

# Safeguarding Dispute Resolution Processes

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DNDi POLICIES

**DNDi**  
Drugs for Neglected Diseases *initiative*

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## DNDi/s Safeguarding Dispute Resolution Processes (SDRP)

This document is a complement to DNDi's Code of Conduct and DNDi's Guidelines for the Prevention of Sexual Misconduct and the Global Staff Guidelines. The Safeguarding Dispute Resolution Process describes the informal and formal dispute resolution processes established by DNDi which safeguard staff, patients or subjects who are involved in or are likely to be involved in DNDi sponsored clinical trials including members of their family, and the broader DNDi community<sup>1</sup> from abuse or exploitation, harassment, mobbing or bullying, or other forms of inappropriate behaviour, whether of a sexual nature or not, by a member of DNDi. These actions are grouped and named as "Safeguarding offences". Whether an informal or a formal complaint process is chosen, **all presumed offences relating to failure to safeguard these persons must be brought to the attention of the Human Resources and Organization Director and/or a DNDi Ombudsperson.**

### 1. Definitions

- 1.1. **"Offended"** means a person who believes they have been the victim of a Safeguarding Offence. ("**Safeguarding offences**").
- 1.2. **"Observer"** means a person (could be a DNDi member, a participant<sup>2</sup> to DNDi's program, or a member of DNDi's community) who observes behaviour which (s)he believes in good faith amounts to a Safeguarding offence.
- 1.3. **"Offender"** means the person whose behaviour is believed to constitute a Safeguarding Offence.
- 1.4. **"Safeguarding Offence"** means the abuse, exploitation, harassment, mobbing or bullying, or other forms of inappropriate behaviours, whether or a sexual nature or otherwise, by an employee, consultant or other member of staff.

For complete definitions and examples of safeguarding offences please refer to the Code of Conduct, the Global Staff Guidelines or the Prevention of Sexual Misconduct guidelines.

### 2. Complaints

#### **2.1. Informal Complaint Process:**

- a) Any DNDi Observer or Offended who believes an Offender has committed a Safeguarding Offence is encouraged (if they are comfortable doing so) to bring this directly to the attention of the Offender in an attempt to resolve the problem at its source or at least to prevent the situation from recurring or deteriorating.

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<sup>1</sup> DNDi community is defined as the socio-economic groups of people that DNDi aims to help through its programs

<sup>2</sup> Participants is defined as patients or subjects who are involved in or are likely to be involved in DNDi sponsored clinical trials, including members of their families

b) Depending on how the Observer or Offended feels most comfortable, (s)he may do so either in person or in writing. If possible, the Observer or Offended should make clear to the Offender the observed behaviour that is believed to constitute a Safeguarding Offence, and should ask him/her to cease such behaviour.

c) The Observer or Offended may choose to ask for advice and support on any Safeguarding Offence incidents informally with any of the following colleagues, or

- i. her/his supervisor or another manager;
- ii. a local colleague or a person who has been designated locally to receive such complaints;
- iii. the Director of Human Resources and Organisation;
- iv. a DNDi Ombudsperson;
- v. a Board member (when concerning a complaint against the Executive Director).

d) In all cases, the DNDi Observer or Offended must also bring the Safeguarding Offence to the attention of the Human Resources and Organization Director and/or a DNDi Ombudsperson.

e) All DNDi staff are encouraged to initiate a formal complaint process (see below) for any behaviour they find to be seriously offensive or to be re-occurring repeatedly.

## 2.2. Formal Complaint Process:

a) Any Offended or Observer who believes (s)he or someone in or outside of the workplace is being subjected to a Safeguarding Offence in any of its forms by any DNDi staff member(s), consultant or other staff member, and wishes to file a formal complaint is required to submit a confidential written complaint to any of the below listed channels:

- i. Director of Human Resources and Organization;
- ii. DNDi Ombudsperson;
- iii. Member of the Safeguarding, Nominations and Remunerations Board Committee (when concerning a complaint against the Executive Director);
- iv. DNDi's Integrity Line (web-based platform being developed);
- v. And/or to an Internal Complaints Committee ("ICC"), if one is already constituted locally, as defined in Section 4 below.

b) The complaint should include the name and signature of the Offended and/or Observer and the date it was signed. It may also include the names of any people who may have helped in the preparation of the document.

c) Complaints to an ICC may be sent directly by e-mail to an Ombudsperson or the Director of Human Resources and Organization, or via any DNDi member of the Offended or Observer's choice.

d) The ICC may send and consult with the Ombudsperson(s) on any complaints received, and the Ombudsperson(s) shall be entitled to ask the ICC for information on a confidential basis and to attend its meetings.

### **3. DND/s Ombudsperson(s)**

3.1. Role: DNDi's Ombudspersons are independent, neutral, impartial and external individuals appointed by DNDi, whose role is to contribute to the creation of a respectful and harmonious workplace environment, by facilitating good communications, understanding and trust within the organization and with outside persons, and to assist in preventing and resolving any Safeguarding Offences. The Ombudspersons offer various forms of support for handling disputes, providing an opportunity to all staff concerned to act responsibly by taking into consideration their interests and concerns. These forms of support can include facilitation of dialogue, coaching and mediation, or advising an ICC on its proceedings. A DNDi Ombudsperson may also appoint an additional person to assist them (e.g., for language or cultural support) as (s)he may deem appropriate in each case.

3.2. Place in DNDi: Each Ombudsperson is independent from DNDi's management and governance, and reports to DNDi's Board of Directors, although her/his performance is overseen and administered by the Director of Human Resources and Organization. The Ombudspersons shall present a joint written report at least once a year to the Board.

3.3. Confidentiality: Each Ombudsperson shall deal with all issues brought to their attention (whether by an Observer, Offended, Offender or other member of staff) under rules of strict confidentiality. They may not disclose any information provided to them in confidence without the consent of the person having disclosed that information. A DNDi Ombudsperson shall refuse to disclose any confidential information received, unless there exists an imminent risk of serious injury to a person or the commission of a crime. In such cases, the Ombudsperson may report such behavior (although not its source, unless absolutely necessary) to the relevant authorities. An Ombudsperson may, however, discuss matters with another Ombudsperson, and may appoint assistants to deal with any translation or cultural issues, subject to these rules of confidentiality continuing to be respected.

3.4. Services: The services to be provided by DNDi's Ombudspersons consist of accompanying any staff members involved in a dispute relating to a Safeguarding Offence, whether an Offended, Observer or Offender, or any other person concerned by an allegation of a Safeguarding Offence. The Ombudsperson supports by listening, helping to understand the observed behaviors, and working collaboratively on options that may help the individuals concerned and DNDi as a whole to learn from any incidents in a positive manner. The Ombudsperson facilitates dialogue, the exchange of perceptions or mediating between the persons involved in any dispute or allegations relating to a Safeguarding Offence, if the Offended and Offender consent to that Ombudsperson's involvement. The Ombudsperson will help to explore possible options and mutually acceptable outcomes during the reporting process and provide support without disclosing any identities or

information received in confidence. The Ombudsperson may also observe and participate in any complaint processes provided for pursuant to DNDi's Staff Guidelines.

3.5. Neutrality: The Ombudsperson acts with neutrality and does not represent the interests of any individual members of management, unions or staff, but is available to DNDi as a whole for managing and/or resolving any disputes or situations regarding allegations of Safeguarding Offences.

3.6. The Ombudspersons can be reached by telephone or email. Their contact details read as follows;

DNDi's Ombudsperson(s)	
Jeremy Lack	<a href="mailto:ombuds_lack@extern.dndi.org">ombuds_lack@extern.dndi.org</a> <a href="mailto:jlack@lawtech.ch">jlack@lawtech.ch</a> + 41 79 247 1519
Dr Fernanda Salina	<a href="mailto:ombuds_salina@extern.dndi.org">ombuds_salina@extern.dndi.org</a> <a href="mailto:fernanda.salina@bluewin.ch">fernanda.salina@bluewin.ch</a> + 41 79 263 5726

#### 4. Internal Complaints Committee (ICC)

The Observer or the Offended may submit a formal request or written complaint to DNDi's Director of Human Resources and Organization and/or to the Ombudsperson(s), requesting the appointment of an Internal Complaints Committee ("ICC"): (a) to initiate a formal complaint process; (b) to provide input into an ongoing matter; or (c) if (s)he is not satisfied with the results of any reporting process or outcome provided for in this Section and seeks a review of the way that process was handled. Any complaint received shall lead to the appointment of an ICC in accordance with the provisions of this Section 4. Any member of staff, including a member of the department of Human Resources, may submit a formal complaint as an Observer. An Ombudsperson may also act an Observer and initiate a formal complaint provided they will no longer act as advisor to the ICC and will be replaced by another Ombudsperson for that specific case.

##### **4.1. ICC Composition:**

a) The ICC's composition shall be appointed by the Director of Human Resources and Organization or the Ombudsperson(s) on a case-by-case basis to handle each complaint received, with the view to enabling an objective, neutral and impartial review of any allegations or complaints made. The Director of Human Resources and Organization and the Ombudsperson(s) will coordinate his/her/their activities to ensure the appointment of a neutral and impartial ICC that is appropriately adapted to each case.

b) A minimum of two (2) members of the ICC will be nominated by the Director of Human Resources and Organization, who will join and become the third member of that ICC, subject to the provisions of subsection 4.1.f) below.

c) Each ICC should usually consist of at least two (2) people who shall be of the same gender as the alleged victim(s), unless the Director of Human Resources and Organization should decide otherwise for legitimate reasons.

d) The composition of each ICC may be reviewed and adjusted to ensure that the Offended, Offender and any Observers are able to provide information in their language of choice, to avoid any direct lines of hierarchy between members of the ICC or with the Offended, Offender or Observers that may be problematic, or to avoid any possible perceptions of bias.

e) External investigators, counsellors, lawyers or other external experts who are neutral and impartial may also be co-opted to the appointed ICC for each complaint by the Human Resources and Organization Director, or as advised by the Ombudsperson(s).

f) The Director of Human Resources and Organization may be replaced by the Director of Strategy and Operations in Geneva or a member of the Board of Directors in any of the above situations, should the circumstances so require. At least one of the Ombudspersons will be consulted in such cases.

g) For any complaints filed against the Executive Director or the Director of Human Resources and Organization, the ICC shall consist of three (3) external neutral and impartial people appointed by the Ombudspersons.

h) The ICC may ask the Ombudsperson(s) for assistance in setting up or organizing any proceedings.

i) The composition of any ICC and its proceedings shall be amended as may be necessary to comply with local laws.

#### **4.2. ICC Process:**

##### **a) Preliminary Steps in the Event of a Formal Complaint:**

- i. Upon receipt of a formal complaint and following the appointment of the ICC, the ICC will consider whether the behavior described in the complaint meets the criteria of a safeguarding offence of being a Safeguarding Offence.
- ii. If the behavior described clearly meets the criteria of a Safeguarding Offence, an investigation must be carried out unless the Offended, Offender and any Observers involved provide a written document stating that the incident has been resolved to their mutual satisfaction (e.g., following an informal complaint process or mediation). If so, however, the ICC may still proceed with an investigation, at its sole discretion, if it thinks the circumstances warrant doing so to prevent recurrences of the same or similar offences.

- iii. If the ICC decides not to conduct an investigation, it shall advise the Offended and/or Observer having signed the complaint accordingly. The matter may also be handled through mediation (e.g., using a DNDi Ombudsperson) or through the implementation of a performance management review via the Human Resources department. If the Offended or Observer contests that the behavior described clearly does meet the criteria of a Safeguarding Offence, (s)he may appeal this decision.
- iv. Confidentiality: In all cases, extreme care should be taken to ensure utmost confidentiality. All interviewed members of staff should be informed in writing that they have the obligation to keep all information obtained in the course of an investigation or interview under strict confidentiality. Any breach of this obligation may be treated as serious misconduct and result in serious consequences.
- v. The ICC may discuss with the Offended and/or any Observers the possibility of considering an informal resolution process and/or that they speak to an Ombudsperson. The ICC may (at its discretion) suspend its investigation activities if an informal resolution process is initiated.

b) Investigation:

- i. Conducting investigations is complex and there are many situations which may be unclear or in the “grey zone”. Following best practices shared by safeguarding investigative institutions, the ICC will conduct and make recommendations based on the balance of probabilities (i.e. it is more likely than not that the offence occurred/did not occur).
- ii. If an investigation is to occur, the ICC will inform the Offender about the existence of the complaint and provide him/her with a copy of it, redacting any sensitive names or information as may be appropriate. The alleged offender shall have ten (10) business days to respond in writing to the complaint should (s)he chooses to do so. However, if in the view of the ICC the disclosure of the formal complaint would put at risk any alleged or potential victims, witnesses or evidence, the investigation may begin without notifying the Offender. In that case, the Offender will be notified subsequently, but no later than three (3) business days before his/her interview in the course of the investigation. The ICC may still choose to redact any particular information at such time, if it believes that divulging such information is more likely than not to be prejudicial to its ability to conduct its investigation or would put at risk alleged or potential victims, witnesses or evidence.
- iii. The ICC may determine that certain interim measures should be taken to protect vulnerable people involved or to safeguard evidence in the investigation proceedings, while the situation continues to be investigated or is being resolved. Such interim measures may include separating the persons concerned from working in the same premises, in the same department, or in their lines of reporting, and/or placing one or more of the individuals involved on special leave with pay.

- iv. The ICC will undertake a full investigation of any serious Safeguarding Offence complaint that is not amicably resolved and will also submit a final written report within sixty (60) days following the date of its appointment or as soon as possible thereafter, or following any amicable resolution process, with its conclusions indicating how it should be resolved or why it considers the matter properly settled. If there is an unavoidable delay in completing a full investigation, the Offended, the Observer(s) and the Offender, as well as any other persons concerned will be notified of this delay in writing.
- v. Any Offender or any DNDi Staff member who has a close personal relationship with a person accused of involvement in a Safeguarding Offence (e.g., a friend, partner, family member, etc.), may refuse to be interviewed and may refuse to cooperate with any pending investigation proceedings. The ICC, however, may make adverse inferences as a result of such persons' failure to cooperate or to answer questions.
- vi. Any persons involved in an investigation may contact an Ombudsperson directly at any time. Any information provided to the Ombudsperson(s) will be treated in confidence, unless the disclosing person has authorized the Ombudsperson(s) to share it, or if withholding that information may endanger the health or lives of other people or enable the commission of a crime or it has resulted in its commission. The failure of the Offended, the Offender or any Observers to cooperate with an Ombudsperson may not be communicated by the Ombudsperson(s) without that person's consent, and it shall not give rise to any adverse inferences.
- vii. If the complaint involves the Director of Human Resources and Organization, then the complaint may be brought directly to the Executive Director and/or an Ombudsperson. If the complaint involves the Executive Director, the complaint should also be brought to the attention of the Chair of the Board of Directors, and the members of the Nominations, Remuneration and Safeguarding Committee (unless they are also alleged to be personally involved, in which case another member of the Board of Directors shall be so-informed).

#### c) Final Report:

The final report of the ICC's investigation(s) will be submitted to the Executive Director (or to the Board of Directors via the Nominations, Remuneration and Safeguarding Committee, if the Executive Director is one of the accused persons), and a copy shall be provided to the Ombudsperson(s). The Offended and the Offender will be informed that the investigation has been completed and that a final determination will be made. If the final report is based on the acceptance of an amicable resolution following an informal complaint process, the ICC shall provide the reasons to consider the matter as appropriately settled.



#### d) Final Determination Process:

- i. Upon receipt of the investigation report, the Executive Director or delegated persons (e.g., the Board or a subcommittee thereof) will provide the Offended, the Observer(s) and the Offender with a copy of the final investigation report, which shall be subject to strictly confidentiality and may not be disseminated to anyone other than their lawyers without the prior written consent of the Executive Director or two Board directors. Any documents may be redacted as deemed appropriate by the Director of Human Resources and Organization. The Offended, the Observer(s) and the Offender may submit comments on the investigation report in writing within ten (10) business days from receipt of the final report.
- ii. The Executive Director or a person with delegated authority will consider the findings of the report and any comments made by the Offended, the Observer(s) or the Offender before deciding on any final action.
- iii. Disciplinary proceedings may be initiated based on the ICC's findings, the conclusions set forth in the investigation report issued by the ICC, the comments of the Offended, an Observer or the Offender, or the ICC's final report. Disciplinary measures may include dismissal, demotion, suspension, salary adjustment, written warning, a reprimand, mandatory training, a change of functions, line reporting, or responsibilities, contract termination, counselling or other appropriate corrective measures. Any internal disciplinary measures shall be without prejudice to any other proceedings that may be required by local laws (e.g., local criminal law proceedings) or that an alleged victim may choose to file before national courts or police authorities.
- iv. DNDi will maintain a written record of each complaint, the ICC's decision whether or not to investigate, the investigation, the final report and the final determination. Written records will be maintained in confidence to the extent practicable for at least ten (10) years

#### **5. Reporting to the Board and Staff**

5.1. The Executive Director or the Director of Human Resources and Organization (designated as Safeguarding Officer for DNDi by the Board) has the obligation to report to the Board during its Board meetings any serious allegations of Safeguarding Offences leading to dismissal, or involving judicial proceedings, whether in criminal or civil courts.

5.2. The Ombudspersons present to the Nominations, Remunerations and Safeguarding Committee of the Board a joint written report at least once a year summarizing their activities and case management for the reporting period, identifying systemic issues and making recommendations. A summary will be available to employees and donors upon request. The Ombudspersons must deal with all issues brought to their attention under rules of strict confidentiality, although they may disclose information received (on a no-names basis whenever possible) to prevent the commission of a crime or injury to a person.

## 6. Appeal and Withdrawal of Complaints

6.1. Requests for Appeal: Both the Offended and the Offender may request a review of any alleged failures to properly implement fairly and reasonably the procedures and principles of a Safeguarding Dispute Resolution Process. They may also request a review of any administrative or disciplinary actions taken pursuant to such a process. Any reviews shall be conducted in accordance with local laws or such other provisions as may have been provided for in relevant contracts.

6.2. Withdrawal of a Formal Complaint: If an Offended or Observer wishes to withdraw a formal complaint at any stage, (s)he may do so. In that case, (s)he shall file a written request with the ICC or to the Director Human Resources and Organization and/or an Ombudsperson. The request must be brought to the attention of the ICC (on an anonymous basis, if so requested) if an ICC has already been created. After considering the reasons for withdrawal, the ICC may accept the withdrawal of the complaint or may nonetheless decide to pursue the matter if it determines that the gravity of the allegations merit a full investigation and final report, despite the request for a withdrawal.