

performance evaluation or promotion) of the recipient of such attention. [ST/IA/379]

53. In this case, OIOS found that the allegations of misconduct and abuse of authority against Mr. Lubbers are credible and substantiated for the following reasons:

54. First, the only witnesses to the incident as described by Mrs. [REDACTED] are two managers of UNHCR, both subordinate to Mr. Lubbers. One of them recalls two incidents of touching where Mr. Lubbers put his arm around her waist while the other does not confirm even the touching which has been acknowledged by Mr. Lubbers himself. The intensity of the efforts of Mr. Lubbers, including issuing a message to all UNHCR staff which seeks to discredit the complainant in this case, attempting to identify those who cooperated with the OIOS Inquiry, and meeting with key witnesses during the investigation, clearly was intended as a message to all UNHCR staff that providing information to the Investigators would have negative repercussions for them. As noted by a senior UNHCR manager, the message was clearly to "shut up". These are not the actions of a person who seeks only to ascertain the facts of a case.

55. Second, although not agreeing with all the details of Mrs. [REDACTED] report of the incident, Mr. Blatter confirms that Mr. Lubbers twice touched Mrs. [REDACTED] waist, and even described it as "overly familiar". Until so advised of this evidence of Mr. Blatter by OIOS, Mr. Lubbers had denied touching Mrs. [REDACTED] he then only admitted to doing so whilst ushering her out in what he described as "a polite manner". Nevertheless, Mr. Blatter does confirm that touching in an "overly familiar" manner occurred, and given the efforts of Mr. Lubbers to discourage cooperation, Mr. Blatter's statement goes some way to support the complaint. Moreover, the pattern of Mr. Lubbers' misconduct seems clear and demonstrates that the touching of Mrs. [REDACTED] was not isolated but part of how Mr. Lubbers conducts himself with women whom he finds attractive, regardless of the impropriety of such conduct, the distress caused to the women involved, or the disparity in the positions held.

56. Third, Mrs. [REDACTED] is a UNHCR staff member who enjoys respect from her colleagues and OIOS found no indication of a *male fide* complaint or a motive to conclude that she fabricated her story. Even Mr. Lubbers describes her as "brutally frank". That she did not get the post in Mr. Lubbers' office nor win the Staff Council election, the reasons posited by Mr. Lubbers, are not linked to an action by Mr. Lubbers which would create a motive to strike back at him. Indeed, she said that she had applied for the post of Chef de Cabinet thinking that she had the qualities and experience that the post called for. Others have verified that she was simply responding to an invitation issued by Mr. Lubbers at a meeting attended by several hundred staff shortly after he joined UNHCR. At that meeting, as confirmed by the then Chef de Cabinet, Mr. Lubbers indicated that he would not be bound by the usual bureaucratic personnel rules. As for the Staff Council post, Mr. Lubbers had no influence over that election.

57. Fourth, as is often the case in sexual harassment complaints, there are no independent witnesses. As such, evidence must be adduced which tends to show the respective credibility of the principals. In this case, the evidence shows that from the date of the incident until April 2004 when she reported the incident formally to OIOS and the IGO, Mrs. [REDACTED] met with UNHCR staff members, including IGO staff members, and others to seek their advice as to how best to proceed, or even whether to proceed or not. The information gathered in the OIOS interviews - of UNHCR staff and other persons from whom she sought guidance - confirmed that from 18 December 2003 to April 2004, she has been consistent in her reporting of the details of the incidents, including in her interviews with OIOS, that she has not expressed hostility but only embarrassment and that she has been anxious about how such a complaint would be handled. Moreover, given the actions of Mr. Lubbers since 6 May, her concerns were well placed.

58. On the other hand, as noted above, Mr. Lubbers' actions undermine his denials. He has undertaken multiple steps to affect the outcome of the Investigation in his favour and to interfere with normal Investigative processes which now seem designed to hide the pattern of misconduct stated in this report and to prevent others from providing information. His discussion of the case with his Director, DHRM and his Chef de Cabinet may well have influenced their statements when later provided to OIOS. Mr. Sultan-Khan, for reasons not difficult to understand, particularly in the light of Mr. Lubbers's actions, decided to play it safe by claiming that he did not see anything. Other UNHCR staff told OIOS that they were afraid to discuss the case for fear of retaliation. Given the continuing actions of Mr. Lubbers, that concern is well placed and OIOS will monitor the situation to ensure that no staff who cooperated will be negatively affected for so doing.

59. Similarly, as regards the two incidents between Mr. Blatter and Mrs. [REDACTED] it is equally understandable why Messrs. Hegenauer, Mir or Vanniasingam would give equivocal support to the report of Mrs. [REDACTED]. They too decided to take the safe route. Again, none denied the events she related but their responses indicated that they were aware that providing evidence in support of the allegations by Mrs. [REDACTED] would have serious consequences not only for Mr. Blatter, but also, more importantly, for Mr. Lubbers, given that Mrs. [REDACTED] alleged that Mr. Blatter was imitating the actions of Mr. Lubbers - not to mention their own careers. As the 28 May note from Mr. Lubbers makes clear, according to a senior UNHCR manager, Mr. Lubbers wanted staff to "shut up".

VII. Conclusions and recommendations

60. It is the view of OIOS that not only did Mr. Lubbers engage in serious acts of misconduct in that he foisted unwanted physical attention of a sexual nature on a subordinate female staff member but also that he extensively and intentionally abused his authority as High Commissioner in his intense, pervasive and intimidating attempts to influence the outcome of the

investigation. Seen as part of a pattern of such conduct, these actions demonstrate that the most senior officer in UNHCR lacks the requisite integrity.

61. OIOS considers that there should be a distinction between the actions of Mr. Lubbers and those of Mr. Blatter. While it is indisputable that the actions of Mr. Lubbers constitute misconduct by touching with a clear intent to embarrass and humiliate Mrs. [REDACTED] this is not quite so clear in the case of Mr. Blatter.

62. While improper, the actions of Mr. Blatter rather suggest that Mr. Blatter - who was described by most interviewees as a playful person - might not have had a clear intent to harass Mrs. [REDACTED] but rather to joke about events which he had witnessed.

63. Finally, it is hoped that swift follow-up action on the findings of this current investigation will signal to UNHCR staff members, and to UN staff generally, that they may cooperate with an OIOS investigation, and indeed, may file good faith allegations with OIOS without fear of retaliation by their senior managers.

64. OIOS makes the following recommendations in view of the findings of this investigation:

1. It is recommended that appropriate action be taken against Mr. Lubbers for misconduct in that he engaged in unwanted touching of a female member of staff, for interfering with the investigation and for issuing a message to UNHCR staff members which was both intimidating and embarrassing to the complainant and at least one other female staff member. [IV/04/133/01]
2. It is recommended that appropriate action be taken against Mr. Blatter for inappropriate comments to a female member of staff and for failing to protect that staff member as required by his duties as head of the human resources department of UNHCR. [IV/04/133/02]
3. It is recommended that the findings of this report be shared in general with UNHCR staff, to the same extent as has been Mr. Lubbers' message to staff. [IV/04/133/03]
4. It is recommended that any retaliatory actions against staff who cooperated with this investigation be reported to OIOS. [IV/04/133/04]
5. It is recommended that the Under-Secretary-General for Management undertake a review of the protection measures afforded to women staff at UNHCR against sexual harassment. [IV/04/13 3/05]

Dileep Nair
Under -Secretary-General
for Internal Oversight Services
2 June 2004