



**NATO Support and
Procurement Agency
(NSPA)**

NATO UNCLASSIFIED

OPERATING INSTRUCTIONS

NSPA CODE OF CONDUCT: NSPA POLICY ON THE PREVENTION, DETECTION, INVESTIGATION AND SANCTION OF ALL TYPES OF MISCONDUCT

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**NSPA CODE OF CONDUCT: NSPA POLICY ON THE PREVENTION, DETECTION,
INVESTIGATION AND SANCTION OF ALL TYPES OF MISCONDUCT****TABLE OF CONTENTS**

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CHAPTER 1 – INTRODUCTORY PROVISIONS

1.1 PURPOSE

1.1.1 The purpose of the NSPA Policy on the prevention, detection, investigation and sanction of all forms of misconduct (Policy) is to:

1.1.1.1 Promote integrity and ethical conduct;

1.1.1.2 Prevent inappropriate behaviour in the workplace and to ensure that all NSPA personnel are treated with dignity and respect;

1.1.1.3 Prevent fraud and corruption;

1.1.1.4 Protect individuals reporting unethical or inappropriate conduct or misconduct from retaliation;

1.1.1.5 Detect other forms of misconduct;

1.1.1.6 Investigate all forms of misconduct;

1.1.1.7 Establish fair disciplinary proceedings.

1.2 SCOPE

1.2.1 Unless expressly provided otherwise, this Policy shall apply to all NATO Support and Procurement Agency (NSPA) personnel who perform official functions and are accountable to the General Manager of NSPA, including NATO international civilian personnel, consultants, temporary staff, Voluntary National Contributions, volunteers, interns, former and retired staff.

1.3 DEFINITIONS

1.3.1 For the purpose of this Policy:

1.3.1.1 “Administrative measure” means any measure taken in order to control, mitigate, or remedy a situation, which is not one of the Disciplinary measures listed in Article 59.3 of the NCPR. It includes, but it is not limited to:

1.3.1.1.1 Recovery of a loss sustained by NATO or any of its bodies through the gross negligence or wilful act of a staff member in accordance with Article 59.6 of the NCPR;

1.3.1.1.2 Reassignment, transfer in accordance with Article 4.1.1 of the NCPR, and/or change of duties and responsibilities;

1.3.1.1.3 Warning or advisory communication that is not a reprimand;

1.3.1.1.4 Suspension with full or partial pay or without pay in accordance with Article 60.2 of the NCPR.

1.3.1.2 "Affected individual" means a person towards whom a possible misconduct is allegedly directed or any person who suffered a loss or damage as a result of alleged misconduct;

1.3.1.3 "Alleged offender" means a person who is alleged to have engaged in possible misconduct;

1.3.1.4 "Balance of probabilities", also known as preponderance of evidence means the standard of proof requiring that the decision-maker be satisfied that the alleged facts are more likely than not;

1.3.1.5 "Chain of custody" refers to the movement and location of real evidence, and the identity and role of those persons who had it in their custody, from the time it is obtained to the time disciplinary proceedings are completed;

1.3.1.6 "Digital forensics" is a technological acquisition, inspection, and examination of digital media and/or their contents carried out by a digital forensics examiner using digital forensics equipment and software tools. The objective is to locate, identify, collect and/or acquire data which may be relevant to an investigation and may be used as evidence in administrative, disciplinary, and judicial procedures;

1.3.1.7 "Disciplinary action" means an action listed in Article 59.3 of the NCPR;

1.3.1.8 "Disciplinary file" means the file composed of the disciplinary report, its supporting material, all comments submitted by the alleged offender and, where applicable, testimonies and statements made in front of the Disciplinary Board;

1.3.1.9 "The date of receipt" of a decision or documents by a member of the NSPA personnel is, unless specified otherwise in this Policy, the earliest of:

1.3.1.9.1 The date on which the staff member acknowledges receipt;

1.3.1.9.2 The date on which an electronic return receipt is generated; or

1.3.1.9.3 Seven calendar days from the date on which the documentation was transmitted to the staff member's official NSPA email address or contact information on file with NSPA, unless the staff member provides sufficient evidence of circumstances beyond their control that impeded the receipt of the documentation.

1.3.1.10 "Evidence" means any source of information, either in physical or electronic format, including testimony, documents and tangible objects that tends to prove or disprove the existence of an alleged fact;

1.3.1.11 "Exhibit" is any document, record, data, or other tangible object obtained or produced during the course of an investigation and formally introduced as evidence in support of a report;

1.3.1.12 “Fraudulent activities” refer to both fraud and corruption as defined below:

1.3.1.12.1 “Fraud” means any dishonest act or omission in order to obtain an undue benefit or advantage for oneself or a third party, or to cause another to act to their detriment or to cause loss to another or to expose another to a risk of loss. Fraud includes acts or omission whereby a person knowingly or recklessly misrepresents or conceals a material fact. Fraud also includes acts or omissions whereby a person abuses a position in which s/he is expected to safeguard, or not to act against, the financial interest of another person;

1.3.1.12.2 “Corruption” means any act or omission that misuses official authority or that seeks to influence the misuse of official authority, in order to obtain an undue benefit for oneself or a third party or to harm or to influence improperly the actions of another party;

1.3.1.13 “HRE” is the HR executive of NSPA and the official responsible for personnel management within the meaning of the NCPR;

1.3.1.14 “Inappropriate behaviour” includes the following conducts:

1.3.1.14.1 “Discrimination” means any unfair treatment or arbitrary distinction based on a person’s race, sex, gender, sexual orientation, gender identity, gender expression, religion, nationality, ethnic origin, disability, age, language, social origin or other similar shared characteristic or trait;

1.3.1.14.2 “Harassment” means any unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person, thereby creating an intimidating, hostile or offensive work environment for that person. Harassment may take the form of words, irony, gestures or actions which tend to bully, annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another. While typically involving a pattern of conduct, harassment may consist of a single incident. Harassment may occur in the workplace or in connection with work, including during official travel or social functions related to work. It may also occur outside the workplace and outside working hours;

1.3.1.14.3 “Sexual harassment” means any unwelcome conduct of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation, is made a condition of employment or creates an intimidating, hostile or offensive work environment. In assessing the reasonableness of expectations or perceptions, the perspective of the person who is the target of the conduct shall be considered. Sexual harassment may involve any conduct of a verbal, non-verbal or physical nature, including written and electronic communications. Sexual harassment may occur between persons of the same or different genders, and individuals of any gender can be either the affected individuals or the alleged offenders. Sexual harassment may occur in the workplace or in connection with work, including during official travel or social functions related to work. It may also occur outside the workplace and outside working hours;

1.3.1.14.4 “Sexual exploitation” is 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;

1.3.1.14.5 “Assault” means the act of inflicting physical harm or unwanted physical contact upon a person. Sexual assault means any type of sexual contact that occurs without the explicit consent of the recipient;

1.3.1.14.6 “Abuse of authority” means the improper use of a position of influence, power or authority against another person. This is particularly serious when a person uses their influence, power or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation, working conditions or promotion;

1.3.1.15 “Information and Communications Technology (ICT) resource” means any tangible or intangible asset capable of generating, transmitting, receiving, processing, or representing data in electronic form, where the asset is owned, licensed, operated, managed, or made available by, or otherwise used by NSPA;

1.3.1.16 “Investigation” means a process of gathering information to establish facts in order to determine whether any member of NSPA personnel has engaged in misconduct. Investigations are administrative in nature;

1.3.1.17 “Investigation report” means the report which is prepared by the investigator and transmitted to the responsible official for deciding whether disciplinary proceedings should be pursued;

1.3.1.18 “Immediate superior” means the first reporting officer of a member of NSPA personnel, provided the superior is a NATO staff member in categories A or L. However, if the immediate superior of the member of NSPA personnel is in categories B or C, the immediate superior shall mean the most immediate superior in categories A or L;

1.3.1.19 “Manager” means any NSPA staff member in categories A or L in the chain of command of a member of NSPA personnel;

1.3.1.20 “Managerial action” includes training, coaching and/or referral of the staff member for a mandatory medical examination and/or performance improvement plan;

1.3.1.21 “Misconduct” means any failure by NSPA personnel to comply with their obligations under NATO rules and regulations, including the NCPR, the NATO Code of Conduct, NSPO Functional Directives, this Policy and other NSPA Rules and Regulations, or any failure to observe the standards of conduct expected of civil servant exercising functions of an international character in the common interest of the NATO nations, whether intentional or through negligence on their part. Actions taken to instigate, aid, abet, attempt, conspire or cooperate in a misconduct also constitute misconduct;

1.3.1.22 “NCPR” means the NATO Civilian Personnel Regulations;

1.3.1.23 “NSPA personnel” means officials who perform official functions and are accountable to the General Manager of NSPA. They include NATO international civilian personnel, consultants, temporary staff, Voluntary National Contributions, volunteers, interns, retired NATO staff;¹

¹ Retired NATO staff continue to be subject to obligations in relation to acts carried out during their employment.

1.3.1.24 “NSPA Staff Member” means NATO international civilian personnel, former and retired staff;

1.3.1.25 “The responsible official” means whomsoever of the immediate superior of the alleged offender or HRE, receives a report of misconduct or complaint and has the authority to review and investigate the report or complaint in accordance with Chapter 7 (Policy on the Conduct of Investigations) and/or to initiate disciplinary proceedings in accordance with Chapter 8 (Policy on Disciplinary Proceedings);

1.3.1.26 “Retaliation” means any direct or indirect detrimental action that adversely affects the employment or working conditions of an individual, where such action has been recommended, threatened or taken for the purpose of punishing, intimidating or injuring an individual because that individual engaged in an activity protected by Chapter 5 (Policy on protection against retaliation);

1.3.1.27 “Witness” means an individual who has a personal knowledge of an alleged fact.

1.4 GENERAL PRINCIPLES

1.4.1 All NSPA personnel have the duty to immediately report any reasonable suspicion of misconduct in accordance with the provisions of this Policy.

1.4.2 This Policy does not apply to allegations of possible misconduct by the General Manager. Any allegation involving the General Manager shall be reported to the Private Office of the Secretary General of NATO.

1.4.3 All references in this Policy to the authority to be exercised by a NSPA staff member, including the General Manager and HRE, shall also include any official temporarily acting on their behalf and officials with delegated authority.

1.4.4 Where an official designated by this Policy is in a situation of conflict of interest, the authority vested under this Policy shall be exercised by their immediate superior or any other manager designated by the General Manager.

CHAPTER 2 – INTEGRITY AND ETHICS POLICY

2.1 GENERAL ETHICAL PRINCIPLES

2.1.1 The NSPA workforce is the Agency's most valuable resource. This Integrity & Ethics Policy requires that all NSPA personnel treat each other and others with respect and perform their duties in such a manner that will bear the closest public scrutiny, act in an ethical manner and avoid any potential, perceived or real conflict of interest. These obligations are an important element of the overall framework within which all NSPA personnel are expected to work. All NSPA personnel shall at all times uphold the highest standards of integrity, impartiality, loyalty, accountability and professionalism. They shall refrain from any action that is unbecoming the status of international public servants or reflects poorly on NSPA.

2.1.2 NSPA personnel shall uphold and respect the five core values outlined in the NATO Code of Conduct. These core values are:

2.1.3 Integrity: NSPA personnel shall maintain the highest code of professional and personal conduct in order to uphold the trust and confidence of the citizens of all NATO member states. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty, truthfulness in all matters affecting the work and status of all NSPA personnel. In practice, this means that:

2.1.3.1 NSPA personnel shall be honest and truthful in their dealings; fully presenting all facts in an unbiased and clear manner;

2.1.3.2 NSPA personnel shall avoid situations that might result in real, perceived, or potential conflicts of interest;

2.1.3.3 NSPA personnel shall take prompt action to remove themselves from situations where apparent or real conflicts of interest may arise or have arisen;

2.1.3.4 NSPA personnel shall exercise utmost discretion with regard to all matters of official business and preserve the confidentiality of information that has not been made public and that is known to them by reason of their official position;

2.1.3.5 NSPA personnel shall avoid actions that could be perceived as an abuse of the privileges and immunities conferred on the NSPA and its personnel.

2.1.4 Impartiality: NSPA personnel shall make decisions based solely on the best interests of NSPA and NATO. In practice, this means that:

2.1.4.1 NSPA personnel shall maintain their objectivity and independence in their professional dealings, striving to be fair, just, and equitable in all their activities;

2.1.4.2 NSPA personnel shall keep an international outlook and base their recommendations and decisions on what is best for NATO as a whole, rather than the views or interests of their own, or any particular nation or nations;

2.1.4.3 NSPA personnel shall not accept gifts from entities with whom the Agency conducts, or may conduct, business as this could compromise their impartiality or give rise to the

perception of a lack of impartiality in the conduct of their official duties. Additional guidance is provided in Article 2.6 below;

2.1.4.4 NSPA personnel shall not engage in outside employment or other off-duty activities that might conflict with or otherwise call into question the performance of their official duties, unless specifically authorized (NCPR Art. 12.2.1);

2.1.4.5 NSPA personnel shall not use their NATO position to secure future employment for themselves or their family members and shall not use privileged information to gain unfair advantage after their NATO employment.

2.1.5 Loyalty: NSPA personnel support the role of NATO, the principle of unity upon which it was founded, and the current and future challenges it faces. NSPA personnel are international civil servants. Their responsibilities are not national but exclusively international. In practice, this means that:

2.1.5.1 Loyalty to the aims, principles and purposes of NATO, as set forth in the North Atlantic Treaty, is a fundamental obligation of all NSPA personnel by virtue of their status;

2.1.5.2 In the performance of their duties, NSPA personnel shall neither seek nor accept instruction or direction from any Government or from any other source external to NSPO/NSPA;

2.1.5.3 While NSPA personnel's personal views and convictions, including their political and religious convictions, remain inviolable, they shall ensure that those views and convictions do not adversely affect their official duties or the interests of NSPA;

2.1.5.4 NSPA personnel remain focused on the goals and objectives of NATO;

2.1.5.5 NSPA personnel strive to make a personal contribution to NATO's success and foster a culture of results across the Alliance;

2.1.5.6 NSPA personnel always put the interests of NATO above their own and that of their individual nations.

2.1.6 Accountability: NSPA personnel are responsible and accountable for their actions and decisions, or failure to act, and accept the consequences thereof. In practice this means that:

2.1.6.1 Unless the nature of specific activities requires otherwise, NSPA personnel shall ensure full transparency on their actions and decisions;

2.1.6.2 NSPA personnel shall take full responsibility for their actions and take prompt measures to resolve or correct any errors or omissions that they may make;

2.1.6.3 NSPA personnel are mindful of the consequences of their actions and decisions before taking them;

2.1.6.4 NSPA personnel shall remain vigilant and report to their management any fraud, waste or abuse that may occur within the organization and address them appropriately;

2.1.6.5 NSPA personnel shall avoid any action that could lead to damage or risk to NSPA and NATO or their Information and Communication Technologies (ICT) or inappropriate disclosure of NSPA /NATO information;

2.1.6.6 NSPA personnel have the duty to report any breach of the Organization's regulations and rules to the officials whose responsibility it is to take appropriate action;

2.1.6.7 NSPA personnel shall use the property, assets, and communications and information systems for official purposes only, and shall exercise reasonable care when using such property, assets and systems.

2.1.7 Professionalism: NSPA personnel are professionals entrusted to carry out their duties to the utmost of their abilities for the common good. In practice this means that:

2.1.7.1 NSPA personnel shall uphold and respect the faith in fundamental human rights, in the dignity and worth of the human person and in gender equality. Consequently, NSPA personnel shall exhibit respect for all cultures; they shall not harass or discriminate against any individual or group of individuals or otherwise abuse the power and authority vested in them;

2.1.7.2 NSPA personnel shall put forth their best efforts in the daily performance of their duties;

2.1.7.3 NSPA personnel shall maintain the highest level of competence in their assigned areas and strive for continuous improvement of their knowledge, skills, and abilities; NSPA personnel shall participate in maintaining the safety and security of the workplace;

2.1.7.4 NSPA personnel shall take into consideration the effects of their work on their workplace and environment;

2.1.7.5 NSPA personnel having managerial functions shall provide fair leadership and take responsibility for the actions or inactions of their subordinates, ensuring they provide NATO with the best possible service by encouraging and rewarding those who perform well, while addressing deficiencies with those who fail to perform. They shall promote and support the principles set out in this Policy, leading by example;

2.1.7.6 NSPA personnel shall uphold the highest standards of competence, diligence and integrity;

2.1.7.7 NSPA personnel shall contribute to the development and maintenance of a positive team spirit.

2.2 USE OF NSPA RESOURCES AND SAFETY

2.2.1 NSPA resources include, but are not limited to NSPA, NATO and third-party funds, property, personnel, time, information and services.

2.2.2 NSPA personnel shall properly manage NSPA's resources provided to them for the performance of their duties. These resources, whatever their nature, are for official use only. Accordingly, NSPA personnel shall not allow third parties to make use of NSPA assets, information, personnel, equipment and/or facilities.

2.2.3 NSPA personnel shall conduct their duties with due regard to NSPA's Communication Information Systems Security Policy (OI 4600-13) and Information Services, Internet and Social Media Acceptable Use Policy (OI 4600-15).

2.3 INTELLECTUAL PROPERTY

2.3.1 The intellectual property rights on all work products created by NSPA personnel as part of their employment with NSPA or using NSPA resources belong exclusively to and remain with NSPA.

2.3.2 All NSPA personnel shall inform their line management of intellectual property created as part of their employment with NSPA or using NSPA resources.

2.4 CONFIDENTIALITY AND DISCRETION

2.4.1 NSPA personnel shall exercise utmost discretion in all matters of official business and in giving information on matters related to the aims and activities of NSPA and NATO.

2.4.2 NSPA personnel shall maintain confidentiality of all sensitive, proprietary, confidential or classified information entrusted to them and shall comply with relevant security procedures and confidentiality agreements applicable to the information with which they are entrusted.

2.4.3 NSPA personnel involved in source selection, technical or commercial evaluation or any other aspect of the procurement/contracting process shall maintain the confidentiality of any proprietary and/or commercial information, as also further specified in Article 2.7 below.

2.4.4 NSPA personnel shall maintain confidentiality in respect to the proper treatment of all aspects of personal data, which they may encounter through their work.

2.5 CONTACTS WITH THE MEDIA AND THIRD PARTIES

2.5.1 Any contact with the media shall be immediately referred to the Corporate Communications Office (CCO). NSPA personnel shall not, except in the normal course of official duties and with prior approval of the General Manager, issue statements to the press, radio, television, online platforms or other public information agencies. Any interactions with the media or social media shall be conducted in accordance with the NATO Code of Conduct and the NSPA Operating Instruction OI-4600-15.

2.6 CONFLICTS OF INTEREST

2.6.1 A conflict of interest occurs when, by act or omission, an individual's personal or private interests interfere with the performance of their official duties or with the individual's status as an international public servant. Private or personal interest means any potential advantage for the NSPA personnel, their family, other relatives or circle of friends and acquaintances.

2.6.2 NSPA personnel must avoid any conflict of interest or the appearance thereof. When an actual or possible conflict of interest arises, the member of NSPA personnel shall disclose the conflict through their chain of command for resolution, up to the General Manager or their designated representative as needed. Any actual or possible conflict of interest shall be resolved in favour of the interests of NSPA and NATO.

2.6.3 Apart from symbolic gifts or tokens of small value (e.g. pens, note pads, key rings, souvenir coins, etc.) which do not exceed a total value of 30 EUR per external source or entity and per year, all NSPA personnel shall not accept gratuities (including covert ones) or gifts in cash or kind, or favours of any sort, from any external source or from commercial firms, governments or individuals doing or seeking business with or profit from the NSPA. NSPA personnel shall report to the Competition Advocate through their line manager any honour, decoration, gift, remuneration or favour offered from an external source or an entity having or seeking to have any type of contractual relationship with NATO or NSPA exceeding 30 EUR.

2.6.4 NSPA personnel shall make all reasonable efforts possible to identify gratuities, favours, gifts, or tokens received from any source and ascertain their economic value to ensure compliance with this Policy. They shall report any such gratuities, favours, gifts, or tokens by completing and submitting the form at Annex IV. In case of doubt as to whether the value may exceed 30 EUR, the Competition Advocate will be requested to make a final determination.

2.6.5 Samples of products received from bidders or vendors shall be either returned to the bidder or vendor or handed over to the Competition Advocate.

2.6.6 NSPA personnel shall not accept any honour, decoration, favour or reward arising out of service with the Organization nor shall they accept any emoluments from any government without first having obtained the consent of the General Manager.

2.6.7 NSPA personnel shall not use their position with NSPA or information gained therefrom for personal advantage.

2.6.8 In the event that NSPA personnel or a close relative is seeking employment or business with a commercial company with whom the NSPA personnel concerned is dealing in their official capacity, the NSPA personnel concerned shall immediately disclose the matter to their immediate superior. The NSPA personnel shall further disqualify from any further dealings with the company in question until such time that the General Manager, or authorized delegate, deems appropriate.

2.6.9 Any NSPA personnel who consider that they might be in a position of actual or potential conflict of interest are required to disclose the matter promptly and in full to their immediate superior and to seek the latter's views on whether withdrawal from the situation that is creating the conflict or the appearance of conflict is required.

2.6.10 NSPA personnel may not become candidates for or hold a public office of a political character or engage in any outside occupation or hold any outside office, which, in the opinion of the General Manager, or his authorized representative, can be reasonably considered to be incompatible with the proper discharge of their duties with NSPA. All requests for such activity or employment must be approved in writing through the use of Annex I. Completed documents shall be retained by the Payroll and People Services Office.

2.7 PROCUREMENT INTEGRITY

2.7.1 NSPA personnel shall maintain unquestionable integrity and impartiality in relation to procurements initiated by the NSPA.

2.7.2 NSPA personnel shall not disclose any proprietary or contract related information regarding procurement directly or indirectly to any person other than a person authorized by the NSPA to receive such information. During any on-going solicitation, NSPA personnel shall not disclose any information on the selection procedure unless authorized by the Chairman of the award committee/board.

2.7.3 NSPA personnel shall not participate in evaluation of proposals submitted by a friend, family member, a relative, or by a business concern owned, substantially owned, or controlled by them or by a friend, family member or a relative.

2.7.4 All personnel involved in the preparation of requirements to be issued as a Request for Proposals and/or in the evaluation of proposals for award of a contract with an estimated value in excess of Financial Level D shall sign a Non-Disclosure Declaration (NDD) and a Financial Disclosure Statement (FDS) and undertake to uphold the obligations to which they are bound, prior to commencement of their responsibilities in these areas. The required forms are attached as Annex II and Annex III. No individual shall receive access to information unless and until the required documents have been executed. The Contracting Officer responsible for the requirement shall ensure these certifications are provided and shall retain the completed documents with the contract file. The absence of signature of NDDs and FDSs does not absolve NSPA personnel from their obligations of integrity, confidentiality and impartiality under this Chapter and the NCPR.

2.7.5 Due to the fiduciary nature of their work, those personnel in the Procurement and Finance Division will sign the declarations at Annexes V and VI on an annual basis to remind them of their obligations. Any changes in status during the course of the year must be immediately reflected in a new declaration. The absence of signature of annual NDDs and FDSs does not absolve NSPA personnel from their obligations of integrity, confidentiality and impartiality under this Policy and the NCPR.

2.7.6 Contractors and consultants shall not be allowed to be involved in any way in the drafting of the statement of work or any document related to it or in the source selection process unless they and their company/employer or any related subsidiary or business unit will be excluded from competition of the related contract and have executed the required declaration detailed in Article 2.7.4 above.

2.7.7 All solicitations and contracts issued by NSPA shall include provisions requiring that contractors as well as their employees who do business or seek to do business with NSPA act consistently with the provisions of this Chapter. This provision shall further require that contractors flow down this requirement to any subcontractor. Additionally, a clause substantially the same as the clause at Article 2.10.5 below shall be included in all NSPA solicitations and contracts over Financial Level D.

2.7.8 NSPA personnel involved in drafting RFPs and contracts (including source selection plans, evaluation criteria and statements of work) shall ensure all relevant documents include specific, coherent and objective information, providing precise description of the requirements of the contract, and the criteria to be used to assess successful completion of these requirements so as to ensure fair and equal treatment of all bidders.

2.7.9 NSPA personnel shall not enter into commitments in the name of NSPA or NATO unless specifically authorized. NSPA personnel must abstain from making promises or commitments to award or amend a contract or otherwise create the appearance of a commitment from NSPA unless properly authorized by NSPA.

2.7.10 NSPA personnel shall not endorse directly or indirectly products from industry. Therefore, NSPA personnel shall not name or make statements endorsing or appearing to endorse products of specific companies.

2.8 INDUSTRY INITIATIVES

2.8.1 Industry initiatives may include loans, displays, tests or evaluation of equipment and software, requesting NSPA speakers at industry gatherings and conferences, inviting speakers from industry to NSPA events, consultancy or studies of technical or organizational issues, etc. These initiatives are usually at no cost to NSPA and take place at a pre-contractual phase or before the development of requirements and specifications. While there are benefits associated with the early involvement of industry in the definition of requirements and specifications, this also raises the potential for unfair treatment of potential competitors.

2.8.2 Industry initiatives which go beyond routine interaction in connection with on-going contracts shall be reported to the Competition Advocate through the line management of the NSPA personnel concerned. The Competition Advocate determines in consultation with relevant Directorates whether NSPA personnel's participation in such initiatives should be authorized. Industry initiatives shall be properly documented and governed by written agreements between NSPA and the company concerned where relevant. Such agreements may contain provisions describing the nature of the initiative, the non-disclosure of NSPA/NATO information, NSPA ownership of any resulting work, NSPA's right to release such work product to future competitors for any follow-on competition or contract, the requirement that any studies must provide non-proprietary solutions and/or an acknowledgement that the participating companies shall not receive any preferential treatment in the contracting process.

2.8.3 Any authorized industry initiative must be conducted in such a way that it does not confer an unfair advantage to the industry concerned or create competitive hurdles for potential competitors.

2.9 RECRUITMENT AND PERSONNEL ACTIONS

2.9.1 Decisions related to personnel management shall be impartial, based on applicable rules and regulations and on the best interests of NSPA. This includes recruitment, payment of benefits and entitlements, evaluations, awards, TDY and training.

2.9.2 NSPA personnel shall not tailor position descriptions and related documents to favour or disadvantage specific candidates.

2.9.3 NSPA personnel shall not serve as members of a selection committee if any of the candidates are friends, family members, relatives or close acquaintances or if there is a real or apparent conflict of interest.

2.9.4 NSPA personnel involved in the recruitment process shall maintain confidentiality in respect of all information provided to them as part of the selection process. They shall only use this information for the purpose of the selection process.

2.9.5 NSPA personnel not involved in the selection process shall not influence or attempt to influence the selection process by contacting members of the selection committees. Selection must remain impartial and be based only on the merits of the candidates.

2.9.6 Information and materials used during the recruitment process are for internal recruitment purposes only and shall not be released to applicants, staff members or any third party, except in duly justified circumstances. This information includes but not limited to candidate files, oral and written questions and answers, ranking criteria and selection committee reports.

2.10 PRE- AND POST-EMPLOYMENT MEASURES

2.10.1 In order to preserve public confidence in, and the integrity of, NSPA activities with commercial entities, the pre- and post-employment restrictions set out in Articles 2.10.2 and 2.10.3 shall apply to NSPA Staff Members. For the purposes of this provision, commercial entities are companies that do business or seek to do business with NSPA.

2.10.2 A NSPA Staff Member who prior to joining NSPA was employed by a company or a firm cannot participate or be involved in a procurement process in which that company or firm is a bidder.

2.10.3 Before accepting employment with any entity doing business or seeking to do business with NSPA within two years after separating from service, former NSPA staff members shall inform the General Manager or his authorized representative of their intention in writing, providing all relevant information.

2.10.4 NSPA shall have no direct business interactions with former NSPA Staff Members for a period of two years after their separation from service unless the NSPA Staff Member can demonstrate not being personally and substantially involved with the commercial entity when employed by NSPA.

2.10.5 A clause substantially the same as the following shall be included in any NSPA Requests for Proposals: "Any bidder who proposes to employ former NSPA staff member(s) in the performance of this contract shall specifically identify the individual(s) and the position for which they will be hired. If NSPA determines that the former NSPA staff members will be employed in supporting a requirement for which they were personally and substantially involved while a NSPA employee, the bidder's proposal may be removed from further consideration for award. Failure to disclose such employment shall result in the immediate removal of the bidder's proposal from further consideration for award. This restriction shall be in effect for a period of two years after the former NSPA employee concludes their employment with the Agency, unless authorized in writing by the NSPA General Manager or an authorized representative."

2.11 ACKNOWLEDGEMENT AND ENFORCEMENT

2.11.1 On accepting their appointment with the Agency, NSPA personnel shall sign the loyalty declaration and the Certificate of Acknowledgement of Responsibilities, which shall become part of their personnel file. In addition, all NSPA personnel will certify annually, in conjunction with the ABC certification for allowances, their acknowledgment of the requirement to comply with Article 12.2 of the NCPR regarding Incompatibilities and with the NATO Code of Conduct and this Chapter.

2.11.2 It is the responsibility of all NSPA personnel to ensure that NSPA maintains its reputation as a fair, just and ethical organization. The proper implementation of this Chapter depends primarily on the professionalism, conscience and common sense of NSPA personnel.

2.11.3 A violation of this Chapter could seriously harm the reputation of NSPA, NATO and its personnel. Consequently, such a violation may result in administrative and/or one of the disciplinary actions set out in Article 59.3 of the NCPR.

2.11.4 In order to ensure maximum awareness of this Policy and of the importance NSPA places upon the strict adherence to it, all briefings to Industry and other external commercial sources shall include a reference to this Chapter including at a minimum, the policies relating to gratuities, procurement integrity, industry initiatives and post-employment measures.

2.11.5 All NSPA personnel shall have as one of their performance appraisal goals the completion of a training on Integrity and Ethics.

CHAPTER 3 – POLICY ON INAPPROPRIATE BEHAVIOUR

3.1 GENERAL PRINCIPLES

3.1.1 The following six types of conducts constitute inappropriate behaviour:

3.1.1.1 Discrimination within the meaning of paragraph 1.3.1.14.1 of Chapter 1 (Introductory Provisions);

3.1.1.2 Harassment within the meaning of paragraph 1.3.1.14.2 of Chapter 1 (Introductory Provisions);

3.1.1.3 Sexual harassment within the meaning of paragraph 1.3.1.14.3 of Chapter 1 (Introductory Provisions);

3.1.1.4 Sexual exploitation within the meaning of paragraph 1.3.1.14.4 of Chapter 1 (Introductory Provisions);

3.1.1.5 Assault within the meaning of paragraph 1.3.1.14.5 of Chapter 1 (Introductory Provisions);

3.1.1.6 Abuse of authority within the meaning of paragraph 1.3.1.14.6 of Chapter 1 (Introductory Provisions).

3.1.2 The Agency shall deal with allegations of inappropriate behaviour speedily, fairly, thoroughly and as discreetly as possible. Confidentiality shall be guaranteed insofar as this is compatible with due process and defence rights of alleged offender(s).

3.1.3 The rights of the alleged offender as well as those of the affected individual(s) and witness(s) shall be safeguarded during the entire process.

3.1.4 Offenders shall be subject to appropriate disciplinary² and/or administrative action(s).

3.1.5 Submitting frivolous, vexatious, and manifestly unfounded reports or complaints of inappropriate behaviour constitutes misconduct and may warrant disciplinary proceedings.

3.1.6 If the affected individual decides not to submit a formal complaint, NSPA could nevertheless initiate an investigation if there is sufficient evidence to warrant it.

² Pursuant to Article 59.3 of the NCPR, disciplinary actions includes reprimand, written censure, postponement of a salary increment, temporary suspension from duties entailing the withholding of emoluments in whole or in part, dismissal, withdrawal or reduction of suspension of pension benefits.

3.2 PREVENTION

3.2.1 The General Manager, as Head of NATO Body, shall take appropriate measures to promote a harmonious work environment and protect personnel from inappropriate behaviour through preventive measures as set out in this Chapter. The General Manager shall provide effective remedial action if such preventive measures fail.

3.2.2 All members of NSPA personnel shall demonstrate their commitment to create a harmonious work environment, prevent any inappropriate behaviour, maintain high standards of conduct and treat all colleagues and personnel courteously, with dignity and respect at all times.

3.2.3 Managers shall address promptly and diligently allegations of inappropriate behaviour which are brought to their attention.

3.2.4 Officials with supervisory functions shall create an atmosphere in which NSPA personnel under their supervision feel free to express concerns about possible inappropriate behaviour.

3.2.5 Managers shall encourage NSPA personnel to use the informal and formal processes in place to address possible inappropriate behaviour.

3.2.6 Where possible and when it is brought to their attention, managers shall monitor instances where one or more of their subordinates have availed themselves or are availing themselves of a formal or informal process under this Chapter.

3.2.7 Managers shall ensure that no other inappropriate behaviour or other adverse action, or retaliation is directed against NSPA personnel who have reported inappropriate behaviour and if so, address them in accordance with Chapter 5 (Policy on Protection against Retaliation).

3.2.8 Disagreement on work performance or on other work-related issues is normally not considered inappropriate behaviour and is not dealt with under the provisions of this Chapter.

3.2.9 The HR Offices shall promote a harmonious work environment and culture. Initiatives to promote a harmonious work environment and culture could include organizing or giving training sessions, seminars, counselling and other activities aimed at improving interpersonal communications and raising awareness among newly recruited and serving NSPA personnel.

3.2.10 The HR Offices shall also support managers who initiate/take appropriate action (including, if necessary, disciplinary proceedings in accordance with Chapter 8, Policy on Disciplinary Proceedings) against any member of the NSPA personnel who is found to have engaged in inappropriate behaviour.

3.3 EARLY INTERVENTION AND INFORMAL REPORTS OF POSSIBLE INAPPROPRIATE BEHAVIOUR

3.3.1 The affected individual may approach the alleged offender about instances of possible inappropriate behaviour and ask for such conduct to stop, as the alleged offender may not be aware of the negative impact of the conduct on others. However, disparity in

power or status, fear of retaliation or the nature of the conduct may make direct confrontation difficult, and there is therefore no obligation for such action to be taken.

3.3.2 Affected individuals may raise the matter with their immediate superior, or with any manager with whom they feel comfortable.

3.3.3 When an inappropriate behaviour is brought to the attention of a manager, s/he shall guide and inform the affected individual of the available options to address the situation and provide a copy of this Chapter.

3.3.4 The manager approached shall keep a record of all communications with the affected individual.

3.3.5 Managers shall provide assistance and/or information in a timely, sensitive and impartial manner to affected individuals. To address the matter promptly at the managerial level, supervisors may, with the consent of the affected individual, bring the matter to the attention of the alleged offender to prevent reoccurrence of the possible inappropriate behaviour.

3.3.6 Managers may, with the consent of the affected individual, request HR to facilitate a discussion between the affected individual and the alleged offender about the conduct in question.

3.3.7 Managers shall always inform the affected individual that HR may provide them with support and guidance.

3.3.8 Affected individuals may also discuss their situation with the HR Medical Team, in order to receive support, discuss tools to address the emotional impact that the situation may have on them, and receive guidance on potential referral to internal or external mental health resources, if needed.

3.3.9 The HR Medical Team is bound by strict rules of confidentiality. Any discussion with the HR Medical Team is strictly confidential and shall not be disclosed to any third party without the affected individual's consent. Documentation and other information may not be shared with any other person or position without the written consent of the affected individual or other person seeking support.

3.3.10 Affected individuals may, on a voluntary basis, attempt to address a situation of possible inappropriate behaviour in an informal manner by contacting the HR central service mailbox inappropriate.behaviour@nspace.nato.int.

3.3.11 Affected individuals may also, on a voluntary basis, attempt to address a situation of possible inappropriate behaviour in an informal manner by contacting the Staff Association.

3.3.12 NSPA personnel may ask the HRE Office for either a referral or a recommendation of an external mediator. NSPA may, at its discretion and if deemed in the interest of the Agency, propose an external mediator at its expense.

3.3.13 If the affected individual decides not to pursue informal resolution or if informal resolution attempts fail, it is the responsibility of the affected individual or witness to submit a formal complaint in accordance with the procedure set out below.

3.4 FORMAL REPORT ON POSSIBLE INAPPROPRIATE BEHAVIOUR

3.4.1 An individual who has been a victim of inappropriate behaviour or who has witnessed inappropriate behaviour by NSPA personnel may submit a formal report or complaint in accordance with Chapter 7 (Policy on the Conduct of Investigations).

3.5 SUPPORT

3.5.1 Without prejudice to the provisions of the OI 4400-15 on the Delegation of Authority in Personnel Matters, Directors³ in coordination with HRE may at any time, when they are informed that a person may be the victim of inappropriate behaviour, consider whether interim measures should be taken to prevent the occurrence or repetition of possible inappropriate behaviour, address risks of possible retaliation in accordance with Chapter 5 (Policy on Protection against Retaliation), protect the integrity of any investigation, and/or protect the interests of the Agency or the POD concerned. Such measures may include:

3.5.1.1 Physical separation of the alleged offender and the affected individual;

3.5.1.2 Reassignment of either the alleged offender or the affected individual with the consent of the alleged offender or the affected individual;

3.5.1.3 Instituting flexible working arrangements/teleworking for either the alleged offender or the affected individual;

3.5.1.4 Granting unplanned annual leave;

3.5.1.5 Consideration of special leave for either the alleged offender or the affected individual;

3.5.1.6 Temporary changes in reporting lines.

3.5.2 Without prejudice to the provisions of the OI 4400-15 on the Delegation of Authority in Personnel Matters, if a Director becomes aware of an allegation of inappropriate behaviour involving attempted or actual assault, including sexual assault, appropriate interim precautionary measures shall be taken, without delay, to address the safety and security concerns of the affected individual.

3.6 REVIEW AND MONITORING

3.6.1 The HR Offices will collect data and information for monitoring cases of inappropriate behaviour including analysis of reports. Anonymized information on and analysis of such reports may be published on an annual basis and otherwise reported upon. Such information includes, if available, the number and type of formal reports, relevant demographics and gender of affected individuals and alleged offenders as well as the type of resolution.

³ This includes Directors, Chiefs or Heads of NSPA functional areas within the meaning of the OI 4400-15 Delegation of Authority in Personnel Matters

CHAPTER 4 – POLICY ON FRAUD AND CORRUPTION

4.1 GENERAL PRINCIPLES

4.1.1 The NSPA is committed to preventing fraudulent activities, within the meaning of Article 1.3.1.12 of Chapter 1 (Introductory Provisions), from occurring within the Agency. To that end, NSPA has a zero tolerance policy towards fraud and corruption.

4.1.2 This Anti-Fraud and Anti-Corruption policy is based on the following five core values: integrity, impartiality, loyalty, accountability and professionalism. The NSPA personnel shall ensure their actions and performance abide by these principles.

4.1.3 Fraudulent activities can be committed either internally by NSPA personnel, or externally by customers, vendors, and other parties.

4.1.4 Fraudulent activities may include:

4.1.4.1 Providing, soliciting or accepting bribes;

4.1.4.2 Submitting falsified documentation;

4.1.4.3 Embezzlement and misappropriation of assets;

4.1.4.4 Improperly creating and using a document that purportedly authorizes a staff member or a third party to remove property belonging to the Agency;

4.1.4.5 Misrepresenting educational qualifications;

4.1.4.6 Making material omissions or false inclusions in NSPA Employment Application Form;

4.1.4.7 Knowingly submitting an education grant, medical, travel or other entitlement claim and documentation containing false information;

4.1.4.8 Knowingly including false information in documentation for movement of goods and materials submitted to the NSPA;

4.1.4.9 Declaring private expenses as official;

4.1.4.10 Improperly assisting a person external to the NSPA to secure NSPA employment in exchange for money or other favours;

4.1.4.11 Improperly assisting a vendor in a procurement process;

4.1.4.12 Manipulating a procurement or recruitment process to favour a certain outcome;

4.1.4.13 Participating in a procurement and/or contract management process involving a person or entity with whom/which one has an undisclosed conflict of interest;

4.1.4.14 Revealing internal information (including unclassified information) in order to obtain a benefit for oneself or a third party;

4.1.4.15 Participating in the recruitment process of a family member or a person with whom one has an undisclosed conflict of interest;

4.1.4.16 Manipulating administrative processes to disburse payments to benefit oneself or a third party;

4.1.4.17 Altering and/or submitting or identifying false time reports;

4.1.4.18 Clocking somebody else's badge;

4.1.4.19 Knowingly making false allegations of misconduct with the intent to harm a third party;

4.1.4.20 Abusing fiscal privileges, including by purchasing goods and services exempt of taxes and duties for third parties.

4.1.5 In case of doubt as to whether an action constitutes fraud, concerned staff may contact the Office of the Chief of Staff.

4.2 PREVENTION AND DETECTION MEASURES

4.2.1 Prevention is the main emphasis of the anti-fraud and anti-corruption efforts in NSPA. Prevention starts with the identification of vulnerabilities to fraud and corruption, risk assessment, training and information sharing. The purpose is to focus efforts on dealing early with fraud and corruption before they occur.

4.2.2 All NSPA organizational entities shall have in place internal controls consistent with the NSPA Internal Control System,⁴ which will enable them to provide reasonable assurance that they will prevent fraud and corruption or detect them should they occur.

4.2.3 NSPA personnel are key in preventing and detecting potential fraudulent activities as they are in the best position to identify weaknesses in controls, which can be exploited to commit fraud and corruption.

4.2.4 The following conditions may be conducive to fraud and corruption:

4.2.4.1 Concentration of authority over and responsibility for resources and activities of an entire process in one person;

4.2.4.2 Lack of adequate supervision;

4.2.4.3 Inability to identify responsibility;

4.2.4.4 Vague and confusing procedures;

4.2.4.5 Lack of standards for judging the results of projects, programs, or operations;

⁴ In accordance with the OI 4600-23 Internal Control Framework

4.2.4.6 Lack of independent verification of the accuracy of records, transactions, and data;

4.2.4.7 Failure to take appropriate disciplinary action in response to ethics violations and departures from approved procedures;

4.2.4.8 Inadequate physical safeguards over resources;

4.2.4.9 Granting derogations to existing rules without proper safeguards and review procedures.

4.2.5 While not being conclusive evidence of fraud or corruption, the following situations may be indicative of fraud and corruption:

4.2.5.1 Granting derogations to existing rules without documenting such derogations;

4.2.5.2 Changes in an employee's lifestyle;

4.2.5.3 Unreasonable and/or undocumented budgetary and procurement requirements;

4.2.5.4 Unreasonable and/or overly specific recruitment requirements;

4.2.5.5 Failure to strictly enforce contract provisions;

4.2.5.6 Failure to correct deficiencies identified by existing control procedures and systems;

4.2.5.7 Existence of unnecessarily complex and poorly understood transactions;

4.2.5.8 Existence of transactions with family members or close friends.

4.2.6 Contractors and sub-contractors as well as their employees who do business or seek to do business within the NSPA must comply with the relevant provisions of this Chapter. The Procurement Division shall ensure that specific clauses are included in their contract setting out their obligations and the consequences of breaching them.

4.2.7 NSPA personnel should report possible fraudulent activities in accordance with Chapter 7 (Policy on the conduct of investigations).

CHAPTER 5 – POLICY ON PROTECTION AGAINST RETALIATION

5.1 GENERAL PRINCIPLES

5.1.1 It is the duty of NSPA personnel to report any misconduct and to cooperate with any duly authorised investigation. An individual who reports misconduct in good faith or cooperate with duly authorised investigations has the right to be protected against retaliation.

5.1.2 Retaliation against individuals who have reported misconduct or who have cooperated with investigations violates the fundamental obligation of all NSPA personnel to uphold the highest standards integrity and to discharge their functions and regulate their conduct with the interests of the Organization only in view.

5.1.3 NSPA personnel who are alleged to have retaliated against any individual for reporting in good faith misconduct or for cooperating with duly authorized investigations may be subject to disciplinary or other administrative actions in accordance with the NCPR and this Policy.

5.1.4 Protected activity includes any of the following actions:

5.1.4.1 Reporting the failure of one or more members of the NSPA personnel to comply with their obligations under the NATO Code of Conduct, the NCPR, the NSPO Procurement regulations, the NSPO Financial Rules and Procedures, this Policy or other administrative issuances;

5.1.4.2 Reporting instruction from any staff member to violate the above-mentioned regulations, rules or standards;

5.1.4.3 Reporting wrongdoing by any person that, if established, would be manifestly harmful to the interests or operations of the Agency or NATO;

5.1.4.4 Cooperation in good faith with a duly authorized investigation.

5.1.5 The present Policy is without prejudice to the legitimate application of regulations, rules and administrative procedures, including those governing evaluation of performance, non-extension or termination of appointment. However, NSPA should be able to demonstrate that it would have taken the same action absent the protected activity or that the alleged retaliatory action was not taken for the purpose of punishing, intimidating or injuring the individual who engaged in the protected activity.

5.1.6 The transmission or dissemination of unsubstantiated rumors is not a protected activity. Making a report or providing information that is intentionally false or misleading constitutes misconduct and will result in disciplinary or other appropriate action.

5.2 REQUESTING PROTECTION AGAINST RETALIATION

5.2.1 NSPA personnel shall submit their request for protection against retaliation to the General Manager.

5.2.2 The request for protection should contain sufficient details for it to be assessed by the General Manager, such as:

5.2.2.1 A detailed description of the alleged retaliation;

5.2.2.2 The names of the implicated NSPA personnel;

5.2.2.3 Where and when the alleged retaliation occurred;

5.2.2.4 The names of potential witnesses; and

5.2.2.5 All available supporting documentation.

5.3 PRELIMINARY REVIEW OF THE REQUEST

5.3.1 Upon receipt of a request of protection against retaliation, the General Manager, or an official designated by the General Manager on a case-by-case basis, will conduct a preliminary review of the report to determine whether:

5.3.1.1 The complainant engaged in a protected activity; and

5.3.1.2 There is a *prima facie* case that the protected activity was a contributing factor in causing the alleged retaliation or threat of retaliation.

5.3.2 The General Manager, or the official designated in accordance with Article 5.3.1, shall maintain the confidentiality of all communications received from complainants who request protection against retaliation, and from all relevant third parties. Nevertheless, the General Manager may contact any Directorate, Office, Service, Programme, staff member or individual to obtain additional information and records related to the request for protection, except for medical records that shall not be accessible without the express consent of the staff member concerned.

5.3.3 The General Manager should, to the extent possible, complete the preliminary review within 30 days of receiving all information requested concerning a report of retaliation.

5.3.4 If the General Manager determines that there is no *prima facie* case of retaliation or threat of retaliation, the General Manager shall so notify the complainant in writing.

5.3.5 If the General Manager determines that there is no *prima facie* case of retaliation or threat of retaliation but considers there to be a managerial problem relating to a particular Directorate, Office, Service, or Programme, the General Manager will advise the Director or Head of the office concerned, and will give instruction to take remedial administrative actions, including through the performance appraisal system. The General Manager shall so notify the complainant in writing.

5.3.6 The General Manager or HRE may at all time during the preliminary review of the request take appropriate interim precautionary measures to address the safety and security concerns of the affected individual.

5.4 ACTION IF A *PRIMA FACIE* CASE EXISTS

5.4.1 If the General Managers determine that there is credible case of retaliation or threat of retaliation, the General Manager shall take appropriate measures to safeguard the interests of the complainant, including:

5.4.1.1 Temporary suspension of the implementation of the action reported as retaliatory;

5.4.1.2 With the consent of the complainant, temporary reassignment of the complainant;

5.4.1.3 Change of reporting lines;

5.4.1.4 With the consent of the complainant, placement of the complainant on special leave with full pay; or

5.4.1.5 Any other measure provided for under this Policy.

5.4.2 The General Manager will also designate an official to investigate the matter.

5.4.3 The official designated by the General Manager shall conduct the investigation in accordance with Chapter 7 (Policy on the Conduct of Investigations) and complete it within 60 days.⁵

5.4.4 If, upon completion, the investigation reveals that a NSPA Staff member may have retaliated against the complainant, the investigation report shall be transmitted to the immediate superior of the alleged offender, or if it is more appropriate to HRE.

⁵ This deadline may be extended upon written request by the official designated to conduct the investigation.

CHAPTER 6 – OTHER FORMS OF MISCONDUCTS

6.1 GENERAL PRINCIPLES

6.1.1 NSPA personnel are answerable to the General Manager for the performance of their function and for compliance with all applicable NATO rules and regulations.

6.1.2 In addition to conduct described in Chapters 2, 3, 4, and 5, misconduct within the meaning of Article 1.3.1.21 of Chapter 1 (Introductory Provisions) includes:

6.1.2.1 Insubordination;⁶

6.1.2.2 Absence without authorized leave;

6.1.2.3 The act of seeking or receiving instructions from a source external to NSPA, except as appropriate in the normal course of their duties or by express authorization of the General Manager;

6.1.2.4 The act of engaging in an activity that is incompatible with the proper discharge of their duties with NATO;

6.1.2.5 Participation in a political activity inconsistent with the independence and impartiality required by their status as international civil servants;

6.1.2.6 Communication to any entity, person or any other source, any information known to them by reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the General Manager;

6.1.2.7 Misuse of NATO property, including official vehicles, equipment, ICT devices, documents, files, information and electronic data and damage to or loss of such equipment through wilful act or gross negligence;

6.1.2.8 Misuse of office, including breach of confidentiality, and abuse of NATO privileges and immunities;

6.1.2.9 Acts or behaviour that discredit NATO or NSPA, including disloyal comments on social media;

6.1.2.10 Misusing NSPA resources to benefit oneself or a third party;

6.1.2.11 Failure to comply with local laws and regulations;

⁶ Refusing to perform an action that is unethical or illegal is not insubordination; neither is refusing to perform an action that is not within the scope of authority of the person issuing the order. However, a staff member cannot unilaterally determine that an instruction is unethical or illegal. Before refusing to comply with such an instruction, the staff member may seek legal advice from the Office of the Legal Advisor or request his supervisor to confirm the instruction in writing.

6.1.2.12 Frivolous or vexatious reports of possible inappropriate behaviour or other misconduct or any such reports made in bad faith.

6.1.3 Misconduct includes any conduct that occurred at any time that the NSPA personnel was employed by another NATO body. Such conduct, to the extent not already addressed by administrative or disciplinary measure in the prior-employing NATO body, may be investigated and addressed as possible misconduct under the terms of this Policy. If an investigation report by such prior-employing organization is transmitted to NSPA for possible Disciplinary action, the matter may proceed as a possible disciplinary matter under the provisions of Chapter 8 (Policy on Disciplinary Proceedings).

CHAPTER 7 – POLICY ON THE CONDUCT OF INVESTIGATIONS

7.1 GENERAL PRINCIPLES

7.1.1 Any breach of the obligations set out in Chapters 2, 3, 4, 5, and 6 shall be reported and investigated in accordance with the following procedure.

7.2 REPORTING

7.2.1 Reports of possible misconduct shall be made in the written form and should contain sufficient details for it to be assessed, such as:

- 7.2.1.1 a detailed description of the alleged misconduct;
- 7.2.1.2 the name of the alleged offender;
- 7.2.1.3 the name of the alleged affected individual, if the report is made by a third party;
- 7.2.1.4 the relationship of the alleged offender to the affected individual;
- 7.2.1.5 where and when the alleged misconduct occurred;
- 7.2.1.6 the names of potential witnesses to the alleged misconduct;
- 7.2.1.7 if any informal action has been taken and, if applicable, its outcome;
- 7.2.1.8 available supporting documentation and material evidence.

7.2.2 Allegations of possible misconduct may be reported by using the template attached as Annex VII.

7.2.3 Reports may be made anonymously and are not subject to time limits. However, the anonymity of complaints and the passage of time may render the establishment of the facts more difficult.

7.2.4 A report alleging possible misconduct shall normally be addressed to one of the officials listed in Articles 5.1 (a), (b) and (c) of disciplinary powers and procedures (annex X of the NCPR), namely:

7.2.4.1 The immediate superior (as defined in Article 1.3.1.18 of Chapter 1, Introductory Provisions) of the alleged offender; or

7.2.4.2 HRE.

7.2.5 If any member of NSPA personnel receives a report of possible misconduct and is not one of the officials listed in Article 7.2.4 above, that member of NSPA personnel shall immediately transmit the report of possible misconduct to one of these two officials.

7.2.6 Upon receiving a report of possible misconduct, HRE may, at their discretion, decide to transmit the report to the immediate superior of the alleged offender for further action.

7.2.7 To report allegations of retaliation, the affected individual may submit a request for protection against retaliation to the General Manager.

7.3 PRELIMINARY REVIEW OF REPORT OF MISCONDUCTS

7.3.1 The responsible official shall conduct a preliminary assessment of the report in order to determine whether the complaint has been submitted in good faith, that it is not frivolous or vexatious or manifestly unfounded.

7.3.2 To determine whether the report has been submitted in good faith, the responsible official shall review the available evidence and, where necessary and possible, make further enquiries, including from the affected or impacted individual, the alleged offender(s), and other person(s) believed to have relevant information.

7.3.3 The responsible official shall initiate an investigation in accordance with Article 7.4 of this Chapter if the preliminary assessment reveals that:

7.3.3.1 The report was made in good faith;

7.3.3.2 The alleged conduct could constitute misconduct;

7.3.3.3 There is a likelihood that an investigation would reveal sufficient evidence to further pursue the matter as a disciplinary case.

7.3.4 The responsible official shall dismiss the complaint if the preliminary assessment reveals that:

7.3.4.1 The report was made in bad faith, is frivolous or vexatious;

7.3.4.2 The alleged conduct would not constitute misconduct even if the alleged facts were assumed to be true;

7.3.4.3 There is no likelihood that an investigation would reveal sufficient evidence to further pursue the matter as a disciplinary case.

7.3.5 The responsible official may initiate disciplinary proceedings in accordance with Chapter 8 (Policy on Disciplinary Proceedings) without any investigation if:

7.3.5.1 The facts are established on the balance of probabilities;

7.3.5.2 The facts would constitute misconduct; and

7.3.5.3 An investigation will most likely not reveal additional facts or exonerating evidence.

7.3.6 Where the responsible official is the immediate superior of the alleged offender, he/she shall inform HRE of the outcome of the preliminary review. If the outcome of the preliminary review is not to initiate an investigation, HRE shall have the authority to initiate an investigation of their own volition in accordance with Article 7.4 of this Chapter.

7.3.7 Where possible, the responsible official shall inform the individual who submitted the report of possible misconduct of the outcome of the preliminary review.

7.4 INVESTIGATOR(S)

7.4.1 The responsible official may conduct personally the investigation as sole investigator, in accordance with the provision of this Chapter. Alternatively, the responsible official may, after consultation with the investigator(s), appoint a sole investigator or an investigation panel in accordance with the provision of this Article 7.4. However, the responsible official must appoint a sole investigator or an investigation panel to investigate allegations of serious misconduct and/or complex cases.

7.4.2 The responsible official shall ensure that any appointed investigator is impartial and has no personal interest in the outcome of the investigation.

7.4.3 With the authorization of the General Manager, the investigation may be outsourced in part or in whole or entrusted to an external expert or to NATO HQ.

7.4.4 When appointing a sole investigator or an investigation panel, the responsible official shall provide a written delegation of authority which will contain the following elements:

7.4.4.1 The name, functional title and grade of the sole investigator or of each member of an investigation panel;

7.4.4.2 The name, functional title and grade of the alleged offender;

7.4.4.3 A short summary of the alleged facts;

7.4.4.4 A confirmation that the individuals named in the written delegation of authority have been appointed to conduct an investigation;

7.4.4.5 Powers and terms of reference of the investigators. The terms of reference define the goal and scope of the investigation, potential timelines and any limitations/restrictions or exclusions.

7.4.4.6 When appointing a sole investigator or an investigation panel, the responsible official may use the template attached as Annex VIII.

7.4.5 HRE shall develop a roster of NSPA staff members and consultants authorized to conduct investigations either as sole investigators or as members of an investigation panel. Individuals listed in the roster should in principle receive training on how to conduct workplace investigations, to include such aspects as procedural fairness, confidentiality of investigative processes, interviewing techniques, report writing methodology and any other relevant matter.

7.4.6 The responsible official must obtain from HRE the authorisation in writing to appoint as investigator or member of an investigation panel any individual not listed in the roster established in accordance with Article 7.4.5 above.

7.4.7 Investigator(s) shall sign a declaration acknowledging the absence of any conflict of interest and undertaking to preserve the confidentiality of the investigation. The declaration shall be drawn in the first person and be in form of the template in Annex IX.

7.4.8 An individual whose personal interests may interfere with the performance of their duties and responsibilities as a sole investigator or member of an investigation panel, or with the integrity, independence, and impartiality required by an investigator shall disclose any such actual or apparent interest to the responsible official and request to be excused from participating in the investigation. The responsible official shall evaluate any disclosure of actual or apparent conflict of interest and, if deemed appropriate, recuse the individual from participating in the investigation.

7.4.9 NSPA staff members appointed to an investigative panel or as sole investigators shall be given adequate release from their normal duties by their managers. In the event that an investigator is unable to continue to serve after the investigation has commenced, every effort shall be made to appoint the replacement investigator in accordance with the terms of this Chapter. The investigation shall continue from the stage it reached before the replacement of the investigator, and the replacement investigator shall not normally be required to re-interview witnesses or to recommence the investigation.

7.4.10 NSPA staff members shall enjoy immunity from legal process within the meaning of Article XVIII (a) of the Agreement on the status of the North Atlantic Treaty Organization, National Representatives and International Staff, for any activity carried out in the context of, and for the purpose of an investigation.

7.5 BASIC OBLIGATIONS OF THE INVESTIGATOR(S)

7.5.1 The investigator(s) shall uphold the highest standards of integrity. The investigator(s) shall at all times maintain objectivity and impartiality. The investigator(s) shall exhibit fairness throughout the investigative process and shall remain at all times courteous and respectful.

7.5.2 The investigator(s) shall enjoy operational independence and shall not tolerate any interference from third parties in the investigative process. Any interference from a third party shall be recorded and may warrant disciplinary procedure.

7.5.3 The investigator(s) should pursue all lines of enquiry, collect and record information, both, inculpatory or exculpatory, in order to prove or disprove the alleged facts.

7.5.4 The investigator(s) shall maintain and protect the confidentiality of the investigative process.

7.6 OBTAINING DOCUMENTARY EVIDENCE OR ICT RECORDS

7.6.1 The investigator(s) shall determine the evidence that is required to assess the credibility and veracity of an alleged fact.

7.6.2 The investigator(s) shall accurately and diligently record the chain of custody. A template for recording the chain of custody of evidence is attached as Annex X.

Access to Relevant Documents

7.6.3 The investigator(s) shall have direct and prompt access to all relevant records, documents or other information under the control of the NSPA. All NSPA personnel shall cooperate with a duly authorized investigation by facilitating the investigator(s) access to information.

Access to ICT Resources and Data

7.6.4 In case the investigation requires access to ICT resources or ICT data, the investigator(s) shall submit a written request to the Chief of Staff. The request shall specify the relevance of the information sought. A template for requesting access is attached as Annex XI.

7.6.5 If the request referred to in Article 7.6.4 above is approved, the Chief Information Officer shall be instructed to provide the investigator(s) access to ICT resources or data required for the investigation. If the access is denied, the investigator(s) may escalate the request to the General Manager for a final decision.

7.6.6 The investigator(s) shall have access to ICT resources and ICT data remotely without informing the alleged offender.⁷ Physical access to ICT resources located in the alleged offender's workspace, if practicable, shall be conducted in the presence of the alleged offender or the head of the staff member's division, programme, section or unit.

Access to Personnel Records

7.6.7 In case the investigation requires access to personnel data, the investigator shall submit a written request to HRE. The request shall specify the relevance of the information sought. A template for requesting access is attached as Annex XI.

7.6.8 If the request referred to in Article 7.6.7 is approved, HR shall provide the investigator(s) access to relevant personnel data. If the access is denied, the investigator(s) may escalate the request to the General Manager for a final decision.

Access to Confidential Records or to Communications Protected by Attorney-Client Privilege

7.6.9 The investigator(s) shall not have access to confidential records in the possession of Medical Services or the Office of the Legal Advisor provided that such records were prepared or obtained through a proper exercise of these offices' official functions. Should an investigator inadvertently obtain such records (e.g. through a review of a staff member's email records or computer hard drive), they shall be removed from the investigative record and shall not be relied upon in the context of the investigation or referenced in the investigation report.

7.6.10 Notwithstanding Article 7.6.9 of this Chapter, the Office of the Legal Advisor or Medical Services, as the case may be, shall have the authority to determine whether the information sought is protected by attorney-client privilege or patient confidentiality.

⁷ Use of ICT resources is subject to monitoring in accordance with the OI 4600-13 CIS Security Policy.

7.7 OBTAINING TESTIMONIAL EVIDENCE

7.7.1 Before interviewing an individual, the investigator(s) shall provide the interviewee with a prior written notice of no less than 48 hours, unless there are duly justified compelling reasons to provide a shorter notice. The contents of a notice to be given to the alleged offender are set out in Annex XII. The contents of a notice to be given to witnesses are set out in Annex XIII. Managers should make staff members under their supervision available to the investigators for interviews.

7.7.2 The notice shall contain the following elements:

7.7.2.1 The names of the investigator(s);

7.7.2.2 The location of the interview;

7.7.2.3 Date(s) and time(s) for the interview.

7.7.3 In addition to the elements listed in Article 7.7.2 above, where the notice is sent to the alleged offender (subject), it shall:

7.7.3.1 Specify that he or she is the subject of the investigation;

7.7.3.2 Summarize the nature of the alleged misconduct;

7.7.3.3 Specify that he or she is permitted to be accompanied by another staff member for moral support only.

7.7.4 The investigator(s) should digitally record an interview. If the interview is digitally recorded, interviewees shall be informed accordingly. Interviewees are not permitted to record their interviews.

7.7.5 Where an interview is not digitally recorded, a record of the interview, such as a synopsis, written statement or record of questions and answers, shall be prepared and shared with the interviewee for the interviewee's signature. Interviewees shall be given a reasonable opportunity to review and provide comments on the record of interview, including comments regarding the interview process, before signing. If the interviewee does not review and/or sign the record of interview, the reasons given, if any, shall be noted on the record of interview or in the investigation report. The interviewee is not normally entitled to retain a copy of the record of interview.

7.7.6 A witness may also be asked to provide information in writing. A template request to provide information in writing is attached as Annex XIV.

7.7.7 Except as provided for in Article 7.7.3 above, interviewees are not entitled to the presence of a third party, including counsel, during an interview. While the alleged offender may invite another staff member for moral support as an observer, such observer shall not participate in any way in the interview, including by speaking or gesturing in any manner. If the alleged offender decides to bring an observer to the interview, the alleged offender shall ensure that the observer is available at the time scheduled. Interviews shall not be rescheduled owing to the unavailability of the observer.

7.7.8 During the interview, the investigator shall provide the alleged offender a reasonable opportunity to provide their version of the events and circumstances and any other

information that the alleged offender considers relevant. The alleged offender shall also be given a reasonable opportunity to provide the investigator(s) with names and contact details of persons who may be in possession of relevant information about the matter under investigation.⁸

7.7.9 The investigator(s) may provide the alleged offender a reasonable time and opportunity to submit additional information or evidence.

7.7.10 A template for opening and closing an interview is attached as Annex XV.

7.8 PREPARING THE INVESTIGATION REPORT

7.8.1 Once the investigation is completed, the investigator(s) shall draft an investigation report. A template for an investigation report is attached as Annex XVI.

7.8.2 The investigation report shall set out the alleged facts and specify which allegations could be established and which allegations remain unsubstantiated. The investigator(s) shall provide their reasoning in support of the conclusion that an alleged fact has been established or could not be established.

7.8.3 The investigation report shall be accompanied by clearly marked and numbered exhibits, which can be copies of supporting documentation, records of interviews, written statements, correspondence, photographs or any other evidence either in physical or electronic format.

7.8.4 If the findings of the investigation demonstrate that some of the facts that were investigated resulted in a financial loss to the Agency, the investigation report should, where possible, specify the amount of the financial loss.

7.8.5 The investigation report shall not contain legal determinations about the established facts nor indicate whether any disciplinary action shall be taken. Only the authorities responsible for initiating disciplinary action may decide to initiate disciplinary proceedings and recommend specific measures on the basis of the conclusions of the investigation report.

7.8.6 The duration and complexity of an investigation and its report will depend on specific allegations. Consequently an investigation may consist of interviews, review of documents, or ICT records, or may consist of a written document where the investigator merely reports observations. It is not required that the investigation report contain more information than necessary to establish or disprove the alleged fact. As a result, the investigation report may depart from the template attached as Annex XVI and can take any form deemed sufficient to set out the whether the facts and misconduct have been established.

7.8.7 If the investigation revealed criminal activities, the investigation report may recommend that the case be referred to the competent national authorities.

⁸ The investigator is not constrained to invite any witness requested by the staff member and may decide at its discretion who it considers relevant to hear.

7.8.8 The investigation report shall be signed by the investigator(s). The investigation report shall be submitted to or kept by the responsible official. Where the responsible official is not HRE, the responsible official shall submit a copy of the investigation report to HRE.

7.8.9 The responsible official shall keep a copy of the investigation report and its exhibits. Where possible and deemed appropriate, original physical evidence should be returned to the member of the NSPA personnel from whom it was obtained.

CHAPTER 8 – POLICY ON DISCIPLINARY PROCEEDINGS

8.1 SCOPE

8.1.1 This Policy applies to NSPA staff members.

8.1.2 The present Policy does not apply to temporary staff, consultants, contractors, Voluntary National Contributions and interns, who remain subject to the provisions and procedures applicable to them under their terms of service.

8.2 ASSESSMENT BASED ON THE INVESTIGATION REPORT

8.2.1 The determination of whether or not disciplinary proceedings should be initiated shall normally be based on an investigation report setting out the alleged facts and the findings of the investigator(s) in accordance with Chapter 7 (Policy on the Conduct of Investigations).

8.2.2 Upon receipt of the investigation report, the responsible official, shall seek advice from the Office of the Legal Advisor before determining whether to:

8.2.2.1 Initiate a disciplinary process in accordance with Article 8.3 below;

8.2.2.2 Refer the case to the authority responsible to take managerial actions and/or administrative measures if the responsible official considers that such measures would be adequate and sufficient;

8.2.2.3 Close the matter if the alleged misconduct is not established on the balance of probabilities.

8.2.3 If the responsible official considers that the investigation report, supporting information and any additional information obtained would warrant possible referral to national authorities, the responsible official shall transmit a copy of the investigation report to the Office of the Legal Advisor of NSPO/NSPA.

8.2.4 If the responsible official is not HRE and decides not to initiate disciplinary proceedings, the responsible official shall notify HRE (for a sample notification, see Annex XVIII), and submit the investigation report and supporting documentation. If HRE disagrees with the decision of the responsible official, HRE may, after seeking advice from the Office of the Legal Advisor, initiate disciplinary proceedings in accordance with Article 8.3.3.

8.3 INITIATION OF DISCIPLINARY PROCEEDINGS

Reprimand

8.3.1 Where the intended disciplinary action is a reprimand provided for in Article 59.3 (a) of the NCPR, the immediate superior of the alleged offender must inform HRE in writing

before imposing the disciplinary action, using the template attached as Annex XXV. HRE shall inform the immediate superior if s/he intends to initiate the disciplinary proceedings in accordance with Article 8.3.3 below within 15 working days. If HRE does not intend to initiate disciplinary proceedings, the immediate superior of the alleged offender has the authority to issue such reprimand after informing the alleged offender of the alleged misconduct in writing and after giving the alleged offender an opportunity to provide written or oral comments or observations.

8.3.2 Upon the imposition of a reprimand, the immediate superior of the alleged offender shall immediately inform HRE in writing of the action taken and of the comments or observations received from the alleged offender. HRE shall record this in the alleged offender's personnel file.

Disciplinary actions other than reprimand

8.3.3 Where the disciplinary proceedings relate to a disciplinary action other than a reprimand, the following process shall apply.

8.3.4 If the responsible official decides to initiate disciplinary proceedings, the responsible official shall prepare a disciplinary report, which includes the following elements:

8.3.4.1 All of the alleged facts;

8.3.4.2 Facts that have been alleged but could not be established on balance of probabilities;

8.3.4.3 Facts that have been alleged and were established on balance of probabilities;

8.3.4.4 The obligation allegedly breached, including the legal instrument and the provision that contains the obligation;

8.3.4.5 A recommendation of a proportionate disciplinary action, taking into account any mitigating and/or aggravating circumstances known to the responsible official;

8.3.4.6 Where applicable, a recommendation to recover financial losses sustained by NSPA attributable to the staff member's gross negligence or wilful act within the meaning of Article 59.6 of NCPR;

8.3.4.7 A paragraph informing the alleged offender of their right to respond to the allegations of misconduct and to provide any evidence within the specified period; and

8.3.4.8 Relevant annexes and exhibits, including a copy of the investigation report and the relevant supporting documentation.

8.3.5 Two copies of the report (see template at Annex XIX) shall be prepared. One copy shall be sent to the alleged offender together with the letter of notification (see template at Annex XVIII) and the other copy shall be kept by or, where applicable, sent to HRE. The report may be transmitted to the alleged offender either in hard copy or electronically. Where transmission to the alleged offender is in hard copy, it should be sent by registered mail or delivered by hand.

8.3.6 Portions or excerpts of the investigation or disciplinary report or documentary evidence attached to them may be redacted to prevent destruction of evidence, intimidation

of witnesses, retaliation against witnesses or reputational harm to the Agency that may result from disclosure of the relevant portion or excerpt.

8.4 COMMENTS FROM THE ALLEGED OFFENDER

8.4.1 The alleged offender shall have 15 working days from the date of receipt of the report to submit written or oral comments thereon to the authority initiating the disciplinary proceedings. The alleged offender is responsible for including in the comments all information relating to the allegations of misconduct that s/he wishes to be considered.

8.4.2 The disciplinary file, including the written comments or transcription of oral comments of the alleged offender, shall be submitted to or kept by HRE.

8.5 ACTIONS BASED ON THE COMMENTS OF THE ALLEGED OFFENDER

8.5.1 Upon receiving the disciplinary file, HRE shall determine whether he or she is satisfied that:

8.5.1.1 The alleged facts are well-founded and have been established on balance of probabilities or preponderance of evidence;

8.5.1.2 That the established facts constitute a breach of a staff member's obligations;

8.5.1.3 That the recommended disciplinary action is proportionate.

8.5.2 If, based on the written or oral comments received from the alleged offender, HRE determines that the alleged facts have not been established on balance of probabilities or that the established facts do not constitute misconduct, HRE shall discontinue the disciplinary proceedings and inform the alleged offender of this decision.

8.5.3 If, based on the written or oral comments received from the alleged offender, HRE determines that the disciplinary action initially recommended would no longer be proportionate, HRE shall recommend a different disciplinary action that would be proportionate. HRE may therefore:

8.5.3.1 Refer the matter to the immediate superior of the alleged offender recommending to impose the recommended disciplinary action if it is a reprimand provided for in Article 59.3 (a) of the NCPR;

8.5.3.2 Prescribe written censure or postponement of salary increment in relation to a staff member in grades A5 or below;

8.5.3.3 Refer the matter to the General Manager recommending to impose the proposed disciplinary action if it is a written censure or postponement of salary increment in relation to a staff member in grades A6 or above. Upon receipt of the recommendation, the General Manager shall either impose the recommended action or provide reasons for not following the recommendation;

8.5.3.4 Convene a Disciplinary Board if the recommended disciplinary action is a temporary suspension, dismissal or a withdrawal of benefits under the Coordinated Pension Scheme, Provident Fund, Defined Contribution Pension Scheme, or group insurance policy.

8.5.4 The decisions referred to in Articles 8.5.2 and 8.5.3 above shall be taken in agreement with the immediate superior and HRE. In the event of disagreement between the immediate superior and HRE, the case shall be referred to the General Manager for a decision.

8.5.5 If, based on the written or oral comments received from the alleged offender, HRE determines that the alleged facts have been established on balance of probabilities, that the established facts constitute a breach of a staff member's obligations and that the disciplinary action initially recommended is still the most proportionate sanction, HRE shall:

8.5.5.1 Prescribe the recommended disciplinary action if it is a written censure or postponement of salary increment in relation to a staff member in grades A5 or below;

8.5.5.2 Refer the matter to the General Manager recommending to impose the proposed disciplinary action if it is a written censure or postponement of salary increment in relation to a staff member in grades A6 or above. Upon receipt of the request, the General Manager shall either impose the recommended action or provide reasons for not following the recommendation;

8.5.5.3 Convene a Disciplinary Board if the recommended disciplinary action is a temporary suspension, dismissal or a withdrawal of benefits under the Coordinated Pension Scheme, Provident Fund, Defined Contribution Pension Scheme, or group insurance policy.

8.5.6 The HRE or the General Manager may also impose such administrative measures as they deem necessary, including a recovery of financial losses to the NSPA, reassignments, transfers or change of reporting lines. The HRE or the General Manager may also refer the matter to a superior of the offender for appropriate action, including implementation of Performance Improvement Plans and mandatory training.

8.6 RECOMMENDATION BY THE DISCIPLINARY BOARD

8.6.1 The Disciplinary Board shall be constituted in accordance with the provisions of article 6.1 of Annex X to the NCPR.⁹

8.6.2 The Disciplinary Board must hear the alleged offender. The Disciplinary Board shall inform the alleged offender of the date of the hearing by email or registered mail at least two weeks before the hearing date. A sample invitation to the alleged offender is attached as Annex XX.

⁹ Article 6.1 of Annex X to the NCPR reads as follows: "The Disciplinary Board shall be composed of three members: the official responsible for personnel management or such other official as the Head of NATO Body may appoint (Chair), the Head of Division or independent service to whom the staff member is responsible, and a staff member nominated by the Staff Committee holding in so far as possible a grade not lower than the staff member who is the subject of disciplinary procedures."

8.6.3 The Disciplinary Board may require other staff members to appear before it. The Disciplinary Board shall inform potential witnesses of the date of the hearing by email or registered mail at least 48 hours before the hearing date. A template is attached as Annex XXI.

8.6.4 The minutes of the hearing of the witnesses shall be sent to the alleged offender. Portions or excerpts of the minutes may be redacted to prevent retaliation against witnesses or reputational harm to NSPA that may result from disclosure of the relevant portion or excerpt. The alleged offender shall have 5 working day in which to submit additional written or verbal comments to the Disciplinary Board.

8.6.5 The alleged offender may submit statements and documents and request that other witnesses be heard.¹⁰ The alleged offender's request to invite additional witnesses shall be made at least one week before the hearing with the Disciplinary Board. It is the alleged offender's responsibility to ensure that their witnesses are available.

8.6.6 Neither the alleged offender nor the witnesses are entitled to the presence of a third party, including counsel, during a hearing. However, the alleged offender may invite another NSPA Staff Member for moral support as an observer. Such observer shall not participate in any way in the interview, including by speaking or gesturing in any manner. If the alleged offender decides to bring an observer to the hearing, the alleged offender shall ensure that the observer is available at the time scheduled. Hearings shall not be rescheduled owing to the unavailability of the observer.

8.6.7 On the basis of the disciplinary file, the Disciplinary Board shall deliberate and determine whether or not:

8.6.7.1 The alleged facts have been established on balance of probabilities or preponderance of evidence;

8.6.7.2 The established facts constitute a breach of a staff member's obligations; and

8.6.7.3 The disciplinary action recommended in the disciplinary measure is proportionate.

8.6.8 Recommendations of the Disciplinary Board shall be decided by majority vote.

8.6.9 The Disciplinary Board shall provide adequate written reasons in support of its recommendations to the General Manager. A template is attached as Annex XXII. Any member of the Disciplinary Board disagreeing with these recommendations may submit a memorandum to the General Manager in accordance with Article 6.3 of Annex X of the NCPR.

8.6.10 The recommendation of the Disciplinary Board shall be transmitted to the General Manager only.

¹⁰ The Disciplinary Board is not constrained to invite any witness requested by the staff member and may decide at its discretion who it considers relevant to hear.

8.7 IMPOSITION OF DISCIPLINARY ACTION BY THE GENERAL MANAGER

8.7.1 The General Manager shall follow the recommendations of the majority of the Disciplinary Board unless the General Manager is of the view that the recommendations are manifestly unreasonable.

8.7.2 The General Manager has the authority to impose any of the disciplinary action provided for by Article 59.3 of the NCPR.

8.7.3 If the General Manager imposes a disciplinary action which entails the reduction, suspension or withdrawal of benefits under the Pension Scheme, Provident Fund, or group insurance policy, as provided in sub-paragraphs (e) or (f) of Article 59.3 of the NCPR, the General Manager shall request the prior approval of the Secretary General of NATO.

8.7.4 A final decision on the disciplinary action should be taken and notified within 30 working days, either from the date of submission by the staff member of written or oral comments to the authority initiating the procedure or, if appropriate, from the date of receipt of the recommendation by the Disciplinary Board. The notification shall provide detailed reasons for the decision and refer to the relevant provision of the NCPR, which prescribes it.

8.7.5 The General Manager is not obliged to hear the alleged offender before taking a final decision on the disciplinary action. However, where the General Manager intends to impose a disciplinary action more severe than the one recommended by the Disciplinary Board, the General Manager should inform the alleged offender and give no less than 10 days in which to provide written or oral comments.

8.7.6 A copy of the letter imposing the disciplinary action shall be kept by HRE and sent to the alleged offender's immediate superior. The signed letter may be communicated in hard copy or electronically. The decision shall be deemed to be received on the date the decision was electronically communicated to the alleged offender.

8.8 RECOVERY OF FINANCIAL LOSS TO THE ORGANIZATION

8.8.1 Irrespective of whether or not a disciplinary action is imposed, the General Manager may, in accordance with Article 59.6 of the NCPR, determine on the basis of an investigation conducted in accordance with Chapter 7 (Policy on the Conduct of Investigations) that the actions of the alleged offender caused financial losses to NSPA through wilful, reckless or grossly negligent conduct.

8.8.2 If the alleged offender separates from service before the conclusion of an investigation, the General Manager may authorize the Payroll and People Services Office to withhold the estimated financial loss suffered by NSPA as a result of the alleged offender's wilful, reckless or grossly negligent conduct from final separation entitlements pending the completion of the investigation.

8.8.3 If an investigation or the disciplinary process reveals that the alleged offender's conduct was not wilful, reckless or grossly negligent or that it did not cause a financial loss to NSPA, the amounts withheld shall be released without delay.

8.8.4 If a process cannot be completed owing to the alleged offender's lack of cooperation, NSPA shall recover from the alleged offender's final emoluments and/or pension scheme an amount equivalent to losses sustained by NSPA.

8.9 INCLUSION OF INFORMATION IN A STAFF MEMBER'S FILE

8.9.1 Any disciplinary action shall be recorded in the alleged offender's personnel file and may be taken into account in any competitive selection process.

8.10 DISCLOSURE OF INFORMATION OBTAINED DURING AN INVESTIGATION

8.10.1 Information obtained during the investigation and disciplinary process shall be treated with confidentiality and discretion.

8.10.2 Notwithstanding Article 8.10.1 above, the General Manager may disclose to a NATO entity information about an ongoing investigation or disciplinary process if it relates to an alleged offender who has applied for a vacancy in, is transferring to, or has been recruited by that NATO entity. Such information may also be disclosed to a non-NATO entity or prospective employer of a staff member, upon the request of such entity or prospective employer provided the prospective employer is able to demonstrate that the concerned individual authorized the disclosure of information.

8.11 SUSPENSION

8.11.1 In accordance with article 60.2 of the NCPR, the General Manager may suspend an alleged offender at any time after an allegation of serious misconduct has been made and pending the completion of the disciplinary process. The suspension may be made with full or partial pay or without pay. The suspension may continue until the completion of the disciplinary process.

8.11.2 A suspension is an administrative action and does not constitute a disciplinary action. The notice or letter informing the alleged offender of his suspension shall contain the following information:

8.11.2.1 The reason(s) for the decision;

8.11.2.2 Whether the alleged offender will be deprived of any emoluments; and

8.11.2.3 The likely duration of the suspension.

8.11.3 The General Manager may decide to suspend the alleged offender if the General Manager determines that the allegations of misconduct are prima facie well-founded and if there are reasonable grounds to believe that:

8.11.3.1 Given the nature of their functions, the alleged offender would be unable to continue effectively performing them;

8.11.3.2 Evidence could be destroyed, concealed or otherwise tampered with;

8.11.3.3 Witnesses could be intimidated or retaliated against;

8.11.3.4 The alleged offender would interfere in any way with the investigation or disciplinary process;

8.11.3.5 The continued presence of the alleged offender would constitute a security or financial risk to NSPA and/or its personnel, or could otherwise prejudice the interests or reputation of the Agency;

8.11.3.6 The alleged offender's continued presence would have a negative impact on the preservation of a harmonious work environment; or

8.11.3.7 The alleged misconduct would continue or repeat itself.

8.11.4 A suspension shall normally be with full pay. A suspension shall be without pay if:

8.11.4.1 The alleged misconduct is a fraudulent activity;

8.11.4.2 The alleged misconduct constitutes theft; or

8.11.4.3 The General Manager deems it necessary to protect the interests of NSPA and/or NATO.

8.11.5 A decision to suspend an alleged offender without pay shall not interrupt or affect his or her entitlement to education allowance, contributions to Provident Fund or pension scheme, or medical insurance coverage. The amount of pay withheld from the alleged offender during the suspension without pay shall be net of all contributions by the alleged offender and the NSPA for maintaining such entitlements and benefits.

8.11.6 The General Manager may at any time convert the alleged offender's suspension with full or partial pay to administrative leave without pay and vice versa.

8.11.7 If the allegations of misconduct are subsequently not sustained or it is subsequently found that the conduct at issue does not warrant dismissal, any pay withheld during the suspension shall be restored.

8.11.8 A staff member who is suspended, shall:

8.11.8.1 Surrender their badge;

8.11.8.2 Return any NATO owned equipment that has been assigned to them;

8.11.8.3 Obtain the written approval from HRE if they wish to enter NSPA's premises during the suspension;

8.11.8.4 Obtain the written approval from HRE before leaving the duty station during the period of suspension;

8.11.8.5 Provide the Payroll and People Services Office, and update as necessary, their current contact information, including telephone number(s), personal email address(es) and residential address;

8.11.8.6 Remain available to be contacted by NSPA through the contact information provided;

8.11.8.7 Remain available during the investigation or disciplinary process and cooperate with the investigation and disciplinary process; and

8.11.8.8 Request permission to engage in any outside activities in accordance with article 12.2 of the NCPR.

8.11.9 Where NSPA has made at least three documented attempts to contact the alleged offender who has been suspended using the most recent contact information provided, and the alleged offender does not contact the NSPA within one week of the last documented attempt, the alleged offender shall be deemed to have relinquished their post without notice.

ANNEX I – REQUEST FOR OUTSIDE EMPLOYMENT OR PROFESSIONAL ACTIVITY

Step I: Please provide details and pass on for approval by the HR Executive

Name: _____

POD: _____

Grade: _____

1. What is the purpose and context of the contemplated outside occupation?
2. Give the name, location and describe the main activity of the company / institution offering to hire your services.
3. Give a description of the weekly or monthly time you would expect to spend on this outside occupation.
4. Explain how you plan to balance your outside occupation with your NSPA work (e.g., at night, during the weekend, during leaves, etc.).

6 Certifications:

- I certify that in the performance of this outside occupation, I will not use any NSPA resources (e.g., time, computers, office supplies) or work products created by NSPA staff members;

- I certify that I will not use my official position with NSPA/NATO, or information gained from it, for the gain of my secondary employer.

- I certify that my secondary employer will not do business with the NSPA or any other NATO body. Should the employer seek to do business with NSPA, I will immediately notify the Payroll and People Services Office and understand that this authorization will become void;

- I certify that I would immediately inform the NSPA in case I would identify a possible conflict of interest between my outside occupation and my NSPA employment.

Signature: _____

Date: _____

Through Line Manager/Director: _____

Line Manager/Director Comments (as appropriate): _____

Step II: Forward to the HR Executive

Approved/Rejected: _____

NSPA HR Executive

Step III: To be inserted in the personnel file in HR

ANNEX II – NON-DISCLOSURE DECLARATION

I, (insert full names) _____

an employee of NSPA/ Consultant for NSPA/ Any other party having access to data (detail) _____ assigned to carry out work in connection with the evaluation of NSPA RFP Number _____ hereby undertake as follows:

1. Not to copy or reproduce or permit the copying or reproduction of any drawings, books, manuals, documents, literature, records, or other information or material which is not publicly available (together called "the Material") obtained from NSPA other than for use in connection with the evaluation of the aforementioned RFP. I further undertake not to provide or disclose or permit the provision or disclosure orally or otherwise, either directly or indirectly of any of the Material or any copy, summary or extract thereof to any third party other than members of the Technical Evaluation or Source Selection Panel who are assigned to carry out work in connection with the RFP, who have a need to know and who have also signed a Non-Disclosure Agreement.
2. Upon completion of the evaluation or upon termination for any reason of my involvement with this evaluation, to return to the Contracting Officer the Material including any copies or reproductions thereof in my possession at the time of such termination.
3. Not to use or to divulge or communicate either directly or indirectly to any third party any other information whether written or oral acquired during the course of the Evaluation, except with the prior written consent of the NSPA Contracting Officer.

Name (Printed) _____

Signed _____

Date _____

Countersigned _____

(Printed name and signature of Cognisant NSPA Contracting Officer or Branch Chief)

ANNEX III – FINANCIAL DISCLOSURE STATEMENT AND AFFIDAVIT OF IMPARTIALITY

I, (insert full names) _____

an employee of NSPA/ Consultant for NSPA/ Any other party having access to data (detail) _____ assigned to carry out work in connection with the evaluation of NSPA RFP Number _____ hereby certify, having received and seen the list of companies admitted to this procedure, as follows:

- I have *[provide details]* / do not have a friend, family member or a relative who works for a company or a subcontractor competing under this requirement.
- Neither I nor any friend, family member or relative of mine has any financial interest in any company involved in competing for this requirement.
- I hereby attest that I will conduct this evaluation in accordance with the criteria set forth in the RFP/source selection plan and will do so fairly and impartially.
- I certify that the information I am providing with this form is to the best of my knowledge complete and accurate. I acknowledge that misrepresentations or material omissions may be a breach of the NSPA Ethics and Integrity Policy and grounds for discipline.

Name (Printed) _____

Signed _____

Date _____

Countersigned _____

(Printed name and signature of Cognisant NSPA Contracting Officer or Branch Chief)

ANNEX IV – GRATUITIES REGISTER

This form is used to record all gratuities that have been offered to staff as per paragraph 12.

To be completed by the staff member offered the gratuity

| | | |
|---|--------------------|------------|
| Description of the gratuity (include the approximate value, if possible): | | |
| Details of the donor (name, location, date): | | |
| Explain the personal or service-related reasons for accepting the gratuity: | | |
| Details of the person accepting the gratuity: | Name and position: | Signature: |
| | | Date: |

To be completed by the Office of the Competition Advocate
Ser No _____

| | | |
|---|--------------------|--|
| The recipient is authorized to retain the gratuity | | Yes: <input type="checkbox"/> No: <input type="checkbox"/> |
| Final destination of the gratuity if the recipient is not authorized to retain the gratuity, e.g. retention by the Agency | | |
| Donor to be informed: | | Yes: <input type="checkbox"/> No: <input type="checkbox"/> |
| Deciding authority (name, position and date): | Name and position: | Signature: |
| | | Date: |

ANNEX V – ANNUAL NON-DISCLOSURE DECLARATION**VALID FOR THE YEAR****FOR FF & PP STAFF ONLY**

I, (insert full names)

an employee of the NSPA Procurement Division / Finance Division hereby undertake as follows :

1. Not to copy or reproduce or permit the copying or reproduction of any drawings, books, manuals, documents, literature, records, or other information or material which is not publicly available (together called "the Material") obtained from NSPA other than for use in connection with the performance of my duties. I further undertake not to provide or disclose or permit the provision or disclosure orally or otherwise, either directly or indirectly of any of the Material or any copy, summary or extract thereof to any third party other than NSPA personnel who have a need to know.

2. Not to use or to divulge or communicate either directly or indirectly to any third party any other information whether written or oral acquired during the course of the performance of my duties, except with the prior written consent of

Signed _____

Date _____

Countersigned _____

(Printed name and signature of Cognisant NSPA Procurement Officer for Buyers or Branch Chief for (Senior) Procurement Officers / [To be completed for FF staffs])

ANNEX VI – ANNUAL FINANCIAL DISCLOSURE STATEMENT AND AFFIDAVIT OF IMPARTIALITY

VALID FOR THE YEAR ...

FOR FF AND PP STAFF ONLY

I, _____
an employee of the NSPA Procurement Division / Finance Division hereby certify as follows:

- I do not have a friend, family member or relative who works for a company or a subcontractor doing business or seeking business with NSPA or who is expected to compete under an NSPA RFP.

Or

- I have a friend, family member or relative who works for a company or a subcontractor doing business or seeking business with NSPA or who is expected to compete under an NSPA RFP.

a. **Company name :**

b. **Individual name :**

(delete as appropriate)

- Neither I, nor any friend, family member or relative of mine, has financial interest in any company doing business or seeking business with NSPA or who is expected to compete under an NSPA RFP.¹¹

Or

- I, or a friend, family member or relative of mine, has a financial interest in a company doing business or seeking business with NSPA or who is expected to compete under an NSPA RFP (see details below).

(delete as appropriate)

- I hereby attest that I will perform my duties fairly and impartially.
- **I hereby attest that I will amend this declaration as necessary.**

Signed _____

Date _____

Countersigned _____

(Printed name and signature of Cognisant NSPA Procurement Officer for buyers or Branch Chief for (Senior) Procurement officers)

¹¹ Stocks (shares) in a single company the value of which exceeds 15000 euros and stock options of any value in a company are deemed to be financial interests.

ANNEX VII – TEMPLATE FOR REPORTING ALLEGATIONS OF MISCONDUCT

I write to report possible misconduct.

The action(s) or behaviour that appear to be unsatisfactory or inappropriate are:

The individual(s) involved is (are): _____

The date and time of the incident(s) are: _____

The exact location of the incident(s) is: _____

The incident was witnessed by: _____

My contact details are: _____

Name: _____

Signature: _____

Date: _____

ANNEX VIII – APPOINTMENT OF AN INVESTIGATOR

On _____ [insert date] _____, I received the communication attached to this letter which contains allegations of possible misconduct involving _____ [insert the name of staff member/consultant/temporary personnel] _____, hereinafter the “alleged offender”. The alleged offender is a current [former] staff member [consultant/temporary personnel/VNC staff] with NSPA. His functional title and grade are [were]: _____.

Pursuant to paragraph 5.1 of *Disciplinary Powers and Procedures* (Annex X of the Civilian Personnel Regulations), I have the authority to initiate disciplinary proceedings. Before determining whether disciplinary proceedings should be initiated, the veracity of the alleged facts must be examined through a thorough investigation. In accordance with the NSPA Policy on Prevention, Detection, Investigation and Sanction of all Forms of Misconduct, I hereby appoint you as a sole investigator [a member of an investigation panel] to carry out the investigation. You shall have all the authority and powers set out in Chapter 7 of the Policy.

It is your responsibility to collect and obtain evidence, interview witnesses, assess the credibility of interviewees, and to produce an investigation report on the basis of which I or the superior of the alleged offender will determine whether disciplinary proceedings must be initiated and what disciplinary measures, if any, should be recommended.

I would like to recall that you have an obligation to uphold the highest standards of integrity. You shall at all times maintain objectivity and impartiality. You shall exhibit fairness throughout the investigative process. You shall enjoy operational independence and shall not tolerate any interference from third parties in the investigative process. You shall be at all times courteous and respectful. You shall pursue all lines of enquiry, collect and record information, both inculpatory and exculpatory, in order to prove or disprove the alleged facts. You shall also maintain and protect the confidentiality of the investigative process.

You should conduct your investigation within [...]. I invite you to inform me of any delays or setback you might encounter.

If you have not yet received a training on investigations, you will be invited in a separate letter to participate in a one-day training session. If, during the investigation, you need legal or procedural guidance, I invite you to communicate with the Office of the Legal Advisor at legad@nsa.nato.int.

I thank you in advance for your cooperation.

Name: _____

Signature: _____

Functional title: _____

Date: _____

ANNEX IX – DECLARATION BY THE INVESTIGATOR**By signing this Declaration of Impartiality and Confidentiality,**

I declare that my personal interests do not interfere with the performance of my duties and responsibilities as an investigator [or member of an investigation panel], or with the integrity, independence, and impartiality required by an investigator.

I further undertake to act impartially and to declare immediately any actual or perceived conflict of interest, be it of commercial, financial, political nature and/or any pressure(s) that could influence my investigative responsibilities resulting or not in a personal gain.

I further hereby agree that all information in relation to the investigation gained by me prior to, during and after the investigation entrusted to me will be treated by me as confidential information and will not be reproduced or disclosed to any person or organization who does not have the right of access to such information, except by express written permission from the official responsible for personnel management.

Name: _____

Signature: _____

Date: _____

ANNEX X – CHAIN OF CUSTODY TEMPLATE

| CHAIN OF CUSTODY DOCUMENT | |
|--|---|
| Case Number: | Exhibit Number: |
| Description of Exhibit: | |
| Where Seized/Produced: | When Seized/Produced (Local Date/Time): |
| Details of Person Who Seized/Produced the Exhibit Name: _____ Identification Number: _____ Signature: _____ Rank/Title: _____ | |
| (Continuity) | |
| Details of Person Receiving the Exhibit Name: _____ Identification Number: _____ Rank/Title: _____ Local Date/Time: _____ Signature: _____ Purpose of Receiving the Exhibit: _____ | |
| (Continuity) | |
| Details of Person Receiving the Exhibit Name: _____ Identification Number: _____ Rank/Title: _____ Local Date/Time: _____ Signature: _____ Purpose of Receiving the Exhibit: _____ | |
| (Continuity) | |
| Details of Person Receiving the Exhibit Name: _____ Identification Number: _____ Rank/Title: _____ Local Date/Time: _____ Signature: _____ Purpose of Receiving the Exhibit: _____ | |

ANNEX XI – REQUEST FOR ACCESS TO INFORMATION

This is a request for access to information submitted in accordance with Articles 7.6.4 and 7.6.7 of the NSPA Policy on the Conduct of Investigations.

The relevant provisions read as follows:

7.6.4 In case the investigation requires access to ICT resources or ICT data, the investigator(s) shall submit a written request to the General Manager or an official to whom the General Manager delegates this authority. The request shall specify the relevance of the information sought. A template for requesting access is attached as Annex XI.

7.6.7 In case the investigation requires access to personnel data, the investigator(s) shall submit a written request to HRE. The request shall specify the relevance of the information sought. A template for requesting access is attached as Annex XI.

I was instructed to conduct an investigation into allegations of possible misconduct implicating a member of personnel. The investigation requires me to have access to the following information:

- _____
- _____
- _____

This information will allow me to determine _____

I respectfully request that access to this information be granted to me within a reasonable delay and no later than [dd.mmm.yyyy].

I thank you in advance for your cooperation.

Name: _____

Signature: _____

Date: _____

ANNEX XII – NOTICE TO THE SUBJECT OF THE INVESTIGATION (ALLEGED OFFENDER) AND INVITATION TO INTERVIEW

Date: _____

To: [Name of the alleged offender]
From: [Name(s) of the investigator(s)]

Subject: Notice of Investigation and Invitation to an Interview

Dear [Name],

On [dd.mm.yyyy], [name of the responsible official] received allegations of possible misconduct implicating you. In accordance with the NSPA Policy on the Prevention, Detection, Investigation and Sanction of All Forms of Misconduct, [name of the responsible official] appointed me [us] as a sole investigator [investigation panel] to investigate the alleged facts and to determine whether they are established. Based on the outcome of this investigation, the competent authority will then decide whether to institute disciplinary proceedings.

If you wish to raise any objection whatsoever as to the impartiality or competence of the investigator(s), you are kindly requested to do so in writing at the earliest opportunity by providing detailed reasons in support of your objection. Grounds of objection may include a reasonable apprehension of bias, lack of independence, and conflict of interest.

It is alleged that you breached your obligations [under Civilian personnel Regulations, NATO Code of Conduct, or other legal obligations]. More detailed information will be provided to you in due course.

The investigator(s)'s sole role consists of determining whether the alleged facts have been established to the required evidential threshold, but it is not the role of the investigator(s) to characterize the alleged facts as misconduct. To fulfil their mandate, the investigator(s) need(s) to interview you. During the interview, the investigator(s) will provide you with additional information on the allegations levied against you and will give you an opportunity to identify witnesses who may provide information that could corroborate your version of the facts. You will also have an opportunity to submit any evidence you deem relevant.

The interview will take place in [indicate the location of the interview] and will last approximately _____ hours. The investigator(s) respectfully request(s) that you confirm the language (French or English) in which you want the interview to be conducted and your availability for one of these two dates and time periods:

- [Date] at [time]; or [Date] at [time].

Please note that you have the right to be accompanied by another staff member for moral support. This staff member may observe the interview but cannot intervene or speak during the interview. At any point during the interview, the investigator(s) may request the observer to leave the interview room.

Considering the serious and sensitive nature of this matter, you are respectfully requested to preserve and maintain the confidentiality of this process. It is strictly prohibited to share with third parties, except for legal counsel, any written or verbal communication you have already received or might receive in the future in connection with this investigation.

We thank you in advance for your understanding and cooperation.

ANNEX XIII – INVITATION OF A WITNESS TO AN INTERVIEW

Date: _____

To: [Name of the witness]**From:** [Name(s) of the investigator(s)]**Subject:** Notice of Investigation and Invitation to an Interview

Dear [Name],

On [dd.mm.yyyy], [name of the responsible official] received allegations of possible misconduct implicating you. In accordance with the NSPA Policy on the Prevention, Detection, Investigation and Sanction of All Forms of Misconduct, [name of the responsible official] appointed me [us] as a sole investigator [investigation panel] to investigate the alleged facts and to determine whether they are established. Based on the outcome of this investigation, the competent authority will then decide whether to institute disciplinary proceedings.

Having reviewed the allegations, the investigator(s) reached the conclusion that you may have personal knowledge of some relevant facts. Consequently, the investigator(s) would like to interview you as a witness. You are hereby invited to an interview scheduled to take place on [date] at [time] in the [location]. The duration of the interview will most likely not exceed [2 hours]. You are kindly requested to acknowledge receipt of this email and confirm your availability for the interview.

Considering the serious and sensitive nature of this matter, you are respectfully requested to preserve and maintain the confidentiality of this process. It is strictly prohibited to share with third parties any written or verbal communication you have already received or might receive in the future in connection with this investigation.

We thank you in advance for your understanding and cooperation.

ANNEX XIV – INVITATION OF A WITNESS TO PROVIDE INFORMATION IN WRITING

Date: _____

To: [Name of the witness]**From:** [Name(s) of the investigator(s)]**Subject:** Notice of Investigation and Invitation to provide information in writing

Dear [Name],

On [dd.mm.yyyy], [name of the responsible official] received allegations of possible misconduct implicating you. In accordance with the NSPA Policy on the Conduct of Investigations, [the Responsible Official] decided [appointed me [us] as a sole investigator [investigation panel]] to investigate the alleged facts and to determine whether they are established. Based on the outcome of this investigation, the competent authority will then decide whether to institute disciplinary proceedings.

Having reviewed the allegations, the investigator(s) reached the conclusion that you may have personal knowledge of some relevant facts. You were therefore identified as a potential witness who may have information relating to the matters being examined.

I ask you to respond to the following questions truthfully, at your earliest opportunity. If you do not remember, or do not know the answer to a question, please state so.

1. Question 1: ...
2. Question 2: ...
3. Question 3: ...

Considering the serious and sensitive nature of this matter, you are respectfully requested to preserve and maintain the confidentiality of this process. As these questions relate to a sensitive matter, please do not discuss these questions or our interaction with anyone without prior written authorization from myself or from HRE.

We thank you in advance for your understanding and cooperation.

ANNEX XV – TEMPLATE FOR OPENING AND CLOSING THE INTERVIEW**Opening the Interview**

This is an audio-recorded interview held on [date] at [time] in [location]. Present in the room are [list out loud the names of every individual present in the interview room].

The investigator(s) is (are) [name(s) of the investigator(s)]. The person being interviewed is [name of the individual].

For the purposes of establishing the identity of the person being interviewed, I would like to ask you to state out loud your full name and occupation.

Could you please confirm that you received a written invitation to this interview on [specify the date on which the invitation was received].

If at any time during the interview, you would like to take a break, please let the investigator(s) know.

Before I (we) begin asking you questions, I (we) would like you to make a solemn affirmation that everything you say will be the truth, the whole truth and nothing but the truth.

...

...

...

Closing the Interview

Before we conclude the interview, do you have anything to add? Can you think of any potential witnesses that we should interview? Is there any evidence that you would like to submit after the interview? If there is anything that you would like to add, please inform the investigator(s) in writing on or before [insert date].

Before we stop the audio-recording, we would like to ask you about the conduct of the interview. Did you find that the investigator(s) was (were) fair towards you during the interview? Do you have any complaints about the way the interview was conducted?

It is now [time] and the audio-recording will now stop.

ANNEX XVI – INVESTIGATION REPORT TEMPLATE**A. Table of Contents****B. Receipt of Complaint:**

On [date], the Agency received an email [letter] alleging that Mr/Mrs/Ms/ [name] was involved in [describe the allegations of misconduct].

C. Description of Allegations

The complaint states that on [date] Mr/Mrs/Ms [name] allegedly [describe the alleged misconduct].

D. Applicable Legal Framework

The applicable legal rules are:

| |
|--|
| |
| |
| |
| |
| |

E. Methodology

Methodology: [briefly describe how the investigation was executed and the type of evidence relied upon; include any limitations to the investigation; include whether the subject was interviewed (date); if the subject provided names of potential witnesses, list these witnesses and explain if these witnesses were not contacted];

F. Findings

[Explain whether the evidence collected allowed the investors to establish or disprove the alleged facts].

G. Recommendations

State whether your recommendation is to close the matter or to institute disciplinary proceedings.

**ANNEX XVII – NOTICE TO HRE THAT NO FURTHER DISCIPLINARY ACTION WILL BE
TAKEN/ FURTHER DISCIPLINARY ACTION WILL BE TAKEN**

To: [HRE]
From: [Name of the immediate superior of the alleged offender]
Subject: Notice of the results of the Preliminary Assessment further to an Investigation

Dear [Name],

On [dd.mm.yyyy], I received allegations of unsatisfactory conduct or possible misconduct implicating Mr/Ms..... In accordance with the Policy on the Conduct of Investigations (Chapter 7 of the NSPA Policy on the prevention, detection, investigation and sanction of all forms of misconduct), I investigated [appointed a sole investigator [investigation panel] to investigate] the alleged facts and to determine whether they are established.

On ... [date] the investigation report (attached as Annex 1) was issued. The investigation report concluded that

.....
.....

Based on the outcome of this investigation, and after assessing the Investigation report and all relevant documents (attached as Annex...), I decided [to initiate / not to initiate disciplinary proceedings] for the following reasons:.....

.....
.....

I thank you for your cooperation.

**ANNEX XVIII – NOTICE OF INITIATION OF DISCIPLINARY PROCEEDINGS TO THE
ALLEGED OFFENDER / NOTIFICATION OF THE DISCIPLINARY REPORT**

To: [Name of the alleged offender]
From: [Name of the Official Responsible]
Subject: Notice of Initiation of Disciplinary Proceedings

[Name],

On [dd.mm.yyyy], the [Responsible Official] received allegations of unsatisfactory conduct or possible misconduct implicating you. More specifically, it appears that.....

In accordance with Chapter 7 of the NSPA Policy on the prevention, detection, investigation and sanction of all forms of misconduct, [The Responsible Official] investigated [appointed a sole investigator [investigation panel] to investigate] the alleged facts and to determine whether they are established.

On ... [date] the investigation report (attached as Annex 1) was issued. The investigation report concluded that.....

constitutes serious misconduct requiring the initiation of disciplinary proceedings. Since you are assigned to the [...] Division/Office/Section/Unit, I have consulted with [name of the immediate superior]. Based on the outcome of this investigation, and after assessing the investigation report and all relevant documents, I decided to initiate disciplinary proceedings against you in accordance with the procedures described in Annex X of the NCPR and the NSPA Policy on the conduct of disciplinary proceedings.

Please find attached the disciplinary report setting out the allegations of misconduct and the circumstances in which they occurred and proposing one of the penalties provided for in Article 59.3 of the NCPR. The following documents are attached to the report:[list the annexes to the report].

As required by Article 5.2 of the Annex X of the NCPR, please sign the enclosed copy of the first page of the report, indicating the date on which you received this letter and the report, and return it to me. In accordance with Article 5.3 of Annex X to the NCPR, you have 15 working days to submit to me any written or verbal comments you may have. If you do not return the signed report, the date of receipt shall be considered to be seven calendar days from the date on which the report was transmitted to your NSPA email address or your contact information on file with NSPA, whichever is the earliest, unless you provide us with sufficient evidence of circumstances beyond your control that impeded the receipt of the documentation.

Please be advised that if I do not receive your written or verbal comments before the above-limit has expired, I will assume that you do not wish to submit comments.

I invite you to read the NSPA Policy on the conduct of disciplinary proceedings.

ANNEX XIX – DISCIPLINARY REPORT**I. INTRODUCTION / BACKGROUND**

1. On [dd.mm.yy], the [Responsible Official] received allegations of possible misconduct implicating Mr./Ms. [name of the alleged offender], NSPA [former] staff member.
2. In accordance with the Policy on the Conduct of Investigations (Chapter 7 of the NSPA Policy on the prevention, detection, investigation and sanction of all forms of misconduct), on [dd.mm.yy] the [Responsible official] investigated [appointed a sole investigator [investigation panel] to investigate] the alleged facts.
3. On [dd.mm.yy], the investigation report was issued. The investigation report concluded that the alleged facts are established [in full / in part].
4. After a preliminary assessment of the investigation report, and supporting information and documentation, in accordance with Section 6 of the Policy on the conduct of disciplinary proceedings, on [dd.mm.yy] the official responsible for personnel management after having consulted the immediate superior [the immediate superior] of Mr/Ms [name of the alleged offender] decided to initiate a disciplinary process.

II. APPLICABLE STANDARD OF PROOF

5. The applicable standard of proof is balance of probabilities, also known as preponderance of evidence. If it is more likely than not that an alleged fact occurred, then the evidential threshold has been met.

III. ALLEGATIONS OF FACT LEVIED AGAINST THE ALLEGED OFFENDER

6. The alleged facts can be summarized as follows:
 - a. ...;
 - b. ...;

IV. ALLEGATIONS OF FACT THAT COULD NOT BE SUBSTANTIATED

7. The following allegations (of those listed in Section III above) could not be substantiated:
 - a. ...;
 - b. ...;

V. ALLEGATIONS OF FACT THAT HAVE BEEN ESTABLISHED ON BALANCE OF PROBABILITIES

8. The following allegations (of those listed in Section III above) have been established.
 - a. ...;
 - b. ...;

VI. ESTABLISHED FACTS THAT DO NOT CONSTITUTE MISCONDUCT

9. The following facts, though established, do not constitute misconduct:
 - a. ...;
 - b. ...;

VII. ESTABLISHED FACTS THAT CONSTITUTE MISCONDUCT

10. The following facts have been established and constitute misconduct:

- a. ...;
- b. ...;

VIII. MITIGATING AND AGGRAVATING CIRCUMSTANCES

11. In recommending a disciplinary action, I am taking into account the following aggravating circumstances:

- a. [Frequency;
- b. Prolonged period;
- c. Lack of remorse;
- d. Attempt to retaliate against or intimidate witnesses;
- e. Uncooperative;]

12. In recommending a disciplinary action, I am also taking into account the following mitigating circumstances:

- a. [Excessive workload;
- b. Provocation;
- c. Serious documented disease;
- d. Excellent documented performance track record;]

IX. RECOMMENDED DISCIPLINARY ACTION

13. Taking into account the nature of misconduct, the aggravating and mitigating circumstances, I am of the view that [...] in accordance with Article 59.3 paragraph__ of NCPR is the most suitable disciplinary action.

14. The alleged offender has fifteen days to provide their comments on this report. The alleged offender has an opportunity to submit any documents or evidence believed to be of assistance.

[In accordance with Article 5.3 of Annex X to the NCPR, the file is therefore transmitted to the official responsible for personnel management.] / [In accordance with Article 5.4 of Annex X to the NCPR, the file is therefore transmitted to the Disciplinary Board / the General Manager.]

SIGNATURE

**ANNEX XX – INVITATION OF THE ALLEGED OFFENDER TO APPEAR BEFORE THE
DISCIPLINARY BOARD**

To: [Name of the alleged offender]
From: [Name of the Chair of the Disciplinary Board]
Subject: Invitation to appear before the Disciplinary Board

[Name],

On [dd.mm.yyyy], your immediate superior [HRE] informed you that disciplinary proceedings have been initiated against you based on the allegations that you breached your obligations [under Civilian personnel Regulations, NATO Code of conduct, or other legal obligations] by [summary of the nature of the misconduct].

Your immediate superior [HRE] transmitted to you their disciplinary report dated [dd.mm.yyyy] in which the established facts are listed and the specific obligations that you have breached are identified. Your immediate superior [HRE] recommended a disciplinary action of: [disciplinary action proposed]. In accordance with Article 5.4 of Annex X to the NCPR, this disciplinary action requires examination by a Disciplinary Board.

Consequently, on [...], the General Manager appointed me as the Chair of the Disciplinary Board, which will hear your case. In addition to the Chair, the Disciplinary Board is also composed of the following two members:

- [name of the Head of Division or independent service to whom the alleged offender is responsible]; and
- [name of the staff member nominated by the Staff Association].

If you wish to raise any objection whatsoever as to the impartiality or competence of the Disciplinary Board, you are kindly requested to do so in writing at your earliest opportunity by providing detailed reasons in support of your objection. Grounds of objection may include a reasonable apprehension of bias, lack of independence, conflict of interest, or lack of jurisdiction.

The Disciplinary Board's role consists of determining whether (a) the alleged facts have been established to the required evidential threshold; (b) whether they constitute misconduct; and (c) whether the recommended disciplinary action is proportionate. Recommendations of the Disciplinary Board shall be decided by a majority vote in accordance with Article 6.3 of Annex X to the NCPR.

To fulfil their mandate, the members of the Disciplinary Board must hear you. During your hearing, the members of the Disciplinary Board will ask you questions and will give you an opportunity to provide additional information, documentation or explain whether there are any mitigating circumstances. The Disciplinary Board may require any member of the staff to appear before it. It may also invite third parties to provide any relevant information they may

have. The Disciplinary Board will not take into account any information or evidence that you have not been made aware and given an opportunity to respond to.

You may submit written or verbal comments. You may also ask that certain witnesses be heard. If you do so, you are requested to inform the Disciplinary Board of the names of the witnesses that you wish to invite by order of priority on or before [dd.mm.yy]. The Disciplinary Board may decide not to hear all of the requested witnesses if their number is unreasonable or if the Disciplinary Board considers that their testimony is irrelevant or inappropriate.

The hearing of the Disciplinary Board will take place in [indicate the location of the interview] and will last approximately hours. It will take place on [dd.mm.yy] at [hh:mm].

Please note that you have the right to be accompanied by another staff member. This staff member may only observe the interview/examination, but cannot intervene or speak during the interview/examination. At any point during the hearing, the Disciplinary Board may request the observers to leave the hearing room.

Considering the serious and sensitive nature of this matter, you are respectfully requested to preserve and maintain the confidentiality of this process. It is strictly prohibited to share with third parties, except your counsel, any written or verbal communication you have already received or might receive in the future in connection with these disciplinary proceedings.

ANNEX XXI – INVITATION OF A WITNESS TO APPEAR BEFORE THE DISCIPLINARY BOARD

To: [Name of the witness]
From: [Name of the Chair of the Disciplinary Board]
Subject: Invitation to appear before the Disciplinary Board

Dear Mr./Ms. [Name],

On [dd.mm.yyyy], the [Responsible official] received allegations of possible misconduct implicating another member of NSPA personnel. In accordance with the Policy on the conduct of disciplinary proceedings (Chapter 8 of the NSPA Policy on the prevention, detection, investigation and sanction of all forms of misconduct), disciplinary proceedings have been initiated and a Disciplinary Board has been convened to determine whether the facts are established to the required standard of proof and constitute misconduct that justifies the application of a disciplinary action. Based on the outcome of the Disciplinary Board, the competent authority will then decide whether to take the recommended disciplinary action, if any.

Having reviewed the allegations and the investigation report issued on [dd.mm.yy], the Disciplinary Board reached the conclusion that you have personal knowledge of some relevant facts. Consequently, the Disciplinary Board would like to interview you as a witness. You are hereby invited to an interview scheduled to take place on [dd.mm.yy] at [hh.mm] in the [location]. The duration of the interview will most likely not exceed [2 hours]. You are kindly requested to acknowledge receipt of this email and confirm your availability for the interview.

Considering the serious and sensitive nature of this matter, you are respectfully requested to preserve and maintain the confidentiality of this process. It is strictly prohibited to share with third parties, any written or verbal communication you have already received or might receive in the future in connection with these disciplinary proceedings.

We thank you in advance for your understanding and cooperation.

ANNEX XXII – REPORT OF THE DISCIPLINARY BOARD

To: [Name of the authority competent to take the disciplinary action recommended]

From: [Name of the Chair of the Disciplinary Board]

Subject: Report of the Disciplinary Board – [name of the alleged offender]
REFERENCES:

A. [LETTER FROM THE OFFICIAL RESPONSIBLE FOR PERSONNEL MANAGEMENT TRANSFERRING THE FILE TO THE DISCIPLINARY BOARD]

1. At Reference A, the official responsible for personnel management forwarded a disciplinary file regarding Mr./Ms. [name of the alleged offender] which contains allegations of misconduct concerning Mr./Ms. [name of the alleged offender].

2. The disciplinary file contains the following documents:

- a) Investigation Report;
- b) Disciplinary report;
- c) Documentary evidence in support of the disciplinary report;
- d) The alleged offender's written observations.

3. The allegations can be summarized as follows:

- a) ...
- b) ...
- c) ...

4. The Disciplinary Report concludes that the alleged facts have been established and that they constitute misconduct within the meaning of Article 59.1 of the NCPR.

5. It is [serious/extremely serious] and recommends [disciplinary action] in accordance with Article 59.3 (...) of the NCPR.

6. In accordance with the NCPR, Annex X, Art. 5.4, the official responsible for personnel management convened a Disciplinary Board consisting of the following NSPA staff members:

- a) [name and qualification] Chair of the Disciplinary Board - Grade [TBC]
- b) [name and qualification] Member of the Disciplinary Board – Head of PoD
- Grade [TBC]

- c) [name and qualification] Member of the Disciplinary Board – NCSA-L representative - Grade [TBC]
7. The Disciplinary Board deliberated and reached the following conclusions:
- a) The alleged facts have [not] been established; and
 - b) The established facts [do not] constitute misconduct within the meaning of Article 59.1 of CPR.
8. To reach these conclusions, the Disciplinary Board took into account:
- a) the investigation report and/or disciplinary report with the documentary evidence attached to them;
 - b) The observations made by the alleged offender; and
 - c) The testimonial evidence heard by the Board on [dates].
9. The Disciplinary Board was [not] satisfied by the explanations provided by the alleged offender. Specifically, [provide reasoning].

IV. RECOMMENDATION

10. For these reasons, the Disciplinary Board [does not] agree[s] with the disciplinary action[s] proposed in the disciplinary report and [does not] recommend[s] to the General Manager the imposition of this[these] disciplinary action[s].
11. In accordance with the timeline of the NCPR, Annex X, Article 5.8, the General Manager shall make a decision on this case within 30 days of receipt of the recommendation by the Disciplinary Board.

NAMES OF MEMBERS OF THE DISCIPLINARY BOARD / SIGNATURES

ANNEX XXIII – NOTICE OF THE DISCIPLINARY ACTION (WITHOUT DISCIPLINARY BOARD)

To: [Name of the alleged offender]
From: [Name of the authority competent to take the disciplinary action]
Subject: Notification of the disciplinary action

[Name],

On [dd.mm.yy] the [Responsible Official] became aware that you may have breached your fundamental obligations as a NATO staff member. More specifically, the [Responsible Official] noted that you [TBC].

This prompted the [Responsible official] to initiate an investigation pursuant to the NSPA Policy on the conduct of investigations. On the basis of the investigation report which was issued on [dd.mm.yy] and other information/document [to be listed], your immediate superior [HRE] decided to initiate disciplinary proceedings pursuant to Article 5 of the Annex X to the NCPR. Your immediate superior [HRE] prepared a detailed disciplinary report setting out the facts of and the circumstances in which they occurred. In the same report, the disciplinary action of [disciplinary action] was proposed. Then, you were given an opportunity to provide your comments and observations.

On [dd.mm.yy] you provided your comments and observations and submitted.... [list documents].

After a thorough review of the investigation report, your comments and the documents that you submitted, I concluded that in accordance with the required standard of proof, the facts have been established. In particular, [TBC].

[Moreover, it has been established that the Agency suffered financial loss [in the amount of [specify]] as a consequence of your misconduct/ negligence/acts.]

These findings lead me to conclude that the established facts constitute a breach of your obligation under the NATO CPR [Code of conduct, or other]. I consider that [TBC] constitutes a mitigating [aggravating] circumstance. For these reasons, your actions warrants [disciplinary action]. I hereby inform you that you are [...] in accordance with Article 59.3 [(a), (b) or (c)].

Sincerely,

ANNEX XXIV – NOTICE OF THE DISCIPLINARY ACTION (WITH DISCIPLINARY BOARD)

To: [Name of the alleged offender]
From: [Name of the authority competent to take the disciplinary action]
Subject: Notification of the disciplinary action

[Name],

On [dd.mm.yy] the [Responsible Official] became aware that you may have breached your fundamental obligations as a NATO staff member. More specifically, the [Responsible Official] noted that you [TBC].

This prompted the [Responsible official] to initiate an investigation pursuant to the NSPA Policy on the conduct of investigations. On the basis of the investigation report which was issued on [dd.mm.yy] and other information/document [to be listed], your immediate superior [HRE] decided to initiate disciplinary proceedings pursuant to Article 5 of the Annex X to the NCPR. Your immediate superior [HRE] prepared a detailed disciplinary report setting out the facts of and the circumstances in which they occurred. In the same report, the disciplinary action of [disciplinary action] was proposed. Then, you were given an opportunity to provide your comments and observations.

On [dd.mm.yy] you provided your comments and observations and submitted.... [list documents]. The official responsible for personnel management [immediate superior] found your argument unpersuasive. Consequently, the disciplinary report and your observations were referred to the Disciplinary Board [to the responsible for personnel management for submission to the Disciplinary Board].

On [dd.mm.yy], the Disciplinary Board was established. On [dd.mm.yy], you were invited to be heard by the Disciplinary Board. In support of your defense, you essentially argued that [TBC]. The Disciplinary Board rejected [admitted] this argument and recommended the same [a more lenient or more severe] disciplinary action as the one proposed by the official responsible for personnel management [your immediate superior].

After a thorough review of the investigation report, your comments and documents and the Disciplinary Board's report. I concluded that in accordance with the required standard of proof, the facts have been established. In particular, [TBC].

[Moreover, it has been established that the NSPA suffered financial loss [in the amount of [specify]] as a consequence of your misconduct/ negligence/acts.]

These findings lead me to conclude that the established facts constitute a breach of your obligation under the NATO CPR [Code of conduct, or other]. I consider that [TBC] constitutes a mitigating [aggravating] circumstance. For these reasons, your actions warrants [disciplinary action]. I hereby inform you that you are [...] in accordance with Article 59.3 [(..)].

Sincerely,

ANNEX XXV – NOTICE TO HRE OF THE INTENT TO IMPOSE REPRIMAND

To: HRE
From: [Name of the immediate superior of the alleged offender]
Subject: Notice of the intent to impose reprimand

Dear [Name],

On [dd.mm.yyyy], I received allegations of possible misconduct implicating Mr/Ms.....

In accordance with the Policy on the Conduct of Investigations (Chapter 7 of the NSPA Policy on the prevention, detection, investigation and sanction of all forms of misconduct), I [description of the steps taken to review / investigate the allegations].

The investigation concluded that [...]. [Please attach the investigation report and/or all relevant documents].

I am of the view that reprimand is the most appropriate and proportionate disciplinary action for the following reasons [...].

I would be grateful if you could let me know by [within 15 working days] whether you wish to initiate disciplinary proceedings against Mr/Ms [...]. In the negative, I will inform Mr/Ms [...] of the disciplinary action I intend to take and will provide Mr/Ms [...] the opportunity to provide written or oral comments before taking a final decision.

Best regards,

[Signed]

