

Guidelines for the Prevention of Sexual Misconduct

DND*i* POLICIES



Contents

I.	Introduction and purpose.....	2
II.	Scope of application	3
III.	Definitions.....	3
IV.	Guidelines	4

I. Introduction and purpose

1.1. DND*i* is a Swiss not-for-profit foundation whose mission is to develop new treatments for neglected patients and diseases, and to provide collaborative, patient-focused, needs-driven, drug research and development (R&D) solutions for those who are vulnerable. The foundation wishes to set standards of behaviour that all DND*i* members are required to adhere to, with the understanding that we wish to foster a diverse, inclusive and tolerant workplace, and to provide assistance to those who need help. The purpose of this document is not to try and impose any cultural sense of morality, but to provide generally acceptable guidelines with respect to preventing Sexual Misconduct and other forms of inappropriate behaviour of a sexual nature, to protect those people who are vulnerable with whom DND*i* members may interact in the course of their professional activities. These guidelines are not to be read as a stand-alone document, but as part of DND*i*'s Human Resource's framework of policies and guidelines¹, and in view of developing a full Code of Conduct for release in 2020.

1.2. With a global team bringing together experienced professionals from diverse backgrounds, including academia, non-profit organizations, the private sector and public institutions, and having established offices and workplaces around the world, DND*i* welcomes and appreciates the multicultural nature of its workforce. The organization seeks to ensure that this diverse team's members continue to interact with each other in a spirit of collegiality and inclusiveness, thereby contributing to the organization's strength and its ongoing source of innovation.

1.3. DND*i* is committed to creating and maintaining an environment that values human dignity and equal treatment without any distinction with respect to certain Protected Characteristics as defined below. Accordingly, DND*i* has developed these Guidelines:

- a) to Safeguard (as defined below) and to prevent abuse and exploitation of its Members, Participants (as defined below), the DND*i* Community, and any other persons who may be vulnerable with whom DND*i* Staff may have contact;
- b) to enhance the likelihood that every DND*i* member feels valued, respected and safe to report concerns regarding potential incidents of sexual misconduct and other forms of inappropriate behaviour a sexual nature and to provide information in investigations without fear of retaliation or negative consequences for his or her career within the DND*i*; and
- c) to enhance the integrity of the engagement among DND*i* members, Participants and partners, including donors, and others.

¹ Please refer to DND*i*'s Global Staff Guidelines, and the Sections entitled "Employee Relations" and "Equal Opportunities"

II. Scope of application

2.1. DND*i* members are expected to contribute to building a harmonious workplace and working relationships based on team spirit, dignity, caring, fairness, respect, tolerance, equality and understanding based on DND*i*'s values. All are equally expected to uphold the dignity of all persons with whom they come into contact, especially those who are vulnerable, by ensuring that their personal and professional conduct is of the highest standards at all times. These Guidelines are applicable to, and binding upon, all DND*i* members.

III. Definitions

3.1. "**Anything of Value**" means any benefit, consideration or item of pecuniary value, including but not limited to: money, gifts, travel, medical treatment, educational or living expenses; meals, lodging, shopping or entertainment expenses.

3.2. "**Community**" means socio-economic groups of people that DND*i* aims to help through its programs.

3.3. "**Discrimination**" means the unjust or prejudicial treatment of any person or categories of people on the grounds of any of the Protected Characteristics.

3.4. "**Harassment**" is defined as improper and unwelcome conduct by a Staff member or non-Staff personnel against another Staff member or non-Staff personnel or a group that has or that might reasonably be expected or be perceived to cause offence or humiliation to another or has the purpose or effect of violating an individual's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive working environment for him/her.

3.5. "**Misconduct**" means any conduct that violates DND*i* policies or guidelines or applicable laws or regulations, for which sanctions may be imposed by DND*i*, or any act of Discrimination, Harassment, exploitation, violence, abuse, or coercion, whether of a sexual nature or otherwise.

3.6. "**Participants**" means patients or subjects who are involved in or are likely to be involved in DND*i*-sponsored clinical trials, including members of their families.

3.7. "**Protected Characteristics**" means age, civil partnership, disability, ethnicity, health condition (physical or mental), gender, gender reassignment, maternity/paternity, mental capacity, mother tongue, nationality, origin, physical appearance, political affiliation, pregnancy, race, religion, sexual orientation, social class.

3.8. "**Safeguard**" means, in its broad sense, to protect people and their environment from harm. More specifically, in the context of DND*i*'s operations, it means to prevent harm caused by abuse, exploitation, harassment, mobbing or bullying, or other forms of inappropriate behaviours, whether of a sexual nature or otherwise, by an employee, consultant or other member of staff.

3.9. “**Sexual Harassment**,” as one form of Harassment, is understood as any unwelcome sexual advance, request for sexual favour, or other verbal or physical contact of a sexual nature when such conduct either:

- a) has the purpose or effect of creating an offensive, hostile or intimidating environment or interferes with an individual's job performance (examples include, but are not limited to, offensive pictures, cartoons, symbols, or apparatus in the work environment of member of Staff); or
- b) is made a term or condition of employment or compensation (or in the case of a potential Participant a condition for enrolment in a clinical trial or for receiving medical care), either implicitly or explicitly, or when a hiring or promotion decision is based on an individual's acceptance or rejection of such conduct.

3.10. “**Sexual Exploitation and Abuse**” refers to an abuse of authority, trust or a situation of vulnerability for sexual ends in exchange for Anything of Value, or the profiting monetarily, socially or politically, from the sexual exploitation of another.

3.11. “**Sexual Violence**” refers to acts of a sexual nature committed against any person by force, threat of force or coercion. Sexual violence encompasses acts such as non-consensual or coerced sexual acts, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other conduct of comparable gravity. “Coercion” includes not only a show of physical force but can also be caused by fear of violence, duress, detention, psychological oppression or abuse of power, or by taking advantage of a coercive environment or of a person’s incapacity to give genuine consent (e.g., when dealing with a minor).

3.12. “**Sexual Misconduct**” means any form of Sexual Harassment, Sexual Exploitation and Abuse, or any other form of Sexual Violence.

3.13. “**DND/members**” refers to (or includes) any member of DND’s Board of directors and staff: (employees, consultants, interns, volunteer, fellows, seconded employees).

IV. Guidelines

4.1. General: Harassment and Discrimination may take different forms. They may be present in the form of words, gestures, electronic communication forms, or other actions that annoy, alarm, abuse, demean, intimidate, belittle, cause personal humiliation or embarrassment to another, or cause an intimidating, hostile or offensive work environment. They may be deliberate, unsolicited, or non-coercive. They will often consist of a series of incidents but may be brought about by a single incident as well.

4.2. DNDi's Commitment: DNDi is committed to provide a work environment that is professional and free from Discrimination, Harassment, intimidation, hostility or other offenses that might interfere with work performance or the dignity of any human being, and that is particularly mindful of those who are vulnerable. Harassment or Discrimination of any sort, whether verbal, physical or visual, regardless of whether it involves co-workers or anyone else, will not be tolerated and is prohibited. DNDi members are expected:

- a) to behave in accordance with DNDi's values and create and maintain an environment which prevents any form of Discrimination or Harassment;
- b) to treat their colleagues, whether supervisors, peers or subordinates, all Participants, as well as other people with whom they come into contact while under employment or contract with DNDi, with dignity, caring, fairness, respect, tolerance, equality and understanding;
- c) not to engage in any form of Harassment or Discrimination, whether physical or verbal, by intimidation, favouritism, or exploitative relationships;
- d) to assess within their areas of responsibility the risks related to Harassment and Discrimination, with a view to putting in place appropriate measures to prevent such violations from occurring; and
- e) to report all incidents of Harassment and Discrimination as well as the suspicion of their occurrence.

4.3. Safeguarding: Given DNDi's respect for all people, the organization – and all those who work for it -- have a duty of care towards others. DNDi is committed to: (i) providing a safe and trusted environment for its members and anyone who works with the organization or is under the organization's care; (ii) nurturing an organizational culture that accepts everyone's accountability for the safety and well-being of others; (iii) maintaining adequate policies and procedures for safeguarding DNDi's members, patients and everyone with whom the organization works , and ensuring that its policies and procedures, as well as the contents of these Guidelines, are well communicated, understood, and accepted; and (v) providing a structure and an escalation process that ensures that secure reporting channels are available for all levels of the organizational hierarchy.

Note: the mere expression of disagreement, admonishment, criticism or similar action regarding work performance, conduct or related issues within a supervisory relationship will not normally be considered Harassment or Discrimination within the meaning of these guidelines if it is based on objective grounds. Any such work-related disagreement or expression of disagreement is dealt with under separate Human Resources guidelines.

4.4. Sexual Misconduct or inappropriate behaviour of a sexual nature: DND*i* condemns and prohibits all forms of Sexual Misconduct or inappropriate behaviour of a sexual nature. The following sets forth additional guidance:

- a) Sexual Harassment in the workplace is a type of harassment that relates to a sexual nature and the unwelcome or inappropriate promise of rewards in exchange for sexual favours, or an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances. A one-time incident may fall within the definition of Sexual Harassment if it has been perceived by the victim or by surrounding observers to be of an unambiguously offensive sexual nature. Sexual harassment can involve people of any gender.
- b) Exchange of Anything of Value for sex, sexual act or for any inappropriate physical contact is prohibited whenever acting or travelling in a professional capacity, which includes on travel missions, secondments, postings, etc. DND*i* members are prohibited from using the services of sex workers when acting or travelling in a DND*i* capacity where such services are likely to be exploitative or involve people who are vulnerable.
- c) Sexual activity with vulnerable people, such as children or adults unable to give consent is prohibited, regardless of the local legal age of majority or age of consent. (The World Health Organization provides that sexual relations with a human being below the age of 18 years constitutes a form of sexual exploitation and abuse.) Mistaken beliefs in the age of a child or ability of an adult to consent are not a defence.
- d) A sexual relationship between a DND*i* member and a Participant is prohibited. Any relationship that was present prior to the Participant's involvement in a clinical trial must be declared and the Participant's involvement will be considered on a case-by-case basis by DND*i*'s senior management responsible for the clinical trial.
- e) A sexual relationship between a DND*i* member and a member of the Community (who is not a Participant) is prohibited if it is exploitative. Whether a relationship is exploitative or not has to be determined according to the specific circumstances of each individual case. Are the interests in the relationship reciprocal? Is there an abuse of a position or of a vulnerability? How much control over his/her personal circumstances does each of the persons have? The greater the difference in level of control over personal circumstances between the parties, the stronger is the indication that the relationship is of an exploitative nature and likely to be Sexual Misconduct.
- f) It is inappropriate behaviour of a sexual nature for DND*i* member to produce, procure, distribute or use pornographic material in any DND*i* workplace or on any DND*i* equipment, including reading/surfing pornographic websites or message boards or sending or engaging with pornographic emails or text messages.

4.5. **Effect of Violations of these Guidelines:** Sexual Misconduct or inappropriate behaviour of a sexual nature constitutes serious Misconduct and is therefore grounds for disciplinary action up to and including immediate termination or dismissal for cause.

4.6. **Reporting:** The grave consequences that Sexual Misconduct by DND*i* members carry for victims and DND*i*'s ability to operate make it necessary that all concerns or suspicions of Sexual Misconduct are managed properly, so that any such harmful behaviour can be stopped, and victims receive the necessary assistance. As such, when a DND*i* member has a good faith concern or suspicion regarding Sexual Misconduct by another DND*i* member, **(s)he must report such concerns** in accordance with the options provided in DND*i*'s Safeguarding Dispute Resolution Processes.). It is not necessary to be sure or to have proof before reporting a concern, as long as the concern is in good faith. DND*i* members, including managers, should not take it upon themselves to investigate allegations in order to obtain proof before reporting. All good faith concerns or suspicions must be reported. Further, all DND*i* members should actively identify and report risks in DND*i* programs that they genuinely believe could present a risk of Sexual Misconduct.

4.7. **Confidentiality:** Confidentiality is particularly important during the reporting of potential incidents of Sexual Misconduct in order to ensure that the rights and dignity of victims are respected, that those with information are not hesitant to come forward, and to avoid damaging the reputation of individuals, workplaces, projects or organizations by the premature disclosure of allegations. As such, the number of people who are informed about any reported complaint should be kept to a minimum, although other persons believed to be vulnerable and likely to become victims may be informed of the disclosing person's concerns. In particular, the identity of any person or entity reporting observed or suspicions of Sexual Misconduct must be kept confidential.

4.8. **Investigations:** DND*i* will investigate promptly any complaint of Sexual Misconduct and will take immediate and appropriate disciplinary action if Sexual Misconduct has been found. The organization is committed to investigate with due regard for the privacy of everyone involved.

4.9. **No Retaliation:** DND*i* is committed to avoid any retaliation against victims and any person acting in good faith who reports on Sexual Misconduct, whether by DND*i* member, or who cooperates in a Sexual Misconduct investigation carried out under the authority of DND*i* or working with a DND*i* Ombudsperson. Allegations made in bad faith, which include malicious or seriously reckless allegations, however; shall be deemed to be a form of Misconduct.

4.10. **Anonymity:** Reports received from anonymous sources may be assessed by Human Resources or external advisors and may lead to an investigation, if they include sufficient detail to allow for independent corroboration of the information provided.

4.11. **Training and Raising Awareness:** DND*i* is committed to ensuring that effective sensitization and training measures are continuously developed and implemented with the aim to provide guidance and increase awareness of the risks of Sexual Misconduct or other inappropriate behaviour of a sexual nature and to develop skills for understanding, detecting, preventing and reporting any form of Sexual Misconduct or other forms of inappropriate behaviour of a sexual

nature by any DND*i* member. These trainings and sensitization courses are to be conducted at regular intervals in all DND*i* workplaces.

4.12. Prospective Staff Screening, Staff Monitoring and Provision of References: In order to minimize the risks of hiring someone who might engage in Sexual Misconduct while acting as a DND*i* Staff member, or retaining someone who might be engaged in Sexual Misconduct, or of facilitating the hiring by another employer of Staff found to have committed Sexual Misconduct while a DND*i* member, the Director of Human Resources and Organisation shall, in compliance with applicable laws:

- a) ensure that the organization is recruiting individuals that meet the standards of conduct expected of Staff, by incorporating a number of safeguards into the recruitment process, including professional experience, academic checks, and vetting and reference checks. In line with best practices adopted by other international humanitarian organizations², this means that prospective Staff will be asked to confirm in writing whether they have ever been found to have engaged in Sexual Misconduct or inappropriate behaviour of a sexual nature in the past, and to consent to the disclosure of all information regarding any misconduct or other inappropriate behaviour of a sexual nature that led to the termination of their employment or consultancy relationship by their former employer, to facilitate the verification of references;
- b) ensure that the organization is regularly monitoring the performance of staff through appropriate evaluation processes with managers. This evaluation process should include the competencies and responsibilities related to compliance with, and the responsibilities outlined in, these Guidelines; and
- c) notify an inquiring prospective employer of a former DND*i* member of any findings of Sexual Misconduct in such person's employment record at DND*i*.

4.13. Safeguarding Dispute Resolution Processes: Any allegation of Sexual Misconduct or inappropriate behaviour of a sexual nature may give rise to a Safeguarding Dispute Resolution Process as described in Annex A. DND*i* has established these processes to provide informal and formal resolution processes to address allegations of Sexual Misconduct and other forms of inappropriate behaviour of a sexual nature as soon as possible, in a fair and respectful manner, and to prevent situations from deteriorating or escalating, or in which parties can become inappropriately adversarial or seek to create hostile coalitions. These resolution processes are provided in the Safeguarding Dispute Resolution Processes.

² See, e.g., Inter-Agency Standing Committee (IASC) Good Practices "Summary of Preventing Sexual Exploitation and Abuse and Sexual Harassment and Abuse of Aid Workers" (May 31, 2018), at page 8.