



Independent observer
of the Global Fund

OIG REPORT ON ITS INVESTIGATION OF MISCONDUCT AFFECTING GLOBAL FUND GRANTS

On 19 March 2021, the Office of the Inspector General (OIG) published its report on its [investigation of misconduct affecting Global Fund grants](#).

Background

The Global Fund's financial support to the Ghana Network Association of People Living with HIV (NAP+) began in 2010. From 2015 to 2019, NAP+ implemented two community-led support and advocacy programs as a Sub-sub-recipient (SSR) of grant funds and an organisation delegated by the Sub-recipient (SR) to implement Global Fund activities.

The two NAP+ programs offered support, education, and advocacy services to people recently diagnosed or living with HIV (PLHIV), delivered by thriving PLHIV living within the same communities.

Selection for the NAP+ program brought a monthly stipend of 450 GHS (\$1,755) or 670 GHS (\$261), respectively. Those selected regularly attended training, designed to empower them and equip them with earning potential. This training included food and accommodation, as well as a travel allowance. Although not the intended use, many participants relied ? and still do –on the stipend and associated benefits to support themselves and their families.

In July 2019, the Global Fund Secretariat received an allegation that multiple executives at NAP+ were demanding sex acts from HIV program participants as a condition of access to benefits. OIG duly opened an investigative assessment in response. After several months of Geneva-based assessment that failed to produce any specific, first-hand information, OIG determined that in order to identify potential victims and

witnesses, investigators needed to travel in country, where evidence and potential witnesses would be located. This allowed the opportunity to build trust, establish rapport, and facilitate real-time access to appropriate services.

In December 2019 and July 2020, supported by the Ghana Police Service's Domestic Violence and Victim Services Unit, OIG undertook successive investigative missions, the latter a remote mission due to COVID-19 travel restrictions. While the scope of the investigation was initially limited to a sampling of participants in one grant program, the investigation's ambit was widened to include the second program and NAP+ as a whole.

Throughout, OIG undertook a victim-centred, trauma-informed investigation. Consistent with a "do no harm" mandate, OIG provided all witnesses with a description of the investigation's scope and an explanation of the purpose of an administrative investigation. OIG apprised all witnesses that their participation was voluntary and explained OIG's commitment to anonymity and victim support.

Impact and actions taken

The investigation prompted both immediate and long-term action; specifically, with respect to NAP+ and those exploited, and more broadly, with respect to the Global Fund as an organisation.

From December 2019, OIG and the Global Fund's Ghana Country Team worked with the Ghana Police Service's Domestic Violence and Victim Services Unit and the Principal Recipient (PR) of grant funds to connect those impacted by sexual exploitation and abuse with appropriately tailored support systems, including gender-based violence counselling and specific support to address safeguarding. That same month, the Global Fund suspended funding to NAP+ pending the outcome of the investigation. Implementation of the two affected grant programs was transferred to ensure continuity of those programs and the associated stipends and is now overseen by different grant recipients. In January 2020, the Global Fund re-allocated grant resources to provide ongoing supervision, legal counsel, and capacity building for all program participants at risk of exploitation and abuse. In February 2020, NAP+ removed the executives under investigation and later held elections to replace them.

The Ghana Country Team identified and addressed the sensitive issues that arose during the investigation, taking immediate action. At the end of 2020, the Country Team began a review of legal contracts, Codes of Conduct, and related PR/SR policies, and will ensure that ethical obligations are conveyed and cascaded down to all recipients of funds in the new grant cycle.

In March 2021, OIG published an information video on its www.ispeakoutnow.org platform, raising awareness of the Global Fund's zero tolerance for sexual exploitation and abuse (but not harassment) and educating grant implementers on SEAH matters.

At an organizational level, in February 2020, the Global Fund had created a SEAH Review Panel, which meets quarterly to oversee the response to all allegations of SEAH within the organisation and the programs it supports. In October 2020, a Prevention of Sexual Exploitation, Abuse, and Harassment (PSEAH) Working Group was set up. This group has been instrumental in proposing revised language to specifically prohibit SEAH in the Codes of Conduct for Recipients, Suppliers, Country Coordinating Mechanisms (CCMs), and Governance Officials. Those revisions took effect in February 2021.

On 28 January 2021, the Secretariat reiterated to the Global Fund Board's Ethics and Governance Committee a commitment to 2021 implementation of the revised Codes of Conduct through communication, training and certification, intake case management and investigations, risk assessment, and a PSEAH framework.

The Agreed Management Actions (AMAs) resulting from this investigation supplement related,

outstanding AMAs from two 2019 OIG audits which had highlighted the need for:

- A framework related to harassment, including sexual harassment, bullying and abuse of power in the context of Global Fund programs;
- A review of the Codes of Conduct and Policies within the Ethics and Integrity Framework; and
- A comprehensive implementation plan to operationalise the Policy to Combat Fraud and Corruption.

The current AMAs demonstrate the renewed promise of the Global Fund to address SEAH in its portfolios, as follows:

- Communication to PRs and CCMs as to the specific prohibition against SEAH and the Global Fund's expectations;
- Tailored Global Fund staff training;
- An organisational framework for the PSEAH;
- A portfolio-wide PSEAH risk assessment and intervention response; and
- A review of all legal agreements currently in force between PRs and SRs in Ghana for inclusion of language prohibiting SEAH.

Investigation findings

The report lists three main findings:

1. Abuses of power fostered a culture of sexual and financial exploitation at NAP+.
2. The Global Fund's policy framework in relation to sexual exploitation and abuse is inadequate.
3. Critical oversight gaps at recipient level must be addressed.

The abuse culture at NAP+

Multiple NAP+ executives demanded that program members engage in sexual conduct or provide financial kickbacks in order to access events and benefits supported by grant funds, which constituted corrupt and coercive practices. The executives tacitly and openly enabled each other to perpetuate an exploitative and abusive culture.

The report explains that nine witnesses were willing to share experiences of sexual exploitation and abuse but none admitted that, in their cases, this resulted in actual sexual activity. However, many witnesses named other women who had allegedly acquiesced to the NAP+ executives' sexual demands. One witness explained that program participants were likely to be "afraid of being exposed." In that witness' view, any woman who was discovered to have confided in OIG risked exclusion from subsequent opportunities or access to future benefits from NAP+. OIG shares this witness' conclusion that the incidence of SEAH was under-reported due to the fear of retaliation, given the strong consensus across witnesses as to sexual exploitation and abuse in the program, and the actual incidents of retaliation that OIG was able to document. OIG also highlights the widely held understanding that SEAH is generally underreported due to a myriad of other factors, including fear, shame, societal pressure, and historical disenfranchisement.

OIG additionally found that at least eight program participants had been financially exploited by at least seven NAP+ national and regional executives in connection with Global Fund grant activities; and 13 witnesses corroborated the overall culture of financial exploitation at NAP+.

Additionally, three NAP+ executives threatened witnesses through phone or text messages in an endeavour to prevent them from speaking to, or as retaliation for speaking to, the OIG. OIG investigators collected digital evidence in support of the witnesses' testimony in this regard.

Without explanation, NAP+ also failed to grant OIG "unrestricted access" to program books and records, namely, potentially corroborative attendance records, despite clear language in the Grant Agreements with the respective PRs requiring such access to be granted. OIG made three written requests for access to records of event attendance; NAP+ did not reply to the first two requests and – after a change in leadership – partially complied with the third.

The behaviours of the NAP+ executives, as representatives of NAP+, constituted corrupt, coercive, collusive, obstructive, and retaliatory practices with respect to the use of grant funds and the OIG investigation.

SEAH are inadequately addressed in Global Fund policy documents, contracts, risk registers, and due diligence tools

During the events in question and throughout the course of the investigation, Global Fund policy or contractual documents, such as grant agreements, did not specifically define or prohibit SEAH. Instead, they prohibited coercive, corrupt, and collusive practices, all of which implicitly include SEAH. As a result, SEAH-specific ethics and integrity requirements were not adequately detailed or cascaded down to grant implementers.

Similarly, the Global Fund's Ethics and Integrity Framework does not address prohibitions against SEAH and the Policy to Combat Fraud and Corruption governance document does not adequately address SEAH.

The report states that, viewed as a whole, the Global Fund policy and contractual prohibitions in place during the events in question and throughout the course of the investigation prohibiting coercive, corrupt, and collusive practices did not specifically prohibit acts of SEAH at the recipient level. As written, grant recipients were required to interpret the existing prohibitions to understand that forms of SEAH were prohibited by the grant agreement. However, it would encourage effective prevention, detection, and response if the prohibitions were specific and explicit so that all implementers could more simply understand and adhere to them.

Moreover, in the absence of an overall SEAH framework at the Global Fund, the OIG was required to serve simultaneously as investigator and victim advocate throughout this investigation, providing for victim support and victim advocacy whilst also pursuing its investigation. The report notes that best practices dictate that these roles should be separated yet act in concert with one another.

In 2018, the Global Fund committed to review, and where necessary strengthen, internal standards and due diligence tools, to update functional SEAH prohibitions to include clear and specific language on SEAH. While work had commenced in this area – and as of February 2021 the Global Fund's outward-facing governance and contractual documents specifically address SEAH – the Global Fund had not yet articulated an adequate framework to mitigate and address SEAH.

In its March 2019 internal audit report, Global Fund Human Resources Management Processes, the OIG highlighted that the policies and procedures related to sexual harassment, bullying, and the abuse of power needed significant improvement. The audit resulted in the Secretariat's commitment to build a framework to address the issues underlying sexual exploitation and abuse in its programs.

In the September 2019 internal audit report, Managing Ethics and Integrity at the Global Fund, the OIG

similarly warned that, because issues of harassment and retaliation were not specifically prohibited in the Code of Conduct for Grant Recipients or the Code of Conduct for Suppliers, “inconsistencies and gaps in coverage of key requirements and stakeholders within the Ethics and Integrity landscape create ambiguity on the expected behaviours and conduct of some key Global Fund stakeholders”. In that report, OIG highlighted the critical need for a comprehensive, risk-based implementation plan to operationalise the Policy to Combat Fraud and Corruption as applied to implementers. The report resulted in the Secretariat’s agreement to update the codes of conduct, to create a risk-based anticorruption implementation plan, and to operationalise internal policies related to fraud and abuse in its programs.

PR and SR oversight over was inadequate to ensure adherence to Global Fund grant regulations

The PR (Ghana-West Africa Program to Combat AIDS and STI – WAPCAS), SR (Hope for Future Generations – HFFG), and NAP+ each failed to provide SEAH training and awareness or reporting channels to their program participants or onward recipients and suppliers.

On multiple occasions over several years, program participants reported issues of sexual and financial exploitation to NAP+ executives and others in positions of power. Their reports were either ignored or not met with any kind of serious inquiry. These allegations were not shared with the Global Fund until the report that initiated this investigation. NAP+’s purported attempts to investigate failed to identify or address any of the systemic issues uncovered by the OIG.

Global Fund Grant Regulations require a PR to ensure that the Code of Conduct for Recipients is communicated to all SRs. While the 2018 memorandum of understanding between NAP+ and HFFG was functionally a SSR contract, the document failed to include the required contractual clauses on ethics and integrity requirements. Neither WAPCAS nor HFFG provided NAP+ with the Code of Conduct for Recipients or any other Global Fund guidance, as required under the Grant Agreement. They also did not give NAP+ or the program participants any guidance regarding how to report issues of wrongdoing to the OIG. As a result of this investigation, WAPCAS now conducts an awareness-raising, “Speak Out Now” presentation to its program participants.

Had the deficiencies raised above been addressed earlier in line with the OIG’s Agreed Management Actions, WAPCAS and HFFG would have been better positioned to communicate the Global Fund’s zero tolerance for SEAH to NAP+ as part of the contracting process. It is also more likely that program participants would have known how to report instances of abuse, with confidence that their privacy and support needs would be met. Swifter action by the Global Fund is required to remedy these gaps in grant management.

Agreed management actions

In the light of this investigation, seven Global Fund management actions have been agreed with the Secretariat:

1. The Secretariat will communicate to all PRs and CCMs the updated prohibitions against SEAH in funding agreements and codes of conduct, as well as the actions to be taken as part of their PSEAH obligations.
2. The Secretariat will complete the first annual cycle of trainings for relevant Global Fund staff, tailored to their specific roles.
3. The Secretariat will develop an operational framework to clarify accountability and expectations around the prevention, detection and response to SEAH within the activities supported by the Global Fund. This PSEAH framework will be consistent with international best practices as they may be relevant to the Global Fund’s operating model, notably the Multilateral Organisation Performance Assessment Network (MOPAN) Good Practice Note on PSEAH and the Development Assistance

Committee (DAC) of the Organisation for Economic Cooperation and Development' (OECD) Recommendation on PSEAH. The framework will also integrate the outcome of the third agreed management action of the OIG Audit of Global Fund Human Resources.

4. The Secretariat will assess risk and commence prioritised interventions required for a robust PSEAH operational plan across the portfolio.
5. The Secretariat will develop a costed action plan to scale up interventions, to be included as part of the 2022 operating expenses (OPEX) submission to the Audit and Finance Committee (AFC) and the Board.
6. Following the communication noted in the first agreed management action, the Secretariat will proactively engage with the PRs and the CCM members in Ghana regarding the expectations and actions to be taken as part of their obligations on PSEAH. The Secretariat will further review legal agreements currently in force between grant recipients and SRs in Ghana for inclusion of language prohibiting SEAH.
7. The Secretariat will develop a framework related to harassment, including sexual harassment, bullying and abuse of power in the context of Global Fund program. This framework will cover the wider stakeholder environment of the Global Fund (including CCMs, implementers, suppliers and others) and define and clarify the roles and responsibilities across different functions within the Global Fund including the Grant Management Division (GMD), Ethics Officer and OIG.

Observations

This OIG investigation report is essential reading for anyone working on any HIV program. It draws a disturbing picture of the harrowing situation vulnerable people in a Global Fund 'key population' find themselves in; and why they were reluctant to be candid.

This report is important because its findings have global significance and implications way beyond NAP+ and the Global Fund-supported program in Ghana.

It is understandable that the OIG would not want the subject background to be too long and has confined some of its work coverage to two annexes. OIG report annexes are not usually of great interest to outside readers but, for this report, the annexes are fundamental to appreciating the scope, findings and limitations of OIG's investigation. Indeed, Annex 1 is best read before going through the investigation findings. It makes the reader appreciate that there are aspects of the investigation that the OIG cannot reveal in order to preserve confidentiality and protect victims from reprisals.

The report highlights shortcomings of provisions in contracts – between the Global Fund and PRs, PRs and SRs, and between SRs and SSRs ? with respect to SEAH and draws attention to where changes are needed. And it is possible that similar changes, providing more specificity, are required similarly to cover other forms of abuse, exploitation and inappropriate activity.

A major lesson is that it must be a requirement for every SR and SSR to make clear to persons to whom they provide services that those persons have the right to raise, on a confidential basis, concerns about access to services or abuse of any kind with, respectively, the PR or SR and, if necessary, with the CCM and Global Fund itself.

The report notes that PR and SR oversight was inadequate; but this is one aspect that needs greater attention. There is no doubt about the importance of articulating SEAH issues in contract arrangements; but more important is the need to improve monitoring that will identify misconduct at an early stage. The reality is that, however detailed and comprehensive contract documentation may be, whenever cash or other benefits of any kind are involved, someone will be tempted to exploit the situation; and that is true

anywhere in the world in any form of activity. In the case of HIV programs, a major difficulty facing most of them is how to reach key populations and deliver the necessary services to them. Overcoming stigma and prejudices takes a long time, as does winning the confidence and trust of affected persons. Observance of the experience and obtaining the views of members of key populations is essential for keeping interventions on track and scaling them up. Therefore, whenever an organisation is contracted to deliver services to a key population, it should be mandatory for independent reviews to be carried out, on a non-routine basis, to ascertain the views of some of the service beneficiaries to confirm their satisfaction. Surely it will become a requirement for all PRs and SRs to do this?

This OIG report does great service in highlighting the slowness of the Global Fund in fully implementing already agreed actions with respect to SEAH. It is to be hoped that the agreed management actions set out in this report will be fully acted upon as quickly as possible.

Given the sobering lessons of this OIG report, it should not simply be filed but be used for training purposes on dealing with and protecting members of key populations.

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