

Framework of Minimum Mandatory Parameters and Conditions with Respect to Disclosure of Beneficiary Information between Humanitarian Organizations and National Authorities

FINAL DRAFT

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1. Background

1.1. Humanitarian organizations have repeatedly received beneficiary information requests from national authorities and not providing this information has impacted their ability to operate and has led to a number of access constraints (e.g.: confiscation of vouchers, closing of programmes, etc.) Some humanitarian organizations have subsequently shared beneficiary information with the national authorities. Thus, building on the Joint Operating Procedures (JOP), the HCT decided to revisit the current framework for sharing beneficiary information, with the aim of promoting a common approach, coming to an agreement with the national authorities and ensuring the HCT addresses potential protection and data privacy concerns.

2. Purpose

2.1. The framework defines the minimum mandatory **parameters and conditions under which humanitarian organizations agree to share beneficiary information** (specifically only beneficiary names and locations) when requested by *civilian* authorities at the national level¹.

3. Collective Commitment

3.1. The implementation of the framework requires collective commitment from the HCT and humanitarian partners, including UN agencies, International NGOs, National NGOs and national authorities at national and field level.

3.2. In the event of non-adherence by the national or sub-national level authorities and upon application by the humanitarian organisation concerned, the Humanitarian Coordinator will address the issue with the relevant authorities and/or humanitarian organization. The humanitarian community will undertake a collective response to any issues of non-adherence by national authorities, to avoid the possibility of reprisals targeting a single humanitarian actor or Cluster. In addition, UN agencies also commit to take timely and adequate action or provide necessary support with regards to their implementing partners in the case of non-compliance or demands to share additional beneficiary information outside the scope of this framework.

3.3. The Humanitarian Coordinator will address any protection issues that may arise from the sharing of beneficiary names and locations and support commensurate action in line with the humanitarian organization's complaints, feedback and response mechanism.

¹ Such as the Ministry of Planning and International Cooperation (MOPIC), Ministry of Foreign Affairs (MFA), Executive Unit for IDPs and other relevant technical line ministries, excluding all security related institutions.

3.4. National authorities also share the responsibility for ensuring the framework is implemented in its totality, including managing any requests for information at sub-national levels, and for addressing any breaches of the framework by relevant stakeholders. This includes facilitating the operational environment for the minimum conditions of this framework and ensuring information is not provided to any party outside of agreements made between the humanitarian organisation and the body in the national authorities.

4. Scope

4.1. The framework replaces Annex 5 of the JOP and applies to beneficiary information of in-kind and voucher food and Non Food Items (NFIs) of all types, excluding beneficiaries of *protection* and *health* interventions, all beneficiaries in contested areas (e.g.: Taizz city and Al Mukha) and cash assistance.

4.2. For the purposes of this framework, beneficiary information refers only to beneficiary names and geographic location (district and sub-district) in which assistance is being provided. No other personal particulars can be shared.

4.3. The framework needs to be adopted and implemented as a whole, with all the main components of the framework as outlined in section 5.

4.4. This document does not override the legal obligations of each humanitarian organization, as outlined by internal policies and partnership agreements. This document sets minimum mandatory parameters for those operating in Yemen. As such, sharing beneficiary personal data with national authorities may involve entering into bilateral data sharing agreements, in which the acceptable use of the data is determined according to internal policies of each humanitarian organization.

4.5. The HCT or HCT designate(s) will collectively review and endorse this document and contested areas every six months. Any HCT member may request a review of this document outside of the regular review period, based on evidence of non-compliance or undermining of the humanitarian principles.

5. Main mandatory parameters and conditions regarding the disclosure of beneficiary information

5.1. *Identification of beneficiaries:*

5.1.1. The beneficiary identification process must be based on the vulnerability and selection criteria defined by the respective clusters in line with international standards but also in consultation with the relevant technical authorities and local communities. These criteria would form the basis of needs assessments and/or community consultations coordinated by humanitarian partners. Clusters are recommended to share their agreed vulnerability and selection criteria with concerned authorities and affected communities.

5.1.2. Beneficiary lists provided by the relevant technical authority may be used by humanitarian organizations after they have been verified against the cluster agreed vulnerability and selection criteria (e.g.: through random verification visits).

5.2. *Disclosure of beneficiary information:*

5.2.1. **Humanitarian organizations must obtain and document informed consent from beneficiaries.** Beneficiaries must be provided with sufficient information to consent. At minimum, this information must include: 1) the scope of information that will be shared; 2) that they will receive assistance regardless of having provided consent or not; 3) why the information is being shared with the national authorities and with which institutions; 4) the possible risks that can result from providing consent to share their personal information, and; 5) how to provide complaints and feedback to the organization and how the organization will respond should any issues arise. The consent must specify whether all the data and information provided can be shared, including the identity of the participant, or whether the identity of the participants is kept confidential.

5.2.2. The modalities for sharing information with third parties and gaining consent from beneficiaries should be defined and documented by the individual humanitarian organization in line with their contractual obligations, their legal frameworks on personal data protection and privacy.

5.2.3. Even if informed consent is granted, humanitarian organisations have an obligation to assess the potential implications of the sharing of that information on the safety of the person providing it, and on others involved, and to minimize any additional risk to the participants that may be incurred.

5.2.4. The relevant clusters should disseminate good practice in terms of obtaining consent for sharing beneficiary personal data. The decision of the beneficiary, should they choose not to consent, will not affect their ability to receive assistance.

5.2.5. Beneficiary information will only be shared with civilian authorities at the national level, excluding all security related institutions. The sharing of beneficiary information with civilian authorities at the governorate level is the responsibility of the national authority.

5.3. *Monitoring and Evaluation (post-distribution/service monitoring):*

5.3.1. Effective, independent and impartial post-distribution monitoring mechanisms need to be put in place. Mechanisms need to be developed ensuring they are appropriate to different population groups (women, men, boys and girls), and elicit enough information to understand the unique experiences of different sex and age groups.

5.3.2. These mechanisms need to be able to monitor any harm/protection concerns related to sharing of the beneficiary information, inclusion errors and/or aid diversion.

5.3.3. The relevant technical authorities should accept and support these mechanisms, including the independence, impartiality and integrity of such mechanisms.

5.3.4. Humanitarian organizations sharing beneficiary information should ensure all minimum conditions are met by completing the framework's checklist (see Annex 1). The organization has to inform the relevant cluster coordinator(s) of the request

(whom and the geographic location), the information provided and to whom and a copy of the completed checklist.

5.4. *Complaints, feedback and response mechanisms:*

5.4.1. In line with commitments on Accountability to Affected People, effective complaints and feedback mechanisms need to be put in place to receive any complaints or feedbacks from beneficiaries, including potential protection concerns that may arise from disclosing beneficiary names and locations. These mechanisms should have protocols in place to ensure the protection of those making a complaint or providing feedback that are in line with the Minimum Components of Feedback/Complaints Mechanisms (January 2017). Additionally, such mechanisms will respond to the complaints of national authorities.

5.4.2. These mechanisms need to be linked to adequate response actions by relevant stakeholders, including national authorities and humanitarian organizations. Relevant clusters should establish clear Standard Operating Procedures for responding to complaints or feedback that highlight protection concerns related to the disclosure of beneficiary names and locations.

Annex 1. Checklist of minimum conditions to be in place and respected when sharing beneficiary information

In Place: Y/N	Minimum conditions to be in place and respected when sharing beneficiary information
	The Organization’s internal policies and/or partnership agreements allows the sharing of beneficiary information.
	National civilian authorities submitted an official request for beneficiary information and have demonstrated commitment to implement the framework.
	The requesting authorities are operating at the national level and are those with civilian character; excluding all security related institutions.
	Humanitarian organizations’ access has been facilitated in the area, including monitoring and assessment visits.
	The organization has Standard Operating Procedures for a Feedback/Complaints Mechanisms that is in line with the Minimum Components of Feedback/Complaints Mechanism (January 2017)
	<p>The organization is able to obtain and document beneficiaries’ informed consent that includes:</p> <ol style="list-style-type: none"> 1) The date when the consent was obtained and its scope; 2) That beneficiaries will receive assistance regardless of having provided consent or not; 3) The possible risks that can result from providing consent to share personal information; 4) An explanation of why the information is being shared with national authorities and to which institutions; and 5) How beneficiaries can provide complaints and feedback to the organization and how the organization will respond should any issues arise.
	The information includes only beneficiaries of in-kind and/or voucher food and non-food assistance.
	Beneficiary information only includes the name of the beneficiary and the district or sub-district of where humanitarian assistance was provided; no other information is included in the document/file.
	Beneficiaries of protection, health and cash assistance are not included in the information to be provided.
	Beneficiary information does not relate to interventions taking place in contested conflict areas as defined by the HCT.
	Beneficiaries have been selected based on needs assessments and/or community consultations coordinated by humanitarian organizations or national authorities that apply agreed vulnerability and Cluster selection criteria.
	Effective, independent and impartial post-distribution monitoring mechanisms are available, in line with cluster standards and/or donor standards.
	The organization has informed the relevant cluster coordinator(s) of the request (whom and the geographic location), the information provided and to whom and this completed checklist.