

## **ACT Alliance**

# **CODE OF CONDUCT**

**For the prevention of sexual exploitation and abuse, fraud and corruption and abuse of power**

**For all staff of ACT members and the ACT Secretariat**

**05 February 2011**

This document was approved by the ACT Alliance Governing Board on 05 February 2011. It is a revision of the document titled, "ACT Code of Conduct on Sexual Exploitation, Abuse of Power and Corruption" which was originally approved by the ACT International Executive Committee on 10 December 2002.

## 1. Introduction

Members of the ACT Alliance and the ACT Secretariat (hereinafter referred to as 'ACT') have a common commitment to prevent sexual exploitation and abuse, fraud and corruption and abuse of power. ACT members, together with their partners, support or implement humanitarian and development programmes in more than 140 countries around the world. Staff of ACT member organisations, local, national and international, and staff of the ACT Secretariat, are personally and collectively responsible for upholding and promoting the highest ethical and professional standards in their work.

The management of every ACT member organisation and the ACT Secretariat have a responsibility to ensure that all staff are aware of this Code of Conduct, that they understand what it means in concrete behavioural terms and how it applies to their programme context. Dissemination of this Code is supported by two ACT guidance documents, namely, the ACT Alliance Guidelines for the Prevention of Sexual Exploitation and Abuse (revised 2011)<sup>1</sup> and the ACT Alliance Guidelines for Complaints Handling and Investigations (2010).

Annex 1 provides definitions of key terms used in this policy document.

## 2. Purpose

The main purpose of the ACT Code of Conduct is to promote greater accountability among and between members of the alliance and the people with whom we work in our humanitarian and development programmes. It seeks to protect staff as well as every woman, man, girl and boy with whom we work from abuse by individuals or groups from within our ACT member organisations. The Code is intended to serve as a guide for ACT staff to make ethical decisions in their professional lives and at times in their private lives.

## 3. Scope

The ACT Code of Conduct applies to all staff of ACT member organisations, local, national and international, and the staff of the ACT Secretariat. It also applies to temporary personnel such as consultants and volunteers who work in ACT member development and humanitarian programmes. The term "staff" will be used hereinafter in this document for all fulltime and temporary ACT personnel.

All ACT members are encouraged to promote the spirit and principles of the ACT Code of Conduct among their partner organisations.

The Code of Conduct shall be signed by all ACT staff.<sup>2</sup> All staff are responsible for ensuring that the Code is complied with.

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<sup>1</sup> This document is a revision of the December 2008 ACT International "Guidelines for compliance and complaints mechanisms - code of conduct on sexual exploitation, abuse of power and corruption for staff members of the ACT International alliance".

<sup>2</sup> Some ACT member organisations have comprehensive Codes of Conduct that espouse the principles of the ACT Code of Conduct and in some cases exceed the ACT commitments outlined in this document. In such cases, ACT members should share their Code of Conduct with the ACT Secretariat and jointly discuss and agree on which document should be signed by its organisations staff. ACT recognises that a vast amount of time and energy has gone into the development of individual organisation's Code's and wishes to recognise this valuable organisational learning process.

## 4. ACT Alliance Code of Conduct

The ACT Alliance Code of Conduct outlines the key responsibilities of all ACT staff in relation to respect for the welfare and rights of the people with whom they work in the development and humanitarian context. It is designed to assist staff to better understand the obligations placed upon their conduct, as to prevent the following: Sexual Exploitation and Abuse (SEA), all forms of harassment, fraud and corruption, security breaches, and unethical business practices.

Therefore, all ACT staff shall at all times:

- Respect and promote fundamental human rights<sup>3</sup> without discrimination.
- Treat all communities with whom we work (including crisis-affected populations, Internally Displaced Persons IDPs and refugees), fairly and with respect, courtesy, dignity and according to International Laws and Standards<sup>4</sup>
- Promote the implementation of the ACT Code of Conduct by contributing towards the creation and maintenance of an environment that prevents sexual exploitation and abuse, abuse of power and corruption.
- Report immediately<sup>5</sup> any knowledge, concerns or substantial suspicions of breaches of the Code to her/his line manager and/or senior management of the ACT member organisation (or following procedures established by the organisation's complaints mechanisms), who is expected to take prompt investigative action.
- Be aware that failure to disclose or knowingly withhold information about any reports, concerns or substantial suspicions of breaches of this Code of Conduct constitutes grounds for disciplinary measures.
- Feel protected by ACT's commitment to providing a safe environment through which to voice a concern, without fear of reprisal or unfair treatment as articulated in the ACT Complaints Policy and Disciplinary Procedures 2010.
- Uphold the highest standards of accountability,<sup>6</sup> efficiency, competence, integrity and transparency in the provision of goods and services in the execution of their job.
- Cooperate when requested with any investigation into alleged breaches related to this Code.

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<sup>3</sup> As set out, for example, in the Universal Declaration of Human Rights, 1948, see:

<http://www.un.org/en/documents/udhr/index.shtml>

<sup>4</sup> Standards include for example the **Code of Conduct** for The International **Red Cross** and Red Crescent Movement and NGOs in Disaster Relief ([www.ifrc.org/publicat/conduct/](http://www.ifrc.org/publicat/conduct/)) and the Sphere Standards 2011 version (<http://www.sphereproject.org/>)

<sup>5</sup> The ACT Complaints Policy outlines ACT's "whistleblowing" commitment to providing a safe environment through which stakeholders can voice a concern, without fear of reprisal or unfair treatment.

<sup>6</sup> This includes professional conduct in relations to accountable and transparent organization procedures in relation to finances, governance, and management as well as adhering to international standards such as those noted in footnote 4 above.

## 4.1 Sexual Exploitation and Abuse<sup>7</sup>

Sexual exploitation and abuse as one form of Gender-Based Violence (GBV). ACT recognises that Sexual Exploitation and Abuse (SEA) can occur in any development or humanitarian setting. In humanitarian crises, however, the dependency of affected populations on humanitarian agencies for their basic needs creates an additional ethical responsibility and duty of care on the part of all ACT staff.

To protect ACT stakeholders in all situations, ACT staff shall while on duty and off duty:

- Understand that sexual exploitation and abuse by staff involved in development and humanitarian work constitute acts of gross misconduct and are therefore grounds for termination of employment.<sup>8</sup>
- Never engage in any sexual activity with children (persons under the age of 18) regardless of the age of majority or age of consent locally. Sexual activity with children is prohibited within the ACT Alliance. Mistaken belief in the age of a child is not a defence.
- Not accept, solicit or engage in the "buying" of or profiting from sexual services. This is applicable to ACT staff both within and outside of working hours.
- Never exploit the vulnerability of any target group in the context of development and humanitarian work, especially women and children, or allow any person/s to be put into compromising situations.
- Know that the exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour is prohibited. This includes exchange of assistance that is due to beneficiaries.
- Never abuse a position to withhold development or humanitarian assistance, or give preferential treatment; in order to solicit sexual favours, gifts, payments of any kind, or advantage.
- Given the increased vulnerability of populations in crisis situations, staff are prohibited from engaging in sexual relationships with members of crisis-affected populations since such relationships are based on inherently unequal power dynamics and undermine the credibility and integrity of humanitarian aid work.
- When working with children, avoid actions or behaviour which may constitute poor practice and never act in ways that may place a child at risk of abuse.
- In countries where ACT members undertake long-term development work, an employee who engages in a long-term sexual relationship with a member of the community which is benefiting from an ACT programme, and/or with another employee, is encouraged to inform his or her manager about the relationship to prevent the perception of a conflict of interest.

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<sup>7</sup> See ACT Guidelines on the prevention of SEA 2008, revised 2010. For tools and resources in support of prevention of SEA, see also [http://www.un.org/en/pseataaskforce/tools\\_response.shtml](http://www.un.org/en/pseataaskforce/tools_response.shtml)

<sup>8</sup> In countries where it is a legal obligation to report allegations of child abuse or sexual assault to the national police, the ACT member management should take into consideration whether, how and when to inform national authorities. The survivor's view shall be sought, as people who report abuse may be at risk from the police in some countries.

ACT promotes the integration of a gender-sensitive perspective into efforts to effectively prevent and respond to sexual abuse and exploitation.

## 4.2 Harassment

ACT staff shall never commit any act or form of harassment as it results in physical, sexual or psychological harm or suffering to individuals, especially women and children. ACT does not tolerate any form of workplace violation such as harassment (including sexual, gender and racial harassment), bullying and discrimination, that is, any **unwelcome comment or behaviour** that is offensive, demeaning, humiliating, derogatory, or any other inappropriate behaviour that fails to respect the dignity of an individual.

Therefore, all ACT Staff shall:

- Treat everyone with dignity and respect in the workplace. Speak with civility and kindness, listen carefully, and consider other's wellbeing.<sup>9</sup>
- Never commit any act or form of harassment as it causes physical, sexual, psychological or emotional harm or suffering to individuals, especially women, children and people with disabilities.
- Never engage in any behaviour, deliberate or otherwise, that makes the recipient feel persecuted, vulnerable and powerless.
- Understand what constitutes harassment, recognise early signs of sexual, gender and racial harassment (among others) and take swift action to prevent and resolve.
- Understand what constitutes bullying, empower staff that are affected by it, develop strategies for reducing and stopping it, and take necessary disciplinary action against those found to have committed an act or form of harassment.
- Violent, harassing or discriminatory behaviour of any kind directed toward another person in the workplace or in the communities with whom ACT works is unacceptable and shall not be tolerated.

## 4.3 Fraud and corruption

ACT has a zero-tolerance approach to fraud and corruption as articulated in its 2009 Anti-Fraud and Corruption Policy (see Annex 1 for definitions). ACT staff shall never take advantage of their position when working with communities, partners or other ACT stakeholders. Therefore, ACT staff shall at all times:

- Promote a culture of honesty and openness among ACT staff and management.
- Be transparent in all work-related financial transactions.
- Never steal, misuse or misappropriate funds or property, ensuring that financial and other resources are used solely for the intended purposes. This applies also to any other income generated such as any interest received/earned on the funds.
- Never engage in "non-arms length transactions",<sup>10</sup> document or check forgery, money laundering, taking of commissions and influencing tender process for improper benefit and theft.

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<sup>9</sup> This includes communities with whom ACT works

<sup>10</sup> The **arm's length principle** (ALP) is the condition or the fact that the parties to a transaction are independent and on an equal footing. Such a transaction is known as an "arm's-length transaction".

- Create a work environment where communities and staff can safely and confidentially raise and report all serious concerns about suspected fraud and corruption.
- Never knowingly support individuals or entities involved in illegal activities.
- Never deliberately destroy, falsify, alter or conceal evidence material to an investigation or make false statements to investigators in order to materially influence or impede investigations into corrupt, fraudulent, coercive or collusive allegations.
- Conduct all business in accordance with internationally accepted practices and procedures and uphold the highest standards of accountability and transparency in relations to finances, management and governance, where relevant.

#### **4.4 Unethical business practices**

ACT, as an alliance of church and related organisations, promotes moral and ethical business practices. Therefore all ACT staff shall:

- Always follow transparent, accountable and honest practices when receiving cash donations from the public earmarked for humanitarian or development purposes.
- Never use or accept a bribe in the form of money, goods and or services to secure a contract for services when dealing with suppliers in any development or humanitarian work
- Never take part in activities that generate personal, organisational or collective profit such as buying or selling when such activities may affect or appear to affect ACT's credibility or integrity
- Never share in the profits or budget leftovers as kick backs, cuts or discounts for personal or organizational benefits
- Declare any known or potential conflicts of interest to their employer (e.g. direct relationship with service providers or suppliers of goods for ACT programmes, etc.)
- Never accept any gifts or other favours that may influence the performance of staff functions or duties. Gifts are defined as, but not limited to: services, travel, entertainment, material goods, among others. In order to respect national and local traditions and conventional hospitality, minor token gifts such as pens, calendars, desk diaries, etc. can be accepted.
- Never use illegal labour, child labour and forced labour in any work area
- Always pay compulsory State taxes and comply with national business law and international standards.
- Always strive for the highest health, safety and environmental standards in all programme work
- Ensure, where possible, that goods purchased are produced and delivered under conditions that do not involve the abuse or exploitation of any persons and have the least negative impact on the environment.
- Never use or distribute known unsafe products or supplies in any development or humanitarian setting.

## 4.5 Security breaches

ACT places the security and safety of all staff and those with whom we work as a top priority and will strive to do all that it reasonably can to ensure that staff are secure as they go about their work. Security is an individual as well as an organisational responsibility, therefore all ACT staff shall:

- Adhere to the ACT security principles and guidelines<sup>11</sup> or her/his own organizational security policy and procedures<sup>12</sup>
- Never use or possess weapons or ammunition of any kind while on duty<sup>13</sup>
- Never drive a vehicle while on duty under the influence of alcohol or any illegal substance and comply with the laws of the country in which they are working in relation to both.

## 5. Complaints and Disciplinary Procedures

Violation of this Code of Conduct will not be tolerated and may, in accordance with relevant legislation, lead to internal disciplinary actions, dismissal or even criminal prosecution.

Each member of the ACT Alliance has a responsibility to handle and respond to any allegations of misconduct they receive from their stakeholders about their employees in line with their organisational policies and related disciplinary measures. Management of ACT member organisations and the ACT Secretariat should establish proper systems for investigating, recording and dealing with misconduct. A mechanism should be in place where complaints are investigated promptly, while maintaining discretion and confidentiality and protecting the rights of all individuals involved. Breaches of the Code of Conduct should be reported immediately to senior management and in line with member organisation or ACT Secretariat<sup>14</sup> complaints handling procedures.

Those who wish to lodge a complaint about an alleged breach of the Code by a member of ACT staff should lodge their complaint to her/his line manager (or designated complaints focal point) as soon as possible after s/he becomes aware of the concern.

Any ACT staff person purposely making false accusations on any action by another ACT staff which is in breach of the Code of Conduct will be subject to disciplinary action at the discretion of the employer.

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<sup>11</sup> For guidance, please refer to the Security Handbook, and the complementary Principles of ACT Safety and Security.

<sup>12</sup> Whichever policy provides the highest form of protection for staff

<sup>13</sup> In exceptional cases of high insecurity, ACT members may contract external security services that are armed. It is expected however that regular ACT house guards with individual ACT contracts are unarmed ACT personnel.

<sup>14</sup> For more information on complaints that can be addressed by the ACT Secretariat and ACT Governance please refer to the ACT Complaints Policy and Disciplinary Procedures 2010. For information on how to establish a complaints mechanism, please refer to the ACT Guidelines on Complaints Handling and Investigations 2010.

See: <http://www.actalliance.org/resources/policies-and-guidelines/complaints-mechanism>

## 6. Understanding the Code

The signatory (ACT staff) below has read, understood and is in agreement with the content of this document. The ACT Alliance Code of Conduct, which shall be subject to periodic revision and review. The signatory accepts the consequences of any violation of any of the above provisions under this Code of Conduct.

Position:

Signature:

**Date:**

**Place:**

## Annex 1: Key terms and definitions

**Abuse of power:** Abuse of power includes any abusive behaviour (physical, psychological, sexual or emotional) by a person in a position of authority and trust against someone in a position of vulnerability and/or dependency.

**Bullying** is aggression expressed psychologically and emotionally rather than physically. The term is used to describe a repeated pattern of negative intrusive violational behaviour against one or more targets and comprises constant trivial fault-finding criticism, refusal to value and acknowledge, undermining, discrediting and a host of other behaviours.<sup>15</sup>

**Complainant:** The person making the complaint, including the alleged survivor of the sexual exploitation and abuse or another person who becomes aware of the wrongdoing.

**Discrimination:** Discrimination means exclusion of, treatment of, or action against an individual based on social status, race, ethnicity, colour, religion, gender, sexual orientation, age, marital status, national origin, political affiliation or disability.

**Corruption** is the "offering, giving, soliciting or acceptance of an inducement or reward which may improperly influence the action of any person"

**Fraud** is an intentional distortion, deceit, trickery, and perversion of truth or breach of confidence, relating to an organization's financial, material, or human resources, assets, services and/or transactions, generally for the purpose of personal gain or benefit. Fraud is a criminal deception or the use of false representations to gain an unjust advantage.

**Harassment:** Harassment means any unwelcome comment or behaviour that is offensive, demeaning, humiliating, derogatory, or any other inappropriate behaviour that fails to respect the dignity of an individual. Harassment can be **committed by** or **against** any member of the community with whom we work, partners, employee, vendor or other individual visiting or doing business with an agency (see definition of sexual harassment further below).

**Minor:** A person under age 18 (a child according to the definition in the Convention for the Rights of the Child, CRC).

**Gender based violence (GBV):** "Any harm that is perpetrated against a person's will; that has a negative impact on the physical or psychological health, development, and identity of the person; and that is the result of gendered power inequities that exploit distinctions between males and females, among males and among females. Although not exclusive to women and girls, GBV principally affects them across all cultures. Violence may be physical, sexual, psychological, economic, or sociocultural."<sup>16</sup> Gender-based violence may manifest in numerous ways: domestic violence, battering, rape and marital rape, female genital mutilation, torture, trafficking, and forced prostitution, dowry-related violence, marriage and in certain cases, violence perpetrated or condoned by the state.

**Sexual abuse:** Sexual abuse is actual or threatened physical intrusion of a sexual nature, including inappropriate touching, by force or under unequal or coercive conditions;

**Sexual exploitation:** Sexual exploitation means any actual or attempted abuse of a position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, sexually or politically from the sexual exploitation of another (UN SG Bulletin, 9 October 2003). In these situations, the potential victim believes she/he has no other choice than to comply; this is not consent and it is exploitation. Some examples include, but are not limited to:

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<sup>15</sup> Adapted from <http://www.bullyonline.org/workbully/mobbing.htm> - website of the National UK Workplace bullying advice line

<sup>16</sup> Ward, Jeanne. (2002). If Not Now, When? Addressing Gender-Based Violence in Refugee, Internally Displaced and Post-Conflict Settings. New York: The Reproductive Health in Conflict Consortium.

- Humanitarian/development worker demanding (or accepting) sex in exchange for material assistance, favours, or privileges.
- Teacher insisting on (or accepting) sex in exchange for passing grade or admission to class.
- Refugee leader demanding (or accepting) sex in exchange for favours or privileges.
- Security worker insisting on (or accepting) sex in exchange for safe passage.
- Driver demanding (or accepting) sex to give a female person a seat in the vehicle.

Exploitation is using one's position of authority, influence or control over resources, to pressure, force or manipulate someone to do something against their will or unknowingly, by threatening them with negative repercussions such as withholding project assistance, not approving an employee's work support requests, threatening to make false claims about an employee in public, etc.

**Sexual harassment:** Sexual harassment means any unwelcome sexual advance, comment, expressed or implied sexual demand, touch, joke, gesture, or any other communication or conduct of a sexual nature, whether verbal, written or visual, by any person to another individual within the scope of work. Sexual harassment may be directed at members of the same or opposite sex and includes harassment based on sexual orientation. Sexual harassment can occur between any one or more individuals, employee or beneficiary, regardless of their work relationship.

**Subject of the complaint (SOC):** The person alleged to have perpetrated the misconduct in the complaint (BSO/HAP)

**Survivor or victim** – the person who is, or has been, sexually exploited or abused. This term implies strength, resilience and the capacity to survive (BSO/HAP).

**Protection:** Ensuring that individual basic human rights, welfare and physical security are recognised, safeguarded and protected in accordance with international standards.

**Workplace violence:** Any incident in which a person is abused, threatened or assaulted in circumstances relating to their work. These behaviors would originate from customers, co-workers at any level of the organization. This definition would include all forms of harassment, bullying, intimidation, physical threats/assaults, robbery and other intrusive behaviors (ILO).