

Tackling the Tough Stuff

HONEST CONVERSATION ON WHAT
YOU NEVER SAW COMING.

Editing by: Grace Savage and Jennifer Wilson

V2 © Joy Savage D'Angelo, 2020-2021

D'Angelo Development Consulting, LLC.

420 Throckmorton Street

Suite 200

Fort Worth, Texas 76102

USA

www.joydevelopmentconsulting.com

All rights reserved.

Contents

Introduction	1
Regulatory Compliance.....	2
Deterring Fraud.....	5
Avoiding Corruption	9
Avoiding Bribery.....	14
Deterring Sexual Misconduct	17
Incident Report Log Template – Sexual Misconduct	20
Incident Report Log – Other Misconduct	22
Sample Complaint Mechanisms	23
Sample Media Response Plan	25

Introduction

Dear Reader,

Here you will find tools and practical guidance for navigating the sticky complexities of third-culture nonprofit management, written for the director who must wear oh-so-many hats. This suite of tools and conversation endeavors to help you tackle the tough stuff – regulatory compliance, fraud risks, avoiding corruption, bribery and deterring sexual misconduct.

It was never meant to be a treatise on human wickedness or the whys and hows of that which is better left to a range of scientists. At the end of each section however, I have included a resource list if you wish to explore a topic further.

I hope this helps you to navigate and to succeed in your endeavor.

Joy

Regulatory Compliance

One of the easiest ways to get shut down or kicked out when working overseas is by not being aware of or abiding by local regulation. And it is completely avoidable. Here are a few examples of what regulatory compliance looks like, a self-checkup tool to see where you are, and resources for getting and staying compliant should you need them.

Regulatory compliance means:

- ✓ You obtain any relevant permits, licenses, registrations and visas
- ✓ Any structures you own, lease or use for charitable purposes are up to code.
- ✓ You abide by any local accounting, or governance regulation in addition to the country where your nonprofit is domiciled.
- ✓ You respect local employment law
- ✓ You respect any local health and safety law
- ✓ You respect any local charitable solicitation and marketing law
- ✓ Your website, marketing campaigns and data governance comply with applicable privacy laws

You are not alone!

Your fellow expat humanitarian and development workers have also had to navigate these challenges and can be a significant resource. So can your embassy. Often, your diplomatic representation in country will publish a list on their website of any known local professionals capable of helping you sort these things out, and some even have a sort of chamber of commerce association you can join.

You will need to research any local laws or customs around contracting debts so you are aware of any constraints or consequences this might entail.

It will also be helpful to know the laws and customs around bribery. If it is illegal in your donor country but not where you work, have a conversation with your board about how to handle the risks and discrepancies. Seek legal advice if necessary. *For navigating bribery requests and high corruption environments, see [Avoiding Bribery](#) section.*

Resources

Your Embassy
Local expat community
Any major NGO director in country

For inspiration on this kind of risk management from the private sector, see:
<http://www.ftjournal.com/article/what-companies-do-right-and-wrong-in-emerging-markets>

Tools

Policy Checkup

	Regulation Type	What it Looks Like	Frequency	Up to Date?	Resource
<input type="checkbox"/>	U.S. filing to maintain tax-exempt status	Form 990	Annually		
<input type="checkbox"/>	Host country tax/accountability filing(s)				
<input type="checkbox"/>	Local registration(s) required				
<input type="checkbox"/>	Local permit(s) required				
<input type="checkbox"/>	Local license(s) required				
<input type="checkbox"/>	Any charitable solicitation registrations				
<input type="checkbox"/>	Employer law				
<input type="checkbox"/>	Health & Safety law				
<input type="checkbox"/>	Other labor code				
<input type="checkbox"/>	Building code				
<input type="checkbox"/>	Fire, natural disaster preparedness norms				
<input type="checkbox"/>	Any mandatory insurances				
<input type="checkbox"/>	How to handle bribery				
<input type="checkbox"/>	Applicable data privacy law	(i.e. GDPR, CASL, HIPAA...)			
<input type="checkbox"/>	PSEA law and reporting mechanisms	Training & Reporting			

Pro-active Planning: Resources for keeping up to date

→ How will you stay informed about changes in regulation? Changes in attitude towards you or your work type?

Regulation Type	Media	Websites	Email Lists	Twitter	Friends	Locals	Dedicated Employee?

Deterring Fraud

In this section, we look at ways to prevent fraud, described as stealing money or other resources from the organization. This exercise is akin to shoring up leaks by making sure your organization is structured in a way which naturally repels fraudulent behavior. As a non-profit actor, you have a duty to the public as well as to your beneficiaries to ensure that the money and resources you have been entrusted with get to the right place in order to accomplish what you have been tasked with as an organization. Here you will find a structural checkup, a little bit of theory, a response plan should you need one, and a list of resources.

What exactly is Fraud?

Common definitions of fraud are either the “misrepresentation of fact for the purpose of personal gain, advantage or for avoiding responsibility” or the “Intentional deception to secure unfair or unlawful gain, or to deprive a victim of a legal right.” This is usually to gain financial advantage and may look like skimming money or taking it under false pretenses.

You may not be working in a context where you can easily prosecute or even call this a crime, as legal definitions may vary. But no matter the legalities, fraud is a loss perpetrated by someone who normally has a responsibility for the resource.

Why does it happen?

Fraud and corruption both occur most often where the perpetrator is able to get away with it. Nonprofits are particularly vulnerable because they tend to have a high amount of trust and little accountability, so it is important to create an environment where it is not easy to perpetrate a crime or to get away with it. Keep in mind who you are protecting.

How to deter fraud from occurring in the first place

Reduce the Opportunities

Reduce the Benefits

Research suggests that since the pressures experienced and the ability to rationalize taking funds varies greatly from person to person, focusing on reducing opportunities may be the most effective route to deterring fraud. Emerging evidence also suggests reducing benefits (such as impunity) may also help create deterrence. (Cressey 1973, Singapore’s success in deterring corruption).

Think about how you can separate powers such that more than one person can and will see every transaction. What would this look like at your organization?

Even people with the best intentions can be vulnerable in a perfect storm of pressure, opportunity and rationalization.

Pressures could be:

- Recent job loss of anyone who contributed household income.
- Pension or other retirement income losses
- Healthcare costs / insufficient insurance
- Dependents without jobs
- Personal vices
- Unrealistic expectations
- International context creates uncertainties

Rationalization:

- Intends to replace the funds
- Feels the organization owes it to them
- “Everyone else is doing it”
- Can solve their financial situation without anyone knowing they were in trouble (secret trouble and solution).
- Needs the money and has given the organization so much already; it feels deserved

Opportunities:

= *Too much power in one place + not enough accountability (or too much unqualified trust)*

- Unrestricted or unmonitored access to assets or data
- Transactions not recorded
- Records not reconciled
- No periodic financial review by another person, committee or board
- Duties of purchase or payroll authorization, and recordkeeping fall to the same person
- Not required to give account for cash withdrawals, pay rates or for borrowing an asset.
- Overriding controls (i.e. I make the rules, but I can also unmake them)
- Unimplemented controls
- Employees or volunteers over whom there is little or no supervision



Triangle Theory source: Donald R. Cressey 1973.

Since both the ability to rationalize and the pressures experienced vary greatly depending on the individual, fraud risk and prevention efforts should focus on removing opportunities. Setting up internal controls which create natural accountability is a way to do that. Separation of powers is key

If it does happen

If anyone in your organization manages to skim money or resources, you might consider removal, prosecution, and/or communication with the public. The idea is to make it known that you are serious, it is unacceptable to steal money or assets from your organization, it hurts the people you are meant to serve and you are serious about protecting them. When considering disciplinary action, remember who you are protecting and why. You do not have to be vengeful, but you do need to make it clear to everyone involved that what has happened is unacceptable. If you find a structural weakness, fix it. If you have got someone unwilling to be accountable, fire them (and change your passwords!). If you are fighting a community of acceptance of this behavior, go public. The important thing is to keep your beneficiaries in mind. By shoring up “leaks”, you are protecting the resources needed by those dependent on you.

You may need to implement a [media response plan](#) after an incident. This is something the board can initiate to regain public trust, by being honest and upfront quickly about what has happened and what is being done about it.

Often, getting out in front of the story helps control the impact of rumors leaked by impacted staff, volunteers, or beneficiaries by demonstrating that you are aware and doing something about it.

You may also wish to start cultivating relationships with consultants, crisis communication professionals, and journalists now before a crisis hits.

Tools

Fraud protection policies (Structural Checkup)

	What you can do now to naturally deter fraud:
	Make sure you have a board.
	Have your board approve a budget by vote.
	Have the board review what you have done with the money, every year. (Internal audit)
	Make and take receipts, for everything. (paper trail, recording)
	Have an outside firm review income & expenditures, and file your form 990 for the IRS (audit)
	Require person(s) responsible for money to take a vacation and let someone else handle it.
	Make sure more than one person sees every transaction. (multiple signatures on checks, more than one person has access codes to electronic banking or bookkeeping, separate the purchaser from the recorder/authorizing authority)

	Create asset tags and logs.
	When someone needs/wants to borrow an asset or simply take it off site for an activity, require a signature or have another person count and sign off in the logs.
	Make sure all staff and employees know who to call to report suspicious activity, and that they will not lose their jobs for speaking up.
	Set up a Complaint Mechanism to handle reports of misconduct.
	Add a "Report Misconduct" link to your website footer to encourage transparency
	Consider prosecuting staff or volunteers found committing fraud (often recommended to create deterrence and may help rebuild stakeholder trust). Keep in mind who you are protecting.
	Get in front of the story-- Let public know their dollars and information are safe – what happened, what is being done about it. See Sample Media Response Plan
	Become familiar with resources available

Resources

Events, training, resources, expert help:

Association of Certified Fraud Examiners (ACFE): <https://www.acfe.com/>

Region-specific and nonprofit organization data, including typical perpetrator profiles: The ACFE 2018 Report to the Nations - Global Study on Occupational Fraud and Abuse

<https://www.acfe.com/rtnn-archive.aspx>

General advice on a range of risk topics for nonprofits, US-based:

Nonprofit Risk Management Center: <https://nonprofitrisk.org/>

Webinar: Risky Business: Reframing the fundamentals of risk management for humanitarians With Patroba Otieno, Risk and Financial Specialist at World Vision Somalia. November 2019:

<https://phap.org/PHAP/Events/OEV2019/OEV191121.aspx?EventKey=OEV191121>

Comprehensive enterprise risk management software solution:

<https://riskconnect.com/>

Article: FTI Consulting Risk Research Project: What Companies Do Right (and Wrong) in Emerging Markets, Journal article July 2015:

<https://www.ftijournal.com/article/what-companies-do-right-and-wrong-in-emerging-markets>

Article: 10 Truths You Need to Know About Fraud, Strategic Finance Magazine, May 2004:

<https://sfmagazine.com/wp-content/uploads/sfarchive/2004/05/10-Truths-You-Need-to-Know-About-Fraud.pdf>

The Fraud Triangle

Donald R. Cressey, Other People's Money (Montclair: Patterson Smith, 1973) p. 30.

<https://www.acfe.com/fraud-triangle.aspx>

Avoiding Corruption

Like fraud, corruption is another big thing to avoid. It causes loss to everyone involved and hurts your reputation. Here is some help to identify what it is and how to avoid it.

What is Corruption?

According to the New Zealand ministry of justice, corruption is the lack of integrity or honesty (typically involving bribery) or the abuse of a position of trust for dishonest gain.

Examples of corrupt practices in international nonprofits may include:	
Paying your family more than others	Paying yourself without the knowledge or consent of your board.
or paying them more than you should.	It can also mean:
or employing them officially but not requiring any work	Using the nonprofit to hide money, or to conceal its origin or true purpose
Awarding contracts to family,	Syphoning away funds awarded to the nonprofit to your personal accounts, or to any other person or purpose, without the board or donor's prior consent.
or to personal friends and without transparent, competitive mechanisms.	Misrepresentation of fact for the purpose of personal gain, advantage or for avoiding responsibility. (Fraud)
Influencing the nonprofit to contract with another business you own or sit on the board of, or one that is owned, operated by or benefits a family member of yours, without transparent, competitive mechanisms. (Conflict of interest)	Offering, giving, soliciting, or receiving of any item of value as a means of influencing the actions of an individual holding a public or <i>legal</i> duty. (Bribery)

According to the New Zealand ministry of justice, corruption is the lack of integrity or honesty (typically involving bribery) or the abuse of a position of trust for dishonest gain.

All of these represent some kind of loss to the organization, whether material or in terms of public trust.

Corruption is more likely to occur:

In national contexts:

- Where salaries for responsibility are low or insufficient
- Where there are few alternatives for earning money by legitimate means
- Where there are very few wealthy enough or skilled enough to do a job
- Where there are no (or few) external reporting mechanisms for wages, salaries for certain roles or contract purchase price (EX: see Indeed, Glassdoor, Guidestar, your IRS form 990, the UN procurement contract awards page...)

Within organizations:

- Where only one set of eyes sees or needs to approve a hire or supplier purchase
- Where there are no accountability measures in place to review hiring practices or contractual agreements
- Where there is no audit or annual budget review)

Conflicts of Interest

There is a conflict of interest if you or someone you are related to can benefit economically or materially from your presence on the decision-making team.

Ordinarily, you should let the board or other decision makers know if there is a possibility of you or your kin benefiting personally from using a particular supplier and recuse yourself from the decision-making process. This ensures any contract or hire is competed for properly, and prioritizes the benefit of the nonprofit, its mission and the people its meant to serve above your own. Your company or brother in-law may be the best, but that has to be clear to everyone else and fully agreed to. You might consider asking for disclosure of any known potential conflicts of interest at time of hire, bidding or incorporation into your board of directors.

A Conflict of Interest Declaration for an application might look like this:

I wish to disclose the following possible conflicts of interest:

I sit on the board of X stationery company

My spouse is employed by your supplier of...

My brother is employed by your x supplier

Dealing with powerful (or needy) family members

Resisting corruption may mean one family member cedes passage to another for a time. This may seem difficult at the time, but avoidance of trouble may be more helpful to everyone involved. If you are the one in power, look to provide for your family members by other means. When you do this, more money is available for public works, efficiency gains which improves relationships and reputations with outside investors. If you can restrain yourself here, and manage your family members various needs by other means, your whole city or organization can gain a reputation of trustworthiness. And eventually, you will grow.

Tools

Structural Checkup

Anti-Corruption Policies Checklist	
	Make sure you have a board.
	Have an idea of a fair market price for a product, service or hire before contract negotiation.
	Have a committee or some kind of group to provide another set of eyes around procurement and hiring decisions.
	Recuse yourself from this decision-making group if you are related, by blood or by marriage to or have any other financial or material interest in the supplier candidate winning the bid (so they can compete properly for the role or contract).
	Participate in external auditing exercises like reporting salaries or contract purchases where possible.
	Train your staff on what a bribe looks like, and how to respond to various dilemmas
	Make sure all staff and employees know who to call to report suspicious activity, and that they will not lose their jobs for speaking up.
	Set up a Complaint Mechanism to handle reports of misconduct.
	Add a “Report Misconduct” link to your website footer to encourage transparency
	Prosecute offenders for fraud, corruption or other misconduct even if only to create deterrence and help rebuild stakeholder trust.
	Prepare a Media Response Plan .
	Have your board approve a budget by vote.
	Make and take receipts, for everything. (paper trail, recording).
	Have the board review what you have done with the money, every year. (Internal audit)
	Have an outside firm review income and expenditures, and file your form 990 for the IRS (audit).
	Alternate outside firms which review income and expenditures every year (external audit-rotate).
	Make sure more than one person sees every transaction. (multiple signatures on checks, more than one person has access codes to electronic banking or bookkeeping, separate the purchaser from the recorder/authorizing authority)
	Require person(s) responsible for money to take a vacation and let someone else handle it.
	Create asset tags and logs.
	When someone needs/wants to borrow an asset or simply take it off site for an activity, require a signature or have another person count and sign off in the logs.

Resources

For inspiration on this kind of risk management from the private sector, see:

<http://www.ftijournal.com/article/what-companies-do-right-and-wrong-in-emerging-markets>

OECD Guidance: OECD (2018), *OECD Due Diligence Guidance for Responsible Business Conduct* CH.VII

<https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>

Region-specific and nonprofit organization data, including typical perpetrator profiles:

The ACFE 2018 Report to the Nations - Global Study on Occupational Fraud and Abuse

<https://www.acfe.com/rtnn-archive.aspx>

General advice on a range of risk topics for nonprofits, US-based:

Nonprofit Risk Management Center: <https://nonprofitrisk.org/>

Events, training, resources, expert help regarding fraud:

Association of Certified Fraud Examiners (ACFE): <https://www.acfe.com/>

Webinar: Risky Business: Reframing the fundamentals of risk management for humanitarians

With Patroba Otieno, Risk and Financial Specialist at World Vision Somalia. November 2019:

<https://phap.org/PHAP/Events/OEV2019/OEV191121.aspx?EventKey=OEV191121>

Preventing Corruption in Humanitarian Aid, free online course at DisasterReady.org:

https://ready.csod.com/LMS/LoDetails/DetailsLo.aspx?loid=b5439729-51af-4da0-8c12-2d010343d567&query=%23q%3Dcorruption%26s%3D1%26a%3D&back_key=1#t=1

Overseas Security Advisory Council (OSAC) for any US-incorporated entity:

<https://www.osac.gov/About/WhoWeAre>

How to establish an accounting system

Nonprofit Internal Controls Templates (US-based, US-facing, but gives an idea):

<https://www.copedia.com/nonprofit-policies-and-procedures-manual-templates.html>

Financial Management for Development Pro Certification (FMD PRO) Prep Course (free):

[https://ready.csod.com/LMS/LoDetails/DetailsLo.aspx?loid=79d5b9db-2d62-4b33-bc88-31543251b103&query=%3fq%3DFinancial+Management+for+Humanitarian+and+Development+Professionals+\(FMD+Pro\)#t=1](https://ready.csod.com/LMS/LoDetails/DetailsLo.aspx?loid=79d5b9db-2d62-4b33-bc88-31543251b103&query=%3fq%3DFinancial+Management+for+Humanitarian+and+Development+Professionals+(FMD+Pro)#t=1)

For Governments: Singapore Experience example:

Inspiration:

A UN report written to educate and inspire:

https://www.undp.org/content/dam/undp/library/capacity-development/English/Singapore%20Centre/PS-Reform_Paper.pdf

International Corporate Governance Network Recommendations:

<https://www.icgn.org/sites/default/files/2021-06/ICGN%20Anti%20Corruption%20Guidance%202020.pdf>

Corruption deterrence via trial monitoring in Nigeria : <https://portal.corruptioncases.ng/>

BBC: 24 October 2013 Why does Singapore Top So Many Tables?:

<https://www.bbc.com/news/world-asia-24428567>

The Economist: 26 March 2015 Why Singapore Became an Economic Success:

<https://www.economist.com/the-economist-explains/2015/03/26/why-singapore-became-an-economic-success>

GAN Integrity's Business Anti-Corruption Portal Country Profile on Singapore: 26 June 2020

<https://www.business-anti-corruption.com/country-profiles/singapore/>

Singapore Corruption Control Framework: <https://www.cpib.gov.sg/about-corruption/corruption-control-framework> (model and definitions, gov website)

Other Anti-corruption scholarly work: <https://www.semanticscholar.org/paper/Combating-Corruption-in-Singapore%3A-What-Can-Be-Quah/641799bf55a5f33fc224a563710b799b2eb4f871>

Guidance and Training:

Help from Singapore: <https://www.cpib.gov.sg/about-cpib/international-engagement>

Avoiding Bribery

What is a Bribe?

Offering, giving, soliciting, or receiving of any item of value as a means of influencing the actions of an individual holding a public or legal duty.

This may not be illegal in your host country, and may even be common practice, but is generally looked down upon in most donor countries and can cause significant financial and reputational loss, to you personally and as an organization.



Potential costs may include loss of:

- Trust (of yourself, your team, your organization, most importantly, of your clients, host country partners, and donors.)
- Your reputation
- Money
- Your 501 ©3 status in the U.S.
- Permission to stay in host country

For an official explanation on how the Foreign Corrupt Practices Act "FCPA" might apply to you, please see <https://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act>. You can also ask the Department of Justice for an official opinion on a particular situation by writing to the address at the end of their article referenced above.

Strategies for Dealing with Requests for Bribes

In a lot of places, to comply with regulation (i.e. to obtain permits, licenses or even to pay a reasonable amount of tax), having to pay off an official seems inevitable. However, this can hurt your reputation and is illegal for both U.S. and UK-based organizations. Not to mention it can also syphon funds away from your staff, operations, and the beneficiaries of your services. But this last point may actually help give you leverage to negotiate with anyone asking for a bribe, or with their superiors in order to drop the request. If you are serving their community, you have a future social benefit to which you can appeal. You can also chat up their mum, aunties or whoever else has the social clout to make the practice shameful and unacceptable. Often though, just talking to the direct superiors of the person asking can discourage the practice just by putting it in the light.

Responding to a request:

As needed, in order of escalation:

- 1) **Refuse and explain the impact to you** (No, sorry I can't, I'll lose my job)
- 2) **Talk to their superior**
- 3) **Explain the impact to you, and to the community** (I would lose my job, and the organization would not be able to help you build the latrine)
- 4) **Put pressure on the officials to stop asking.**

In violent, fragile or conflict-prone areas where your work is humanitarian:

As a policy, some INGOs make an exception for staff to pay bribes when moving supplies and the stuff in question is providing for urgent need such as food and medicine. Some refuse to pay and are willing to let it start to perish in customs if it proves a point and means neither they nor their colleagues will ever pay bribes again. It is frustrating for some that for a few colleague organizations reporting requirements allow bribery and other corruption simply as a matter of course, because it makes the practice harder to stamp out and everyone loses.

Another case for exception is often around when guns are drawn or other threats to life are made in order to reinforce a bribe request for allowing entry into a particular location. This exception is often made in order to protect the worker porting the goods and to carry on with humanitarian work.

Other organizations however do not allow it ever on the grounds that 1) in this situation they risk inadvertently resourcing the conflict, not just an individual person 2) they reason that if they cannot gain access by peaceful persuasion, they should not be there anyway 3) and it would then pose too much of a security risk or 4) that by giving in, they would encourage the use of guns to pry out bribes in future, from their people and from any organization who comes after them carrying goods or similar purpose. So the advised response for these cases is often just to say no, explain why, and turn around (withdraw the goods/offer of help). (Note: This implies its own danger-to-life risk on the off-chance that the askers are willing to kill or injure to obtain the goods. This is also why armed escorts and/or civil-military cooperation is sometimes required for negotiating access.)

Others refuse to carry guns or have armed escorts and are willing to pay.

Action Plan

Make sure your staff know how to respond to bribery requests and the consequences of it (see following pages for tools and resources). You can even run drills, role-play and get input from your local staff. Take time to answer questions. When a bribe is expected, prompted, or even demanded, do not be afraid to talk to the superiors of those officials asking for a bribe, particularly if your operations are important. Let them know your commitment to ethical behavior. It might take time, but it might also make an impact.

Tools

Stop-and-Think

If you are unsure if you are engaging in bribery, ask yourself the following questions:	
	<i>Are you doing it to gain an advantage?</i>
	<i>To win a contract?</i>
	<i>Are you bribing an official because you cannot fulfill normal licensing requirements?</i>
	<i>Are you paying someone for their discretion on a matter?</i>

Resources

For inspiration on this kind of risk management from the private sector, see:

<http://www.ftijournal.com/article/what-companies-do-right-and-wrong-in-emerging-markets>

Informative blogpost on avoiding bribery international business:

<https://www.thebalance.com/how-to-avoid-bribes-in-international-business-1953575>

OECD (2018), OECD Due Diligence Guidance for Responsible Business Conduct, Ch.VII:

<https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>

Overseas Security Advisory Council (OSAC) for any US-incorporated entity:

<https://www.osac.gov/About/WhoWeAre>

How to establish a system, plus training for any manager or board member:

Financial Management for Development Pro Starter plus links to self-led learning, certifications and tools: <https://fmdpro.org/>

Disaster Ready.org online training course on Financial Management for Development (FMD Pro):

[https://ready.csod.com/LMS/LoDetails/DetailsLo.aspx?loid=79d5b9db-2d62-4b33-bc88-31543251b103&query=%3fq%3dFinancial+Management+for+Humanitarian+and+Development+Professionals+\(FMD+Pro\)#t=1](https://ready.csod.com/LMS/LoDetails/DetailsLo.aspx?loid=79d5b9db-2d62-4b33-bc88-31543251b103&query=%3fq%3dFinancial+Management+for+Humanitarian+and+Development+Professionals+(FMD+Pro)#t=1)

Deterring Sexual Misconduct

What is sexual misconduct?

Universally, sexual misconduct is recognized as any *unwanted or coerced contact*.

Because context plays a role in the legal details, you will need to educate staff and beneficiaries on what this means for your organization, and then enforce it regardless of the home culture of your staff.

For Example: Prostitution may not be illegal in the home country of some workers, or the development context you work in, but because of your values, or simply being desirous of the public trust, you have chosen as an organization to prohibit the behavior and to provide consequences (i.e. termination of employment, alerting the authorities or industry bodies...).

Fostering deterrence

Make your policy and know how to enforce it

This is an important line to define because staff country of origin and context will play such a huge role in what is legal or customarily acceptable. You will need to define what this means as an organization, for the culture of the organization; what is permitted and what will not be tolerated, and then make a plan on how to enforce what you mean.

What is the legal context in which you operate regarding this issue?

What are the expectations of your donors?

What are the values of your organization?

What are your personal views regarding this issue?

How can you best protect your
Educate beneficiaries on your policies, their rights and any means of feedback (complaint).

Make sure your complaint mechanisms are:

- 1) Operated by someone other than the person who dispensed aid
- 2) Confidential
- 3) Can be used with no threat-of-loss to the beneficiary

Reduce opportunities for a worker to be alone with a beneficiary, or out of the public view.

Train bystanders on how to intervene and what is expected of them.

Listen to any accusation with empathy and take just action on their behalf

Same-sex oriented staff

Being of the same gender does not equal protection from sexual misconduct. In some cases, it can increase the probability by creating a false sense of security. Victims of sexual misconduct also need to know their case will be heard and taken seriously, even if the perpetrator is of their own gender.

You can protect your same-sex oriented workers by not sending them to a place not able to receive them. (For an idea of risk level in your location, check travel articles for LGBTQ+ specific-advice. Nearly all major guidebooks now offer specific advice for LGBTQ+ travelers on the safety of a location, etc., which you can use as a proxy in your risk assessment) Depending on place of hire, you may not be allowed to ask these risk-assessing questions at hiring, but it may be crucial for everyone's safety to know before sending.

Agencies who wish to accept or promote homosexuality or the acceptance of any alternate lifestyle as a new dimension of what they do are also encouraged to consider the impact of doing so on their ability to complete their core mission, on their own relationship with the host country government (would disrespect lead to removal?), and on the ability of other foreigners of similar national origin or mission type to continue their core humanitarian work in country. In many cases, foreigners are thrown out or lose public trust because of something someone resembling their group has done, not them specifically.

Responding to accusations of or by staff

It is important to take any accusation seriously, and to listen with empathy. Provide links to support any victim with needed medical, psychosocial, or emotional support they may need in order to report the incident to local authorities (if desired, if appropriate). If the accusation comes against one of your foreign staff, you may also need to speak to their embassy, and to your nearest Interpol office. In the very least, dismiss the offender, reassure the victim the offender is never coming back and that they should not normally be allowed to work for any other similar organization either. To do this, you may also need to speak with other organizations in your area to let them know this person presents a particular risk, especially if there is gap time between any action you or the victim may be able to take. This is quite sensitive, but important to limiting the spread and impunity of abuse among aid workers.

Tool

To help track what has happened and what has been done about it:
Incident Report Log Template (on following pages)

Resources

Harvard Business Review: Confronting Sexual Harassment, May – June 2020

<https://hbr.org/2020/05/confronting-sexual-harassment#why-sexual-harassment-programs-backfire>

UNHCR: Prevention of Sexual Exploitation and Abuse (multiple languages available)

<https://ready.csod.com/ui/lms-learning-details/app/course/3bdfa635-2810-4d53-8ecd-a27f883dd31b>

Incident Report Log Template – Sexual Misconduct

Name of accused _____ Contact _____ Staff? y/n _____

Name of victim* _____ Contact _____ Beneficiary? y/n _____

Name of reporter* _____ Contact _____ Relationship _____

**Can be anonymous, but a report must be made in good faith. This means if you falsely report your perceptions of what happened, you may also be punished. However, in the meantime, you should also be protected from any retaliation for speaking up.*

Incident description

The above report is true to the best of my knowledge or perception.

Reporter's Signature _____ Date _____

(For internal use only)

Received by:

Name _____ Signature _____ Date _____

Does the victim require any of the following services?

Police report

Medical assistance

Psycho-social support

Pregnancy/ or ongoing support or monitoring

Other: _____

Action to be Taken:

The above report is true to the best of my knowledge or perception.

Date	Action(s) Taken	By: / Signature

A copy of any incident report regarding a staff member should be kept in their employment file for as long as you are required by law to keep it (maybe, forever).

Keep in mind any data protection laws you may be subject to, and any legal responsibilities this kind of recording may imply.

Incident Report Log – Other Misconduct

For other types of misconduct, the type of incident, your context, legal obligations and the risks posed to you or to the reporter will have an impact how you keep a log.

If the report of misconduct concerns a leader or board member or employee with broad visibility into the company such as an administrator, you will need to be judicious about where you keep it.

For any of them though, you will need to keep track of who did what and what actions were taken on the part of the organization in following them up. (Unfortunately, this may be important for any potential lawsuits or for refuting any false accusations and scathing media reports against the organization)

Hopefully, these reports will primarily be for internal investigation to fix any problem or to fulfill any legal requirements for termination of employment.

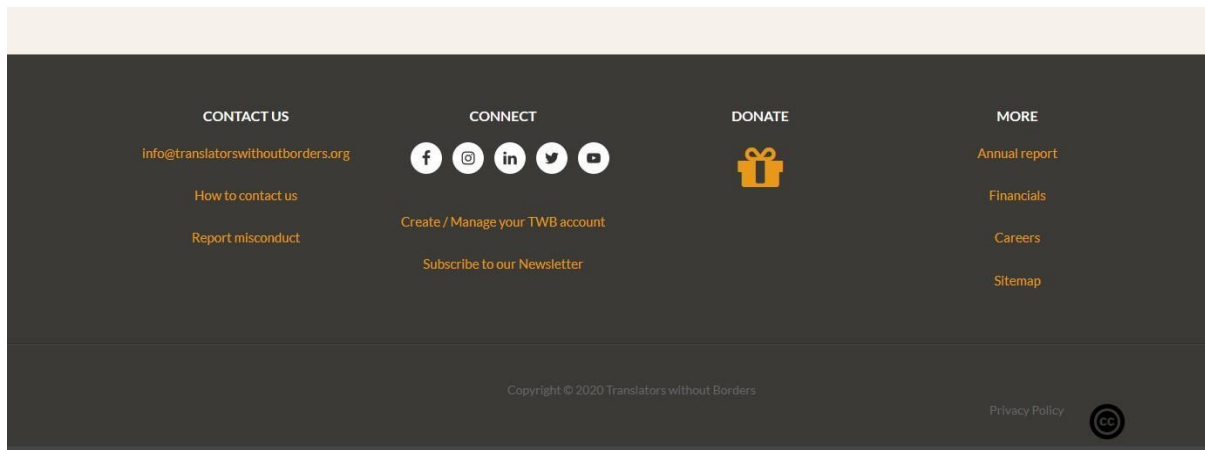
Sample Complaint Mechanisms

Example from:

Translators Without Borders, <https://translatorswithoutborders.org>

Date Accessed: June 15, 2020

Footer of every webpage:



Page Linked to:

Misconduct and Fraud

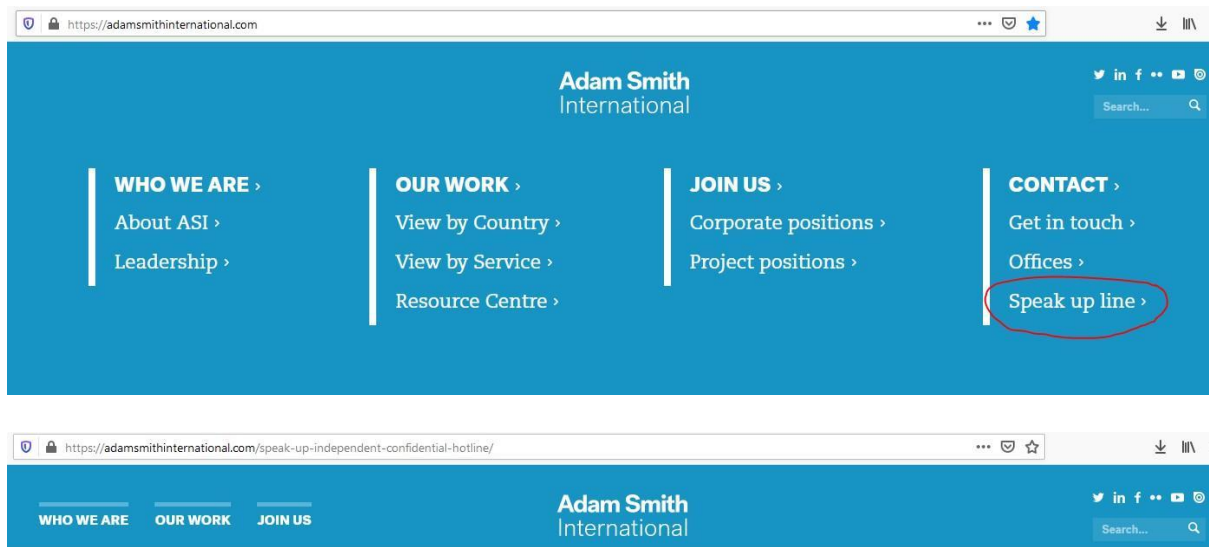
In keeping with our vision and values, Translators without Borders (TWB) is committed to maintaining the highest degree of ethical conduct among all of its employees, and expects all team members to act in a manner consistent with the core values of excellence, integrity, empowerment, and tolerance while carrying out their organizational responsibilities. All employees, interns, volunteers, and consultants are subject to a Code of Conduct. Partner organizations are also expected to comply with the standards of behavior outlined in this Code and follow international legal standards and principles.

TWB takes accountability seriously. If you have concerns about the conduct of any TWB staff member you can make a report:

- Please contact the Human Resources and Administration Manager at marianthi@translatorswithoutborders.org.
- Alternatively, you can contact the Executive Director of TWB at aimee@translatorswithoutborders.org.
- To contact the Board of Directors, email fraud@translatorswithoutborders.org.

In making the report, it would help be helpful to include as much information as possible, such as date and time of the incident, the nature of the complaint, who was involved, were there witnesses, how the events unfolded, if there is any concern for the safety of someone, in particular, a minor, and whether another entity has received this complaint too.

Example using a third-party hotline:



Speak up: independent confidential hotline



ASI offers an independent, third party speak up hotline, operated by SafeCall, for use by anyone connected to our work: this includes the beneficiaries we work to support, staff, associates, partners and suppliers.

Reports to SafeCall are confidential, secure and you may choose to remain anonymous, even if you accidentally mention your name on the phone. When making a report, we'd be grateful if you could provide as many details as possible (timeline of events, locations, people involved), to help us investigate your concerns in an efficient and thorough manner.

- Please visit <https://www.safecall.co.uk/report> for your country's hotline contact details and to make a report in your preferred language
- You can email your concerns directly to SafeCall by writing to: adamsmith@safecall.co.uk
- In cases of sexual misconduct and abuse you can also email: safeguarding@adamsmithinternational.com
- In cases related to fraud, bribery, corruption and conflicts of interest you can also email: compliance@adamsmithinternational.com
- In cases related to data breaches and IT security please email: it@adamsmithinternational.com

Resources

Safe Call UK <https://www.safecall.co.uk/>

Multilingual offer: WhistleB <https://whistleb.com/>

Sample Media Response Plan

This is something the board can initiate to regain public trust. Often, getting out in front of the story helps control the impact of rumors leaked by impacted staff, volunteers or beneficiaries by demonstrating that you are aware of a major problem and doing something about it. Communicating with staff and stakeholders quickly and getting in front of the story (with the media, if necessary) can help with both staff morale and public opinion. No matter the type of incident, it is important to:

Quickly Acknowledge, Connect and Reassure:

1. Identify the appropriate audience (Who needs to know? How?)
2. Establish credibility with quick honesty
3. Release the bad news yourself

It is important not to speculate publicly, and to wait until things are quiet to evaluate.

You may want to also start cultivating relationships with lawyers, crisis communications consultants and media professionals before a crisis hits.

Remember:

- Follow-up messages and actions of reassurance may be necessary for the family affected, your team and even the public.
- Don't speculate!
- Evaluate when things are calm.

To be filled in at time of need: (Modify text in green)

Who needs to know?	How?	From whom?
Donors	Direct, private communication	CEO
Staff	Email	Director
General Public	Website, Twitter, Facebook	Current leadership

Message

Structure of a good media communication:

1) Acknowledge the problem 2) what we have done to address it and 3) what we plan to do to make sure it doesn't happen again. (Depending on the size and impact of the infraction, this effort may require length of time, repetition or iteration of stories like "progress reports" on dealing with the problem; demonstrating you are prepared to earn back trust and are tackling the problem.)

