

1. Procedures:

a. Electronic Data:

i. Unless otherwise stated in an applicable policy/regulation, it should be understood that all EIB IT systems are the property of the EIB and therefore subject to any procedure to preserve and obtain the electronic data. It is not clear why the procedure to gather electronic data from such property should need the approval of the director of HR. Could you please clarify if the data subject to this approval is related to "personal data", in which case obtaining such data is subject to national jurisdiction and not to the EIB procedure?

ii. If the procedure to obtain electronic data from EIB IT systems needs to be performed in the field, such prior approval from the director of OHR (I assume he/she is based in HQ) may impede the investigator from preserving the data and could delay the entire process and/or jeopardize the evidence. This prior approval by the director of OHR may need to be revisited in the policy.

b. Information from witnesses:

i. There is no distinction between witnesses and subjects of an investigation in this section. It seems that the procedure treats them equally. For procedural and legal purposes, the information obtained from a witness and that of a subject of an investigation have a different context. I assume that you have indicated in paragraph 21 (b) –it may be a typo and should be (c)-, that the discretion to give access to the written record of the interview was based on the provisions of paragraph 25 (a, b). Although it may be your call, this provision may be in contravention to due process and may create future conflicts if the investigation findings are challenged. As a best practice, any written record of a suspect's interview should be available at any stage of the process. On the other hand, the provisions of paragraph 25 (a) may be seen a biased if the findings of the investigation are challenged by the subject of an investigation. This characterization of a subject may need to be revisited in the policy.

c. Decision whether to open a case:

i. I think there is a typo in paragraph 12, and it should include he/she.

2. Policy:

a. Basic Principles:

i. From the EIB various code of conducts, I could not find a definition or indication to "non-staff members". Although the EIB may not have one, I think this section of the policy should include not only staff members and business partners but also non-staff members. In the UN system, those non-staff members are consultants (temporary), service contract holders (drivers, project personnel, etc) that just have a contractual relationship with the Organization to provide certain services. Even though they are not considered staff, they are considered "personnel" and are obliged to the provisions of the code of conduct.

- b. (C) Anti-fraud Measures:
- i. Same comment as above.
 - ii. The policy does not include a “proactive investigative work” by the IG/IN. Although it was addressed in the previous responses of the first round, I couldn’t find any indication of such work in the OCCO charter, the integrity policy or the code of conducts (staff, board of directors, audit committee, etc). We all assume that we get the best staff and in accordance to the highest standards of ethics, but unless the IG/IN is only going to conduct reactive investigations, I think the policy should consider such proactive investigative actions that does not necessarily fall into voluntary disclosure programs or due diligence work.
 - iii. If OCCO is responsible for the administration of the code of conduct, then does it means that IG/IN only conducts investigations related to financial fraud? Are misconduct and harassment/sexual exploitation being addressed by IG/IN or is this done by OCCO, including any investigations?

