to the WHO mission for many years and consider themselves to be members of the WHO workforce, even though they do not have the status of staff members.

20. While there are many benefits of non-staff status for individuals (including flexibility) and the Organization (no long-term liabilities linked to staff status), there are many constraints as well. Among many issues raised by consultants are difficult relations with their supervisors – in some cases rising to the level of abuse of authority; failure by managers or consultants to respect contractual terms; and negative impacts on the personal and professional situations of individuals on non-staff contracts over a period of months or even years.

21. Informal resolution remains a central mechanism for addressing these and other workplace concerns, which apply to both the staff and non-staff workforce, in order to bring reasonable solutions for concerned parties in a timely manner. However, many non-staff are not aware that they have access to the Ombudsman. In outreach efforts, the Ombudsman has taken steps to ensure that all members of the workforce are aware of the support that can be provided to them in order to address or highlight their particular workplace concerns.

22. Based on the feedback provided, the Ombudsman suggests a number of further steps the Organization could take to achieve proper management of these members of the workforce, including identifying focal points in the administration who are not connected to any particular technical unit and may be contacted to answer questions on the implementation of their contracts. A programme targeting non-staff, which could include official guidance on their conditions of service and related obligations and standards for deliverables, would also be helpful. The strengthened application of the measures in place to hold managers accountable for their failure to adhere to policy provisions would lead to a decrease in the reports of the regrettable situations described above.

23. Finally, the establishment at headquarters of a consultants’ board, which has had positive interactions with top management, is a key means of interacting with the Organization that could be

¹ See WHO values charter: Our values, Our DNA ([https://www.who.int/docs/default-source/who-values/generic-english-v2-\(002\).pdf?Status=Temp&sfvrsn=585f7720_2](https://www.who.int/docs/default-source/who-values/generic-english-v2-(002).pdf?Status=Temp&sfvrsn=585f7720_2)).

² Including those administered through consultant contracts, special services agreements, local individual contractor agreements and the United Nations Volunteers.

replicated in the regions to gather information and monitor improvements in the management of these members of the workforce.

A HYBRID WORKING ENVIRONMENT

24. Two years ago, beginning in March 2020, the Secretariat asked colleagues at headquarters to work from home, with the exception of those deemed to be “critical staff”. All regional offices adopted a similar course of action, as did many country offices. At the beginning of 2022, many staff believed that it was only a matter of time before they would “return to normal”. However, the reality of the situation has been varied across the Organization, as has the reaction of staff to the various modalities being proposed.

25. During the past year, staff have gradually moved from full-time teleworking to some combination of working from home and/or in the office, guided by a new flexible working arrangements policy issued in late 2022. Staff have expressed the hope that the autonomy that the workforce has gained over this period will be maintained.

26. The struggle faced by the Organization and its staff to adjust to a “hybrid” working modality is one faced by organizations globally, with no easy or quick solutions in sight that can meet the desires of all. It is recognized, however, that there are some situations which are rendered more delicate in this new system of working – such as dealing with underperformance or building team cohesion. In this regard, the ties that bind colleagues together to create a “social fabric” have begun to be weakened through a combination of distance and missed opportunities to interact in the informal ways that foster connection and that are difficult to replicate in a virtual environment.

27. The Ombudsman acknowledges the important first step taken by the Organization to address many of the elements of this new way of working through its flexible working arrangements policy. However, the competition between what the Organization requires and how the policy is applied to each individual cannot be underestimated. In particular, there is pressure put on supervisors to work in this hybrid environment in ways that take into account the needs of the staff while at the same time ensuring the management of teams to achieve results.

28. The responsibility to communicate effectively and continuously about how different work arrangements impact a team’s ability to produce is shared by both the supervisor and supervisee. The Ombudsman suggests that in order to further strengthen their ability to do that, supervisors should receive specific support and guidance in order to avoid situations in which certain staff feel excluded because they are given little or no access to the workplace; assistance in identifying development initiatives in order to ensure an increased sense of cohesion, and support to improve communication within their teams, as needed. The Ombudsman will continue to actively engage in the Respectful Workplace Initiative, along with key stakeholders, as the Organization continues to adjust in the coming months, addressing the needs of the workforce in this changing environment. In particular, the Ombudsman will continue to engage with teams to assess the working climate, identify issues of concern and propose opportunities for change, including by broadening current regional efforts on developing and maintaining an environment of psychological safety, engaging in dialogues on respect, and promoting training on how to put the WHO values into action.

THE OMBUDSMAN NETWORK

29. Since the first report of the Ombudsman to the Executive Board in January 2018,¹ the Ombudsman has highlighted the need for WHO staff to have equal access to an Ombudsman wherever they are located in the Organization. As of the time of preparation of this report, in addition to the Ombudsman and Mediation Services unit at headquarters, which is available to all WHO staff members regardless of their type of contract or location, the Regional Offices for Africa, Europe, the Eastern Mediterranean and the Western Pacific have appointed full-time ombudsmen.

30. Along with their primary role of supporting staff in the informal resolution of work-related concerns, the ombudsmen have regular interactions with senior management, including the Director-General and the Regional Directors, as well as with other stakeholders, including the Staff Associations; Staff Health and Well-being Services; Office of Compliance, Risk Management and Ethics; and the Department of Human Resources and Talent Management.

31. The Ombudsman Network, coordinated by the Ombudsman at headquarters, meets regularly to exchange information, address issues of common interest in a harmonized manner and identify systemic issues arising by the ombudsmen in the course of their interactions with staff. Best practices for working with key stakeholders have also been identified and the Network has agreed on measures to ensure the maximum impact of the Ombudsman's initiatives at all levels of the Organization, including joint missions to take advantage of differing skills and experience, sharing of training and outreach materials, and knowledge-building.

32. In addition, the WHO ombudsmen are actively engaged in the network of ombudsmen and mediators serving organizations that are part of the United Nations System Chief Executives Board for Coordination, as well as in various other international and regional networks of ombudsmen. These provide a forum for the exchange of ideas and the identification of best practices for implementation within the Organization to strengthen informal resolution efforts.

UPDATE ON PROGRESS SINCE LAST YEAR'S RECOMMENDATIONS

33. The Ombudsman is mindful that, as noted in the 2015 report of the Joint Inspection Unit,² it is not the Ombudsman's task to prescribe a specific course of action on systemic issues and then monitor it but rather to draw attention to such matters and thereby elicit the proper response of management. A separate report³ will provide an update on the actions taken by the administration to address matters raised in the previous report of the Ombudsman.

34. The Ombudsman acknowledges with appreciation the significant efforts of the Secretariat to address the issues highlighted in the previous report.⁴ As there may be outstanding matters requiring further work, the Ombudsman is prepared to engage with the Secretariat to explore future opportunities for improvement in those areas.

¹ Document EB142/INF./2.

² UN document JIU/REP/2015/6.

³ EB152/INF./4.

⁴ Document EB150/INF./4.

ANNEX

ROLE OF THE OMBUDSMAN

1. As set out in the current Staff Rules, prevention, early response and informal justice are fundamental components of WHO's new standardized system of internal justice. In that framework, the Ombudsman plays a key role as the primary pillar for the informal resolution of disputes. In line with the international standards of practice developed by the International Ombudsman Association, the Ombudsman is an independent and neutral interlocutor who provides confidential assistance for the informal resolution of work-related difficulties. The Ombudsman listens impartially to those seeking assistance; develops options for the informal resolution of concerns; provides confidential, informal, independent and impartial advice to visitors; mediates disputes; and identifies systemic trends. The Ombudsman does not advocate on behalf of any particular individual, issue or interest, but rather advocates for fair and equitable processes. The Ombudsman does not represent any side in a dispute, conduct formal investigations or participate in formal processes.
2. The main task of an ombudsman is therefore to assist staff members in dealing with work-related concerns through informal means, thereby preventing conflict and avoiding escalation of the problem. In addition, through confidential exchanges with visitors and other stakeholders within the Organization, the Ombudsman may act as an "early warning" mechanism by detecting problems that go beyond individual issues and relate instead to broad systemic matters. In such a role, the Ombudsman provides feedback to senior management and advises them on appropriate remedial and preventive action to correct those systemic problems, thereby averting unexpected risks for the Organization.
3. The Ombudsman's major functions are therefore to mediate and facilitate conflict resolution; monitor trends in support of the early detection of potentially significant issues and provide feedback thereon to senior management; support preventive action; and foster a workplace culture that upholds WHO's fundamental values, most notably a respectful workplace environment.
4. The establishment of the Office of the Ombudsman represents a commitment by the Organization to promoting the well-being of its employees and improving the policies, rules and practices that affect its working environment.

OMBUDSMAN SERVICES IN WHO

5. Ombudsman services in WHO are decentralized. The Ombudsman and Mediation Services unit at headquarters provides informal resolution services to staff members of WHO, as well as those of the Joint United Nations Programme on HIV/AIDS, the International Agency for Research on Cancer and the United Nations International Computing Centre.
6. At the time of preparation of this report, the regional offices for Africa, Europe, the Eastern Mediterranean and the Western Pacific have full-time ombudsmen. Regional ombudsmen ensure that all staff in their respective regions are supported in the informal resolution of work-related issues.

7. The number of cases involving WHO staff members dealt with in 2021 by the Office of the Ombudsman and Mediation Services at headquarters¹ was 296.²

8. In 2021, most cases brought to the attention of the Ombudsman involved issues in the following range of categories, in order of relevance: (i) evaluative relationships;³ (ii) job- and career-related issues;⁴ (iii) peer and colleagues relationships;⁵ and (iv) legal, regulatory, financial and compliance issues.⁶ The range of issues was closely in line with that documented in previous reports.

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¹ The modalities for providing a comprehensive view of global statistics on the number and type of cases is under review; the short reporting period for the newly appointed regional Ombudsman did not allow for figures that would provide an accurate impression of the cases in the region over the current reporting period.

² In 2020, the number of cases involving WHO staff members was 323.

³ Problems between supervisors and supervisees, largely resulting from dysfunctional communication, which often has a negative impact on the annual performance assessment.

⁴ Problems concerning recruitment, post classification and, most importantly, career development.

⁵ Communication problems among staff with no supervisory relationships.

⁶ Cases involving, among other things, alleged instances of harassment and discrimination.