

Prevention of Sexual Exploitation and Abuse Policy

Policy Statement

As a development and humanitarian organisation, TAI focuses on those most vulnerable and marginalised in development and disaster contexts. In the capacity that we serve, we are equipped with resources and services which we bring to the community for their relief and development. This puts TAI in a position of power, which could be abused by exploiting the very people we are called to protect and care for. As a Christian organisation, we are called to be “good stewards” of the resources given to us, as well as to protect and bring justice to the people who have “no voice”. Furthermore, we are committed to the ACFID Code of Conduct along with other key sector standards and regulations.

Keeping this in mind, it is crucial that we define for ourselves what our commitment is towards preventing sexual exploitation and abuse by our staff, contractors and partners.

TAI has zero tolerance towards abuse and exploitation of children and adults who engage with our programs and personnel. It is our responsibility to ensure that children and adults are not deliberately or unknowingly placed in situations which make them easily susceptible to Sexual Exploitation and Abuse (“SEA”) by TAI staff, volunteers, contractors and partners.

Scope and Purpose

This policy is applicable to all staff, volunteers, supporters, contractors/consultants of TAI. It is also applicable to the staff, volunteers and contractors who work with our partners and have direct contact with the community and beneficiaries. All of these people will now hereby together be referred to as TAI Representatives.

This policy aims to develop an organisation wide culture of increased awareness of SEA, with a scope that covers the workplace, partner organisations and the communities we seek to serve.

TAI is committed to the following seven core principles¹ on protection from sexual exploitation and abuse (“PSEA”):

1. Sexual exploitation and abuse by TAI Representatives constitute acts of gross misconduct and substantiated allegations are grounds for termination of employment.
2. Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of the majority or the locally recognised age of consent. Mistaken belief in the age of the child is not a defence.
3. Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour by TAI Representatives is prohibited. This includes the exchange of assistance that is due to program participation.

¹ Six of the Core Principles are from the UN Secretary-General's Bulletin on Special Measures for Protection from Sexual Exploitation and Abuse (ST/SGB/2003/13). The Bulletin have been modified to suit TAI's purposes.

4. Sexual relationships between programme participants and TAI employees, volunteers, consultants or supporters must not occur within two years of the professional relationship as the professional relationship would then be based on inherently unequal power dynamics.
5. When a TAI Representative has concerns or suspicions regarding SEA by a fellow worker, whether in TAI or a partner organisation/community, he or she must immediately report such concerns via the reporting mechanisms as outlined within this policy.
6. TAI Representatives are obliged to create and maintain an environment that prevents SEA and promotes the implementation of this Policy. TAI managers at all levels have responsibilities to support and develop systems which maintain this environment.
7. TAI Representatives are prohibited from engaging with commercial sex workers or engaging in prostitution of any form whilst on a work trip (including travel time, field visits and leisure time) and representing TAI, even if commercial sex work is legalised in that country. This kind of conduct goes against our organisational values as per the TAI Code of Conduct and any such conduct, as substantiated, will constitute grounds for disciplinary measures including summary dismissal, under TAI's relevant policies or discontinuation of partnership/funding under relevant MOUs and partnership/funding agreements.

Policy Objectives

The objectives of this policy are:

- Promote appropriate standards of conduct with respect to SEA through consistent and intentional awareness raising, training
- Implement increased and ongoing capacity and awareness raising strategies to ensure that all TAI Representatives know their rights and responsibilities regarding PSEA alongside other key policies (as per the Related Policies and Procedures section below) which must work in tandem with this.
- Create an environment which is free from workplace sexual harassment.
- Prevent the sexual exploitation and abuse of children and any vulnerable adults who interact/engage with TAI Representatives during our humanitarian and development work.
- Encourage the reporting of behaviours which breach this policy and related policies, notably the EEO, Anti-Discrimination, Harassment and Bullying, and Child Safe policies.
- Continuously socialise and train TAI representatives on complaints handling and whistleblowing policies and procedures based on the principles of procedural fairness, ensuring all complaints are managed in a sensitive, fair, timely and confidential manner.
- Ensure protection from any victimisation or reprisals for the complainant and the whistle blowers.

Policy in Practice

Recruitment and Engagement

TAI has a robust recruitment and screening process to minimize the risk of recruiting a person who poses an unacceptable risk of engaging in sexual harassment, sexual exploitation and abuse.

Procedures include:

- Applicants will be requested to disclose whether they have had a substantiated SEA and Sexual Harassment claim made against them in Australia or overseas in the Job Application Form or Consultant Agreement.
- Behavioral interview questions about sexual harassment and abuse are used to determine past actions, beliefs, attitudes, motivations, and values regarding children, women, men and all vulnerable adults and towards working with these groups.
- Two verbal reference checks which include asking questions relating to the applicant's general conduct as well as questions regarding any concerns about candidate's conduct when working or interacting with especially with children and vulnerable adults in the context of sexual harassment, sexual exploitation and abuse. One reference must be from the person's current or most recent employer.
- Signed Safeguarding Statement required prior to commencement.
- National Criminal History Check for each country in which the applicant has lived for 12 months or longer over the last 5 years, and for the individual's countries of citizenship*;
- Working with Children Check**
- Human Resources and the Safeguarding Committee will develop a detailed induction to be carried out highlighting behavior expectations around sexual harassment at the workplace, child protection and safeguarding and the prevention of sexual exploitation and abuse of children and vulnerable adults.

TAI Representatives are responsible for reporting a change in their circumstances to TAI management by reporting any current criminal or civil court proceedings relating to harassment, exploitation and abuse. All employment contracts must contain provisions for disciplinary actions up to and including dismissal for any person who breaches the Safeguarding Statement.

*A statutory declaration (criminal declaration form) that outlines efforts made to obtain a foreign police check, and that discloses any charges and spent convictions related to child protection, may be accepted in lieu.

** WWCC or equivalent will be undertaken as allowed by legislation.

Increasing Awareness of PSEA Obligations Under the Policy

- The HR Advisor will increase awareness of PSEA and PSH among TAI Representatives through providing ongoing education and training, technical advice, collaboration with all programs and departments, and day to day guidance.
- All staff, Board members, volunteers and contractors will be trained so that they understand why it is necessary to protect children, their

responsibilities in protecting children including mandatory reporting of concerns or allegations about child exploitation and abuse. Training as set out in the training agenda is mandatory.

- All TAI representatives will receive: PSEA Training as part of orientation and induction, job specific training (where set out in the agenda), as well as a yearly refresher (to be facilitated bi-yearly by an external organisation).
- The various departments will ensure the requirements are both understood and met by their stakeholders (consultants, contractors, supporters and implementing partners) during the yearly cycle and provide the necessary training and hand-holding so that those requirements are met.

Supporter Engagement with and visits to Project (Locations, Personnel and Beneficiaries)

TAI recognizes the need to implement specific guidelines to manage the SEA risks when allowing supporters to engage with international programs. TAI will continue to proactively manage these risks by requesting National Criminal History Checks and WWCCs as per the Child Safe Policy. All supporters must follow and sign the Safeguarding Statement, and adequate be briefed by TAI Representatives coordinating the trip on the implications to the supporter's engagement both during and prior to visits.

Reporting, Complaints Handling and Resolution within TAI

All TAI Representatives must report any concerns they have for the safety or wellbeing of children and vulnerable adults in regard to sexual harassment, exploitation and abuse. The SEA Reporting Procedure (see attached) must be followed. TAI will treat all concerns raised seriously and ensure that all parties will be treated fairly. TAI will meet country, state or territory specific legislative requirements. Any person who intentionally makes a false allegation or malicious allegation will face disciplinary action. TAI must immediately notify the Department of Foreign Affairs and Trade (DFAT) Child Protection Compliance Section of any concerns relating to the sexual abuse or exploitation of children and vulnerable adults in DFAT funded and TAI funded activities.

Communities involved in TAI funded activities must be informed on how to raise a concern about their safety or wellbeing of someone else in threat or undergoing SEA through a functional community-based complaints procedure linked to the TAI based complaints mechanism.

The following measures can be applied for any TAI Representative who breaches the PSEA Policy and/or Safeguarding Statement:

- Meet to discuss the breach and offer an opportunity for the subject to provide their account of the situation.
- Performance management.
- Further education on this Policy, the Child Safe Policy, Code of Conduct, Child Safe Code of Conduct and the Safeguarding statement.
- Formal warning and monitoring of progress against recommendations.

- Transfer to other duties.
- Suspension of the subject pending investigation.
- Internal investigation report to the Police.
- Termination of employment.
- The above measures will apply alongside any criminal investigation where relevant.

Compliance by the Implementing Partners

TAI will not knowingly engage partnerships with any individual or organisation who pose an unacceptable risk to children and vulnerable adults or that do not meet TAI's child protection and PSEA compliance standards. It is a requirement that any individuals or partner organisations engaged by TAI, report concerns, suspicions or allegations of child and vulnerable adult's sexual exploitation or abuse by TAI Representatives or within TAI funded activities. Implementing partners must adhere to the TAI Safeguarding Reporting Procedure which is publicized on the TAI and Baptist World Aid Australia websites.

Implementing Partners will be encouraged to have their own PSEA policy. If that is not possible, TAI will facilitate the inclusion of the key mandates of this policy within the Implementing Partner's Code of Conduct or any relevant policy so that the standards as set by DFAT, ACFID and TAI on PSEA would be ensured in their implementation and engagement with us as partners.

Partners will be encouraged to ensure that all Senior Personnel, Managers and Supervisors are trained effectively and understand their responsibility to proactively identify, deal with and prevent such acts or incidences from occurring across all stakeholders. They will be encouraged to regularly review the strategies, policies, procedures and tools to ensure that the policy is working effectively.

The International Programs team will integrate a possible annual socialisation and review of key policies that ensure safeguarding and procedures around complaints handling during their monitoring visits and meeting with all key stakeholders of the partner. There will be ongoing support provided to the partners to help develop and strengthen a community-based complaints procedure. The Partners will also be encouraged to develop a referral network for providing legal and psychological aid to the victims of PSEA.

International Program Coordinators are to ensure the Partner Agencies and the communities they work with have a localised and simplified version of this policy and complaints handling mechanism. They are to also ensure that the Partner Agency has adequate and clearly defined disciplinary procedures to ensure action is taken if a complaint is received. They must facilitate the Partner Agencies to also have a referral list for the complainant and survivors of PSEA to help with legal assistance or rehabilitation. They must ensure this policy is adequately shared with all key stakeholders throughout the project management lifecycle. IPCs are to ensure training is provided and encourage the use of this policy and complaints handling mechanism in their monitoring visits. TAI Representatives who work with communities in partner countries should also contribute by regularly monitoring that the PSEA policy is understood and consistently do so by discussing and seeking feedback during their field visits and from the program participants.

Responsibilities

Responsibility for this Policy lies with the Director of Finance and Operations, including implementation except as otherwise stipulated in this Policy.

This policy will be available to all TAI Representatives on TAI's Policies and Procedures Portal.

This policy will be reviewed biennially or sooner as required.

Definitions

- Child – A child is a person under the age of 18, irrespective of who is counted as child (based on age) in their local country.²
- Vulnerable adults – Vulnerable adults are people over the age of 18 who may be placed in a position of vulnerability and inability to care for themselves or protect themselves from any harm or exploitation. Individuals could be vulnerable to PSEA due to their: gender, race, ethnicity, religious identity, mental or physical health, disability, sexual orientation, economic or social status, or being located in disaster or conflict prone regions.
- Sexual Exploitation – Sexual exploitation refers to any actual or attempted abuse of the child's or adult's position of vulnerability, lack of power or blind trust in relation to the perpetrator for gaining sex or sexual benefits. It includes the actual or threatened physical intrusion whether by force or under unequal or coercive conditions.
- Sexual Abuse – Sexual abuse refers to the involvement of a child or adult in sexual activity that he/she does not fully comprehend; does not give informed consent to, or is not developmentally prepared to give consent to; which violates the law of the land; where the relationship is imbalanced because of differential power, money and status..: which involves procuring children or adults for sexual activity even when in exchange for some benefit; and which also involves building trust in children and adults and then preying on them when they least expect it.
- TAI Representatives: This term covers TAI activities and TAI funded activities, including TAI subsidiaries, whether in Australia or overseas and includes the following:
 1. TAI employees
 2. TAI volunteers
 3. TAI interns and work experience students
 4. TAI Board members
 5. Individual contractors and consultants

² Definition of child from the InterAgency Standing Committee (IASC) Guidelines to implement Minimum Operating Standards for Protection from Sexual Exploitation and Abuse by UN and

6. Implementing partner organisations
 7. Project participants
 8. Supporters of TAI and TAI'S subsidiaries
- Sexual harassment - Sexual harassment, in the workplace and otherwise, refers to any unwelcome sexual advances, requests for sexual favours, verbal or physical conduct or gestures of a sexual nature, or any behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another. It converts into SEA when this behaviour or conduct culminates or leads to sexual abuse or exploitation of the victim.
 - Complainant - A person who alleges in accordance with established procedures that he/she has been or is alleged to have been sexually harassed, sexually abused or sexually exploited.
 - Victim - Once proven to be true or correct, the complainant who has alleged having been sexually exploited, abused or harassed can be referred to as the victim.
 - Survivor - Another term used to refer to a victim. While victim is used as a legal term, the term survivor refers to having undergone psychological and or physical trauma and is indicative of someone who needs psychological and social support.
 - Subject - This is the person against whom the allegation of SEA or Sexual harassment has been brought on by the complainant and is the focus of the investigation.
 - Perpetrator - this is a person who has been proven to have committed the SEA and Sexual harassment as alleged by the victim.

Related Policies and Procedures

This Policy should be read in conjunction with the following:

- Recruitment and Selection Policy
- Employee Recruitment Procedure
- Background Checking Policy
- Safeguarding Statement
- Child Safe Code of Conduct
- Child Safe Policy
- Child Safe Mandatory Reporting Procedure
- EEO, Anti-Discrimination, Harassment & Bullying Policy
- Grievance Policy
- Whistleblowing Policy
- Complaints Handling Policy

- Complaints Handling Flowchart

External References

Related Legislation

- Australian Human Rights and Equal Opportunity Commission Act 1986 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Racial Discrimination Act, 1975 (Cth)
- Disability Discrimination Act, 1992 (Cth)
- Age Discrimination Act, 2004 (Cth)
- Anti-Discrimination Act 1977 NSW
- Australian Human Rights Commission Act 1986
- Equal Employment Opportunity for Women in the Workplace, 2006
- NSW Work Health Safety Act 2011
- Fair Work Act, 2009 (Cth)
- Safe Work Australia – Model Codes of Practice Document

Age of consent/sex with minors related legislation:

- NSW, ACT - Crimes Act 1900
- NT - Criminal Code Act 1983
- QLD - Criminal Code Act 1899
- SA - Criminal Law Consolidation Act 1935
- TAS - Criminal Codes Act 1924
- VIC - Crimes Act 1958
- WA - Criminal Code Act Compilation Act 1913

Prostitution related legislation:

- NSW – Summary Offences Act 1988, Restricted Premises Act 1943
- VIC – Sex Work Act 1994
- QLD – Prostitution Act 1999, Criminal Code 1899
- WA – Prostitution Act 2000, Criminal Code Compilation Act 1913
- SA – Summary Offences Act 1953
- TAS – Sex Industry Offences Act 2005
- ACT – Prostitution Act 1992
- NT – Prostitution Regulation Act 2004

Sexual harassment is prohibited under the Sex Discrimination Act 1984 (Cth) and the Anti-Discrimination Act 1977 (NSW).

Victim Legal Services

- For children and young people in Australia - <http://www.lawstuff.org.au/lawstuff>

- Legal Aid NSW - <https://www.legalaid.nsw.gov.au>
- Legal Aid VIC - <https://www.legalaid.vic.gov.au/>
- Legal Aid SA - <http://www.lsc.sa.gov.au/>
- Legal Aid NT - <https://www.legalaid.nt.gov.au/>
- Legal Aid ACT - www.legalaidact.org.au/
- Legal Aid TAS - <https://www.legalaid.tas.gov.au/>
- Legal Aid QLD - <http://www.legalaid.qld.gov.au/Home>

Victim Psychological Services

- Lifeline - 13 11 14
- Mental Health Line - 1800 011 511
- The MindSpot Clinic - 1800 61 44 34
- Ambulance - 000
- 1800 RESPECT - 1800 737 732
- BlueKnot Foundation - 1300 657 380
- NSW - Rape Crisis and Sexual Assault Hotline - 1800 424 017
- QLD - Sexual Assault Helpline - 1800 010 120
- ACT - Canberra Rape Crisis Centre - <http://crcc.org.au/>
- VIC - Centre Against Sexual Assault (CASA) - 1800 806 292
- TAS - Southern Sexual Assault Service (SASS) - (03) 6231 1817 - <https://www.sass.org.au/>
- NT - Sexual Assault Referral Centre 24/7 - (08) 8922 6472
- SA - Yarrow Place - 1800 817 421
- WA - Sexual Assault Resource Centre 24hr Crisis Line - (08) 6458 1828

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