

Module 3 - Investigation



The Module

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The aim of Module 3 is to train National Investigation Officers (NIO) to be knowledgeable to undertake investigations in the field, supporting their contingent commander in response to allegations of misconduct, including serious misconduct amounting to sexual exploitation and abuse (SEA). The role of the NIO is to undertake impartial investigations into misconduct allegations, to a UN standard in terms of investigation planning, processes (response, search, evidence/evidence gathering, interviewing, victim-centred and human rights based approach etc.) and reporting, to determine if an allegation of misconduct is substantiated.

With respect to SEA investigations, the course's primary aim is to ensure NIO have the tools to investigate SEA to promote probity, transparency, and accountability. This supports 'prevention' through discouraging others who may intend to commit such acts and 'response' by ensuring those who against whom an allegation of SEA is substantiated are held accountable through administrative and disciplinary measures, as well as, when applicable, through referral for criminal accountability within military or national justice systems.

Key Message: NIO have a key role in implementation of the UN Secretary-General's zero-tolerance policy on SEA. Personnel deployed to operations under UN command and control are prohibited from committing acts of SEA. SEA violates universally recognised international legal norms and standards, and represents unacceptable behaviour and prohibited conduct (See: Secretary-General's Bulletin on Special measures for protection from SEA ST/SGB/2003/13). SEA constitutes a form of SGBV and predatory behaviour, can amount to a violation of fundamental human rights, has devastating consequences for victims and undermines the legitimacy and credibility of UN efforts towards peace and security, gender

equality and protection. SEA represents an ever present challenge to delivering strategic, operational and tactical effects towards and end state of peace and security because it breaks the trust between the UN and the communities it serves.

This Module also links SEA to other interconnected, interrelated and intersectional thematic areas of the human rights and peace and security; such as the Women Peace and Security (WPS) agenda and UN efforts to achieve gender equality, broader issues of SGBV, Children and Armed Conflict (CAAC)/Child Protection, Protection of Civilians (POC), humanitarian action and Sustainable Development. In this respect this Module incorporates a gender perspective to what is a significantly gendered issue in terms of the conditions/circumstances under which SEA is perpetrated, to whom it is perpetrated against, by whom it is perpetrated, and how it is prevented and responded to by contingents, member states and the UN system.

The Module includes learning exercises and discussions, and flows into Modules 4 and 5, building investigatory and interviewing skills through a comprehensive scenario-based exercise. This training package is designed to qualify personnel to train NIO to UN standards. The audience for this STM package includes personnel identified as an NIO and staff officers who during their UN deployment may be assigned the duty of NIO. However, leadership at all levels that supervise, train, prepare, support and coordinate NIO may also benefit from this material.

For all practical purpose, throughout the STM documents, lessons, and slides, we will use the abbreviation/acronym “NIO” to refer to the National Investigation Officers both in singular and in the plural forms.

Module 3 Content

- 3.1 Principles of Investigation
- 3.2 Incident Response and Investigation
- 3.3 Investigatory Equipment
- 3.4 How to Conduct a Search
- 3.5 Evidence Collection, Handling and Storage
- 3.6 Investigation Report Writing

In Module 3 Investigations we will cover these lessons:

- * 3.1 Principles of Investigation.
- * 3.2 Incident Response and Investigation.
- * 3.3 Investigatory Equipment.
- * 3.4 How to Conduct a Search.
- * 3.5 Evidence Collection, Handling and Storage.
- * 3.6 Investigation Report Writing.

The primary aim of the Module is to provide the NIO with the tools to investigate misconduct to promote probity, transparency and accountability. This supports 'prevention' through discouraging others who may intend to commit such acts, and 'response' by ensuring those responsible for acts of misconduct are held accountable through administrative and disciplinary measures, as well as, when applicable, through referral for criminal accountability within military or national justice systems. This in turn supports member states and contingent commanders to ensure probity, transparency, good practice and accountability.

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Refresher: Sexual Exploitation and Abuse (SEA)

Key Message: As an NIO you are a special asset responsible for investigating allegations of misconduct within your contingent, including serious misconduct in the form of SEA. SEA is unacceptable and your work in this area supports the Secretary-General's zero-tolerance policy. Moreover, SEA undermines the legitimacy and *raison d'être* for UN Peace Operations and UN efforts to ensure peace and security, to provide POC, and to advance human rights and gender equality.

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ST/SGB/2003/13

- SEA violates universally recognised international legal norms and standards and constitutes **unacceptable behaviour and prohibited conduct**
- SEA **constitutes acts of serious misconduct** and are therefore grounds for disciplinary measures, including removal and reparation from the UN mission

As per the Secretary-General's Bulletin ST/SGB/2003/13 regarding special measures for protection from sexual exploitation and sexual abuse, United Nations forces conducting operations under United Nations command and control are prohibited from committing acts of sexual exploitation and sexual abuse, and have a particular duty of care towards women and children. Sexual exploitation and sexual abuse violate universally recognised international legal norms and standards and have always been unacceptable behaviour and prohibited conduct. Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal. The UN has a zero-tolerance policy with respect to SEA.

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SEA Definitions

Sexual Exploitation: Any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another

Sexual Abuse: Any actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions

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Sexual Abuse: Any actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.



Note that under both definitions, sexual exploitation and sexual abuse can occur even if only an attempt is made or threatened but is not successful. For example, simply asking for sex with a child is a prohibited act.



Note that under both definitions, sexual exploitation can occur between males and females, and also amongst those of the same sex. The SGB includes homosexual sexual exploitation and abuse.



Possible question for trainees:

Is it necessary to apply force for sexual abuse to occur?

According to the SGB sexual abuse occurs when there is: “The actual or threatened physical intrusion of a sexual nature, which can occur by force, under unequal conditions, or under coercive conditions.” This means that actual force isn’t necessary for sexual abuse to occur. It can also occur where there are unequal conditions or coercive conditions.

Can you provide examples of unequal conditions?


Elicit several of examples, e.g. adult-to-child.


Can you provide examples of coercive conditions?


Elicit a couple of examples, e.g. an contingent member refusing entry to an IDP camp unless a beneficiary/protectee agrees to sex, or a contingent member allowing a beneficiary/protectee to flout other rules within an IDP camp in exchange for sex.

What if the person consents? Even if it is a vulnerable woman, if she is an adult and agrees to have sex with a contingent member is this okay?

Elicit: persons who are vulnerable or have less power may not know or feel that they can refuse to have sex; the vulnerable may see sex as a commodity to obtain survival items, such as food or security (referred to as —survival sex), but it is not for UN personnel to take advantage of their desperation. Even those who —voluntarily engage in sex work are often doing so because of limited opportunities to support themselves and/or their families in other ways. Again, it is not for UN personnel to take advantage of this.

 **Note** that consent, or what is often referred to as informed consent, is not mentioned in the definitions and is irrelevant. NIO trainers may wish to clarify that informed consent entails 1) the person giving consent understands the implications of that to which he/she is agreeing; and 2) the person giving consent understands and is able to exercise his/her right to say —no.


 **Children** (persons under the age of 18 according to the standards set forth in the Convention on the Rights of the Child) are unable to give consent because they do not have the maturity to understand the implications of that to which they are agreeing. In the case of adults, even if an adult gives informed consent for sex, it can still constitute sexual exploitation or sexual abuse if the other conditions—such as unequal and/or coercive conditions exist.


 Instructors may wish to highlight that some language in the definitions, such as **position of vulnerability** and **differential power** have been criticised as being somewhat vague and therefore difficult to apply and/or enforce. Instructors may wish to spend some extra time in discussing how these aspects of the definitions might be interpreted.


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Specific Prohibited Acts

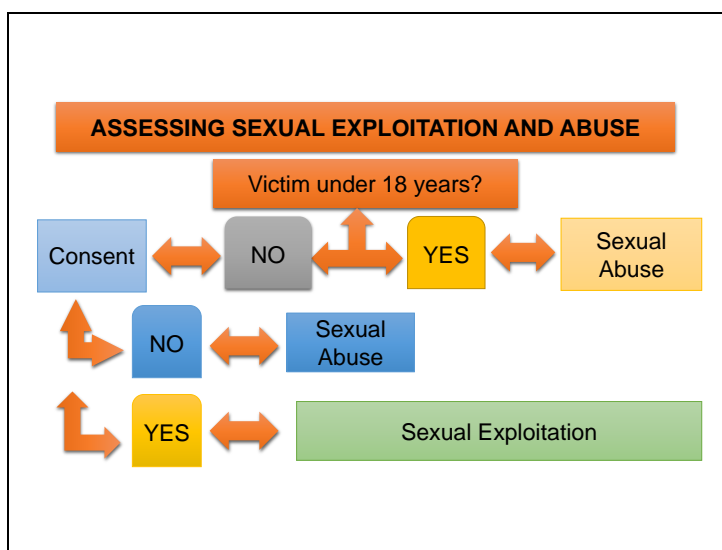
- Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defence
- Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited. This includes any exchange of assistance that is due to beneficiaries of assistance
- Sexual relationships between UN personnel and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the UN and are strongly discouraged

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This flow chart depicts shows how SEA is assessed in terms of the age of the victim (adult or child), and the issue of consent in relation to adult victims that result in either the allegation being classified as sexual assault (no consent) or sexual exploitation (consent). Child victims cannot consent to sex acts, meaning that all SEA allegations involving children will always be assessed as acts of sexual abuse.

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Questions?