

**Review of ACFID Code of Conduct standards regarding the
prevention of sexual exploitation and abuse**

Consultation Document

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Background to the Review

In February 2018, there were media reports alleging inadequate reporting and handling of sexual misconduct by humanitarian NGO staff during the 2010-11 Haiti earthquake response. This was followed by subsequent revelations across the aid and humanitarian sector more broadly regarding sexual misconduct.

As ACFID members work in a global system and in many cases through global federations, these issues impact on the Australian aid and development sector. ACFID and its members are committed to further improving their standards, practice and culture to prevent sexual exploitation and abuse in our sector.

In response, the ACFID Code of Conduct Committee (CCC) has initiated a Review of the ACFID Code of Conduct standards regarding the prevention of sexual exploitation and abuse (PSEA). This review of the Code's PSEA standards is being undertaken in parallel with and will complement the broader Independent Review commissioned by the ACFID Board.

To comply with ACFID's Code of Conduct and its compliance regime, members have systems in place to protect staff and people with whom they work from abuse and exploitation. There are key standards within the Code that relate to the protection of staff and primary stakeholders. The CCC has initiated this review to reflect on and revise existing Code provisions to ensure its approach to the prevention of sexual exploitation and abuse is relevant and strong.

Purpose of the Review

The purpose of the review is to:

- review the ACFID Code of Conduct and Quality Assurance Framework to ensure it addresses standards in relation to the protection of partners and communities from sexual exploitation and abuse (PSEA) in a clear and appropriate manner;
- review the ACFID Code of Conduct and Quality Assurance Framework to ensure it addresses standards in relation to protection and well-being of partners, staff and volunteers in a clear and appropriate manner;
- identify gaps in tools and guidelines for good practice in PSEA and sexual exploitation, harassment and abuse to assist members in achieving compliance in these areas.

Purpose of Consultation Document

This Consultation Document has been prepared by the review team to provide ACFID Communities of Practice (COPs) and members with preliminary recommendations for revisions to the Code of Conduct and its Quality Assurance Framework. These preliminary recommendations will be reviewed by COPs and members through a series of teleconferences and webinars. Their response and feedback will inform the final recommendations for revisions to the Code and the QAF to be considered by the CCC in August 2018.

Approach to Consultations with ACFID members, COPs, and CCC

All members are invited to participate in Webinars which will be held on **Wednesday 1 August 10-11.30am** and **Friday 3 August 11-12.30am**. The webinars will be hosted by ACFID and dial in details will be provided by ACFID.

Teleconferences and email discussions will be undertaken with relevant COPs to seek their expertise. The following COP's will be engaged in consultations:

- Human Resources
- Child Rights

- Gender Equity
- Sexual Rights in Development.

Preliminary recommendations for changes to the Code, QAF and Good Practice resources

The ACFID Code of Conduct, the QAF and Good Practice sets high quality standards for ACFID members, which addresses both development and humanitarian work. It has good coverage of human rights, accountability and social safeguards, including child protection. However, the Code does not currently include specific statements related to the prevention of sexual exploitation and abuse. This is an area in which the ACFID Code of Conduct could be more explicit and its good practice resources strengthened.

The proposed changes to the ACFID Code of Conduct reflect the areas of practice which are known to have greatest impact on preventing sexual exploitation and abuse. They have been made with reference to Guidance from the Core Humanitarian Standard Alliance and the InterAgency Standing Committee's (IASC) Minimum Operating Standards (MOS) for the Prevention of Sexual Exploitation and Abuse. These standards are recognised globally with regard to PSEA in the humanitarian sector for UN and non-UN staff and were developed as a result of a comprehensive consultation process amongst humanitarian actors.

The eight Minimum Operating Standards include the following:

1. Effective policy development and implementation
2. Cooperative arrangements
3. A dedicated department/ focal point is committed to PSEA
4. Effective and comprehensive communication from headquarters to the field on expectations regarding raising beneficiary awareness on PSEA
5. Effective community based complaints mechanisms, including victim assistance
6. Effective recruitment and performance management
7. Effective and comprehensive mechanisms established to ensure awareness raising on SEA amongst personnel
8. Internal complaints and investigations procedures in place.

Drawing on the IASC MOS, the recommended changes to the ACFID Code fall broadly into four areas of practice:

The first of these is ensuring that staff clearly understand that any form of sexual exploitation and abuse is unacceptable behaviour, constitutes gross misconduct and is the grounds for termination. Staff should be aware that they share a responsibility to maintain an environment that is free of exploitation and abuse and have an obligation to report any abuse that they suspect or witness. Communication of these expectations is best achieved through clearly articulating expected staff behaviours in a staff code of conduct and associated HR policies; ensuring that expected staff behaviours and responsibilities are communicated as an essential part of induction training for staff; and providing ongoing refresher training in policies and procedures that directly relate to the staff code of conduct. Inclusion of the organisation's PSEA policy and Staff Code of Conduct on the organisation's website is also an important mechanism for clearly establishing the commitment and the expectations of the organisation to preventing sexual exploitation and abuse.

The ACFID Code of Conduct currently requires its Members to have a staff code of conduct in Compliance Indicator 9.4.1, but the requirement does not specify that the staff code of conduct should include reference to sexual harassment, exploitation and abuse.

The second of these is ensuring that primary stakeholders, communities, and affected populations clearly understand the expected behaviours of staff so that they know that it is unacceptable to be asked or required to provide sexual favours in return for access to development or humanitarian assistance. This requires organisations to explicitly communicate and promote the expected behaviours of their staff to the primary stakeholders and communities with whom they work. It is akin to ensuring that communities understand their rights and provides the platform for increased accountability to communities. The requirement of communicating expected staff behaviours to communities is reflected in the Core Humanitarian Standard and forms one of the IASC Minimum Operating standards for preventing sexual exploitation and abuse.

Related to the above, the third area of practice that is essential to preventing sexual exploitation and abuse is ensuring that communities have an accessible, gender and culture sensitive, and confidential means of reporting complaints related to exploitation and abuse. This is best achieved through organisations establishing community based complaints mechanisms rather than using generic complaints mechanisms designed for the general public, such as lodging a complaint on the organisation's website. A primary stakeholder that may be illiterate, without access to the internet, without experience of dealing with large institutions, and with concern for their ongoing access to humanitarian assistance is unlikely to lodge a complaint unless it is highly contextualised to their environment and vulnerabilities. This places the onus on development and humanitarian actors that are serious about preventing sexual exploitation and abuse to design and implement complaints mechanisms in close consultation with primary stakeholders.

The fourth area of practice is organisations having established incident reporting and management systems. The ACFID Code of Conduct has reasonably good coverage of this, with current requirements for organisations to have a complaints policy, whistleblowing policy and child safeguarding incident reporting procedures. However, the Code does not specify requirements for its Members to have investigation procedures, including for sensitive and specialised investigations such as allegations of SEA.

The lack of appropriate procedures for responding to allegations and incidents on sensitive issues like sexual exploitation and abuse has been a major source of criticism by the media and authorities. This has been the subject of deep discussion in Australia and globally in relation to handling incidents of sexual abuse, and was also the major concern related to the most recent allegations against international charities in their handling of sexual misconduct in humanitarian settings. As such, recommended changes to the ACFID Code include a new requirement for members to have established investigation procedures, including provisions for victim assistance.

The recommended changes to the ACFID Code also include a requirement for documented protocols for the reporting of serious incidents to the Member's governing body. This is intended to ensure that Members are reporting incidents in a systematic way and that governing bodies will be in a position to take appropriate action to deal with a serious incident and protect beneficiaries, their organisation, and the broader sector from harm. It will also provide greater assurance to the public, donors, and the communities they work with that they are committed to preventing sexual exploitation and abuse and accountability in this regard.

As noted above, the following recommendations for changes to the ACFID Code of Conduct and QAF reflect the eight IASC Minimum Operating Standards. Please note in the table below that existing

Commitments, Compliance Indicators and Verifiers are in normal font while recommended changes are **bold and underlined**.

Preliminary recommendations for changes to the Code, QAF and Good Practice resources

The ACFID Code of Conduct, the QAF and Good Practice sets high quality standards for ACFID members, which addresses both development and humanitarian work. It has good coverage of human rights, accountability and social safeguards, including child protection. However, the Code does not currently include specific statements related to the prevention of sexual exploitation and abuse. This is an area in which the ACFID Code of Conduct could be more explicit and its good practice resources strengthened.

ACFID Members that support or undertake humanitarian assistance are expected to recognise and work towards application of the Core Humanitarian Standard which explicitly addresses the prevention of sexual exploitation and abuse. However, protection of vulnerable people is broader than humanitarian contexts and warrants explicit reference in the Code of Conduct.

The eight Minimum Operating Standards include the following:

9. Effective policy development and implementation
10. Cooperative arrangements
11. A dedicated department/ focal point is committed to PSEA
12. Effective and comprehensive communication from headquarters to the field on expectations regarding raising beneficiary awareness on PSEA
13. Effective community based complaints mechanisms, including victim assistance
14. Effective recruitment and performance management
15. Effective and comprehensive mechanisms established to ensure awareness raising on SEA amongst personnel
16. Internal complaints and investigations procedures in place.

The following recommendations for changes to the ACFID Code of Conduct and QAF reflect the eight IASC Minimum Operating Standards. Please note in the table below that existing Commitments, Compliance Indicators and Verifiers are in normal font while recommended changes are **bold and underlined**.

Quality Principles & Commitments	Compliance Indicators	Verifiers
<p>1. RIGHTS, PROTECTION & INCLUSION</p> <p>1.1 We respect and protect human rights.</p> <p>1.2 We respect and respond to the needs, rights and inclusion of those who are vulnerable and those who are affected by marginalisation and exclusion.</p> <p>1.3 We support people affected by crisis.</p> <p>1.4 We advance the safeguarding of children.</p> <p><u>New Commitment</u></p> <p>1.5 <u>We advance the safeguarding of those who are vulnerable to sexual exploitation and abuse.</u></p>	<p><u>New CI 1.5.1 for new Commitment 1.5: Members demonstrate their organisational commitment to the prevention of sexual exploitation and abuse.</u></p>	<p><u>New Verifiers for new CI 1.5.1:</u></p> <ul style="list-style-type: none"> • <u>A PSEA policy that describes the standard of behaviour for organisation’s staff and representatives, specifically prohibiting sexual exploitation and abuse; and outlines how the policy is implemented throughout the organisation. NB: the detailed inclusions for the policy will be completed following consultations and to ensure coverage with DFAT’s PSEA policy.</u> • <u>Appointment of a PSEA focal person</u>
<p>2. PARTICIPATION, EMPOWERMENT & LOCAL OWNERSHIP</p> <p>2.1 We promote the participation of primary stakeholders.</p> <p>2.2 We promote the empowerment of primary stakeholders.</p> <p>2.3 We promote gender equality and equity.</p> <p>2.4 We promote the empowerment of people with disabilities.</p> <p>2.5 We promote the participation of</p>	<p>Current CI 2.2.1: Members have formal mechanisms for primary stakeholders to contribute their ideas, feedback and complaints so that they have a voice in and ownership of their own development and humanitarian initiatives.</p>	<p><u>Revised Verifier for C1 2.2.1:</u> Development and humanitarian initiatives consistently show evidence of:</p> <ul style="list-style-type: none"> • opportunities for primary stakeholders to contribute their ideas • formal mechanisms for primary stakeholders to provide feedback • <u>primary stakeholder input into the design of complaints mechanisms.</u>

children.		
3.SUSTAINABLE CHANGE	No changes	
4. QUALITY AND EFFECTIVENESS	No changes	
<p>5.COLLABORATION</p> <p>5.1 We respect and understand those with whom we collaborate.</p> <p>5.2 We have a shared understanding of respective contributions, expectations, responsibilities and accountabilities of all parties.</p> <p>5.3 We invest in the effectiveness of our collaborations and partnerships.</p>	<p>Current CI 5.1.2:</p> <p>Members undertake due diligence and capacity assessments of organisations with whom they work in formal partnerships.</p>	<p><u>Revised Verifier for CI 5.1.2:</u></p> <p>A documented assessment process that includes:</p> <ul style="list-style-type: none"> • Alignment with Members’ values and objectives. • Governance and legal registration. • Financial systems • Reference checks of partners against prohibited entities listings. • <u>Level of contact with beneficiaries</u> • Capacity assessment for implementation of key safeguarding and risk policies (eg child protection <u>and PSEA</u>).
	<p>Current CI 5.2.1:</p> <p>Members negotiate shared goals and respective contributions with partners and those they collaborate with.</p>	<p><u>Revised Verifier for CI 5.2.1:</u></p> <p>For formal partnerships, partnership agreement template or examples of partnership agreements that consistently describe:</p> <ul style="list-style-type: none"> • Value and contribution of each party. • Shared goals, roles and responsibilities of all parties. • Financial and non-financial resources and support offered by and required of each party. • Dispute resolution process. • Mutual accountabilities for reporting, sharing information and communication. • <u>specific statements about child protection, PSEA and serious incident reporting.</u>

6. COMMUNICATION	No changes	
<p>7. GOVERNANCE</p> <p>7.1 We are not-for-profit and formed for a defined public benefit.</p> <p>7.2 We meet our legal and compliance obligations.</p> <p>7.3 We are accountable to our stakeholders.</p> <p>7.4 We have responsible and independent governance mechanisms.</p>	<p>Current CI 7.3.3: Members enable stakeholders to make complaints to the organisation in a safe and confidential manner.</p>	<p><u>Revised Verifier for CI 7.3.3:</u></p> <p>A documented complaints-handling policy that:</p> <ul style="list-style-type: none"> • Is readily accessible on the organisation’s website. • Provides a safe and discrete point of contact for stakeholders in Australia and countries where work is conducted, to raise concerns or complaints about the organisation. • Is responsive and fair. • Provides information to all stakeholders, including to Members of the communities where activities are implemented, about the reporting and complaints procedure. • Provides information in a clear and easily understandable manner in appropriate forms and through appropriate media. • Ensures that requirements for filing a complaint take into consideration the needs of the most vulnerable and considers minority and disadvantaged stakeholders. • Advises a complainant of the ability to make a complaint regarding an alleged breach of the Code to the ACFID Code of Conduct Committee. • Provides information on how staff and volunteers are equipped to understand and implement the policy. • Includes a process for reviewing and analysing complaint information within the organisation. • <u>Outlines a fast-track process for dealing with complaints about Child Protection and SEA</u> • <u>Outlines a referral process for complaints that do not fall within the scope of the policy.</u> • <u>Outlines assistance that will be provided to victims of exploitation or abuse.</u>

	<p>Current CI 7.3.4 Members make information about their organisation and its work available to all stakeholders.</p>	<p><u>Revised Verifier for CI 7.3.4:</u> Members will provide the following information on their website:</p> <ul style="list-style-type: none"> • Information on its governance: structure, responsible persons and organisational contact information • ABN • Information on their work, including key projects or programs • Information on partners and their roles • A statement of commitment to adherence to the Code • The scope for and mechanism/process for lodging a complaint against the organisation, and a point of contact • Identification of the ability to lodge a complaint alleging a breach of the Code with the ACFID Code of Conduct Committee, and a point of contact • An Annual Report including the ACFID-Code-compliant financial statement in line with ACFID requirements (as outlined in 8.3.1 and 8.3.2) • <u>Staff Code of Conduct (or equivalent)</u> • Key policies relevant to the public including but not limited to, privacy, complaints, transparency non-development activity, child protection, <u>PSEA</u>, and conflict of interest. <p><u>New verifier for CI 7.3.4:</u></p> <ul style="list-style-type: none"> • <u>Information is provided to communities on the expected behaviour of the organisation’s staff and local complaints mechanisms to be used if these commitments are not met.</u>
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	<p><u>New CI 7.4.4:</u> <u>Members respond appropriately to serious incidents in accordance with their mandate and responsibilities.</u></p>	<p><u>New Verifiers for new CI 7.4.4:</u></p> <ul style="list-style-type: none"> • <u>Documented investigation operating procedures, including for sensitive investigations such as allegations of SEA.</u> • <u>Documented protocols for the reporting of serious incidents to the governing body.</u>
8. RESOURCE MANAGEMENT	No changes	
9. PEOPLE AND CULTURE	Current CI 9.4.1 Members specify the expectation of professional conduct of all staff and volunteers.	<p><u>Revised Verifier for CI 9.4.1:</u> A documented code of conduct that specifies the values and expectations of professional conduct of all staff and volunteers. This must include reference to child safeguarding behaviours <u>prevention of sexual exploitation and abuse, anti bullying and sexual harassment; and an obligation on staff to report wrongdoing.</u></p>
9.1 We have the human resource capacity and capability to deliver our work.		
9.2 We protect, value and support our people.		
9.3 We manage our people effectively and fairly.	Current CI 9.4.2 Members' staff and volunteers work in accordance with agreed standards of practice.	<p><u>New Verifier for CI 9.4.2:</u> <u>Documented evidence of induction and refresher training provided to all staff on the Members' staff code of conduct and key policies including CP, PSEA, complaints and whistle blowing.</u></p>
9.4 We enable our people to conduct themselves professionally and according to our stated values.		
	<p><u>New CI 9.4.3:</u> <u>Members ensure the integrity of staff and volunteers through recruitment and performance management processes</u></p>	<p><u>New Verifiers for the new CI 9.4.3:</u></p> <ul style="list-style-type: none"> • <u>Supervision and performance appraisal processes for staff include adherence to their staff code of conduct and other Codes and Standards as relevant to their roles.</u> • <u>HR policies clearly define what constitutes staff misconduct and outline consequences of staff misconduct, including grounds for termination of employment.</u>

The Code of Conduct should include the following definitions:

Sexual exploitation: “any 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.” (*UN Secretary-General’s Bulletin on protection from sexual exploitation and abuse (PSEA) (ST/SGB/2003/13)*)

Sexual abuse: “actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.” (*UN Secretary-General’s Bulletin on protection from sexual exploitation and abuse (PSEA) (ST/SGB/2003/13)*)

Sexual harassment: unwanted physical, verbal or non-verbal conduct of a sexual nature in the workplace that can include indecent remarks or sexual demands.

Staff: Any person who works for or represents an organisation whether or not she/he is compensated monetarily.

Serious Incident: An adverse event, whether actual or alleged, which results in or risks significant harm to a Members’ work, beneficiaries or reputation; loss of Members’ money or assets, damage to a Member’s property, significant reputational damage to ACFID, the Australian Aid program or the ACFID Code of Conduct.