

Anti-Bribery and Corruption Policy

Section 1 - Introduction and Purpose

(1) Australian Catholic University (ACU) is committed to operating in accordance with all applicable laws and regulations and in accordance with the highest standards of ethical behaviour at all times.

(2) As part of this commitment, ACU prohibits any activity that seeks to bribe or otherwise improperly influence a Public Official, or any other individual or entity in the public or private sector, to act (or omit to act) in a way that differs from the proper performance of their role or function.

(3) This Policy:

- a. sets out the responsibilities of ACU and ACU personnel (defined in Section 2 below) in complying with ACU's prohibition on bribery and related improper conduct which occurs in or outside of Australia;
- b. provides guidance on recognising and addressing instances of bribery and related improper conduct; and
- c. is supported by the [Fraud and Corruption Control Framework](#).

Section 2 - Application of the Policy

(4) This Policy applies to:

- a. all officers and employees of ACU;
- b. third parties that are effectively controlled by ACU, act on its behalf (either directly or indirectly), or provide services to or for the benefit of the University (either directly or indirectly); and
- c. other third parties that are contractually obliged to comply with this Policy.

These are collectively referred to as ACU personnel.

(5) It is the responsibility of all ACU personnel to understand and comply with this Policy and to follow the reporting requirements set out in this Policy.

(6) The Chief Legal Assurance and Governance Officer is responsible for ensuring that ACU personnel are aware of the requirements of this Policy.

(7) Any queries regarding the application of this Policy in any particular circumstance should be directed to Chief Legal Assurance and Governance Officer.

Section 3 - Laws covered by the Policy

(8) Laws prohibiting bribery and the other types of improper payments covered by this Policy apply in all of the countries in which ACU has operations and / or engages in activities.

(9) In addition, a number of these laws, such as the Commonwealth Criminal Code, have extraterritorial reach. This means that, for instance, under Australian law, an Australian citizen, resident or body corporate may be prosecuted in

Australia where the relevant activity occurred entirely overseas. In addition, where the activity occurred in Australia, a non-Australian citizen, resident or company may be liable under Australian law. These laws apply to ACU as well as individuals working for and on behalf of ACU.

(10) The same or substantially similar principles apply to laws in other countries where ACU operates.

(11) This means that ACU and / or ACU personnel may be found liable in the country where the offending conduct occurs or in Australia.

Section 4 - Summary of the Policy

(12) ACU prohibits bribery and the making of other unlawful or improper payments that seek to improperly influence any individual or entity in the performance of their role or function.

(13) This Policy prohibits the following types of improper payments and conduct:

- a. bribery of a Public Official or any other individual or entity in the public or private sector;
- b. the making of facilitation payments;
- c. the giving or receiving of improper gifts or entertainment;
- d. the encouragement, authorisation or facilitation of bribery or other related improper conduct by another person, such as an agent or representative of ACU; and
- e. false, misleading, incomplete or inadequate accounting or books or record-keeping.

The above types of improper payments and / or conduct are explained at Sections 5 to 13 below.

Section 5 - Public officials

(14) For the purposes of this Policy, Public Officials include:

- a. a commercial entity, or the directors, officers or employees of a commercial entity, in which a government body has a significant ownership interest or over which it otherwise exerts control (i.e. a foreign public enterprise or public university);
- b. an employee, official or contractor of a government body or a wholly or partially state-owned enterprise;
- c. a person performing the duties of an office or position created under a law of a foreign country or by the custom or convention of a country;
- d. a person in the service of a governmental body including a member of the military or the police force;
- e. a politician, judge, or member of the legislature of a state, province or country;
- f. an employee, contractor or person otherwise in the service of a public international organisation (such as the United Nations);
- g. an individual who is or who holds himself or herself out to be an authorised intermediary of a Public Official;
- h. a political party, party official or candidate for public office; or
- i. a member of a royal family.

Section 6 - Prohibition on Bribery

(15) ACU prohibits the giving, offering, promising, authorising, accepting or requesting of a bribe.

(16) A bribery offence is committed if a person undertakes any of the following actions with the intention of improperly influencing a Public Official or any other person in order to obtain or retain business or a business or personal

advantage (whether or not for themselves):

- a. provides a benefit to another person; or
- b. causes a benefit to be provided to another person; or
- c. offers to provide, or promises to provide, a benefit to another person; or
- d. causes an offer of the provision of a benefit, or a promise of the provision of a benefit, to be made by another person.

(17) Whether the person sought to be influenced works in the public or private sector is irrelevant. The relevant laws apply to the bribery of Public Officials as well as bribery in relation to any commercial transaction in the private sector.

(18) Bribery can involve offering or providing the benefit directly to the person sought to be influenced, or doing so indirectly, for instance:

- a. by procuring an agent or other intermediary to provide or offer the illegitimate benefit to the person sought to be influenced; or
- b. by giving the illegitimate benefit to a relative or business associate of the person sought to be influenced, or to a political party or charitable organisation with which the person is associated.

(19) It is irrelevant whether the bribe is accepted or ultimately paid. Merely offering the bribe is a contravention of this Policy and usually is sufficient for an offence to be committed; further, business or a business advantage does not need to be actually obtained or retained for an offence to have been committed.

Section 7 - Prohibition on Facilitation Payments

(20) ACU prohibits the making of facilitation payments by ACU personnel.

(21) Facilitation payments are typically minor unofficial payments to Public Officials either directly or indirectly to expedite or secure the performance of routine government action (for example, to facilitate the expedition of applications for visas or licences).

(22) If asked by a Public Official for a facilitation payment or told that one is required in order for the routine government service to be obtained, or to be obtained by a particular time, ACU personnel must:

- a. state that it is ACU's Policy that no such payment can be made; and
- b. refuse to make the payment and inform the Chief Legal Assurance and Governance Officer of the request / demand as appropriate.

Section 8 - Prohibition on secret commissions

(23) ACU prohibits the paying or receiving of secret commissions to any person or entity, including any private party or Public Official. It is also an offence in Australia, the United Kingdom and most countries around the world to pay a secret commission.

(24) Secret commissions arise where a person who is the agent or representative of another person or entity takes or solicits a commission from a third party without disclosing that commission to their principal. The secret commission is given as an inducement to the agent or representative to use their position to influence the conduct of their principal's business. This would include, for instance, making a payment to an agent of a customer of (e.g. an international education agent), where that agent does not disclose the payment to the customer (i.e. international student) and, in return, the agent facilitates favourable commercial terms for ACU with that customer.

Section 9 - Prohibition on improper gifts and entertainment

(25) ACU prohibits the giving or receiving of gifts or entertainment in circumstances which could be considered to give rise to undue influence.

(26) Gifts and entertainment must only be provided or accepted in accordance with the [Gifts and Benefits Policy](#).

(27) If there is any doubt as to the appropriateness of any gift or entertainment, ACU personnel should consult their nominated supervisor or authorised representative in any ACU contract before it is given or accepted or otherwise as soon as possible.

Section 10 - Prohibition on money laundering

(28) ACU prohibits any form of money laundering in connection with its business activities.

(29) Money laundering is the process by which a person or entity conceals the existence of an illegal source of income and then disguises that income to make it appear legitimate.

(30) Use by ACU of proceeds of illegal activity can give rise to liability to ACU and / or ACU personnel involved in that conduct.

(31) ACU personnel who suspect that any transaction might involve the payment or receipt of proceeds of any unlawful activity should immediately advise their nominated supervisor or authorised contact under the relevant contract. Alternatively, ACU personnel may submit a disclosure via the [Protected Disclosures Policy](#) and [Protected Disclosures Procedure](#).

Section 11 - Application of this Policy to third parties

(32) ACU engages with a broad range of third parties in a variety of circumstances. For the purposes of this Policy, 'third parties' include agents, education agents and other parties who represent ACU, suppliers, consultants, contractors, honorary, visiting or adjunct appointees, volunteers, visitors and private sector partners. These parties may also be state agencies or part of state-owned entities.

(33) In many circumstances, ACU may be liable under anti-bribery or other laws for the improper conduct of these third parties.

(34) ACU prohibits the provision of a benefit to a third party where it is expected or likely that some or all of that benefit will be provided or offered to another person, in order to obtain or retain business or a business or a personal advantage.

(35) Where ACU proposes to engage a third party to represent it or act on its behalf, it is important to implement appropriate controls to ensure that the actions of the third party will not adversely affect ACU. This may include conducting due diligence on third parties, ensuring that standard terms that incorporate the issues addressed by this Policy are included in all contracts with third parties, and overseeing the work conducted by the third parties in order to confirm that legitimate work is undertaken, and improper payments are not made.

Section 12 - Joint ventures and partnerships

(36) From time to time, ACU may be involved in a number of joint ventures and partnerships.

(37) Any joint venture or partnership that is effectively controlled by ACU through ownership, management or other involvement must comply with this Policy.

(38) ACU is also committed to working with its partners to achieve the standards outlined in this Policy where ACU does not exercise effective control of the joint venture.

Section 13 - Accounting, books and records

(39) ACU is required to maintain internal financial recording and accounting systems and procedures to make and keep books and records which accurately and fairly reflect, in reasonable detail, the parties, the payment arrangements and the purpose of all transactions and disposition of assets.

(40) No undisclosed or unrecorded fund or account may be established for any purpose.

(41) False, misleading or incomplete record keeping is a criminal and civil offence in many countries in which ACU operates or trades.

Section 14 - Consequences of non-compliance

(42) Bribery and the other types of improper payments prohibited by this Policy are prohibited under the laws of the countries in which ACU operates or trades. Breaches of such laws may expose ACU and ACU personnel to criminal penalties and / or civil action.

(43) For ACU, additional possible consequences include the imposition of substantial fines, withdrawal of funding, exclusion from tendering for government or private contracts and reputational damage.

(44) For individuals, possible consequences include criminal and civil liability with associated significant fines and/or lengthy terms of imprisonment.

(45) Further, failure by ACU personnel to observe this Policy will be regarded as serious misconduct and lead to disciplinary action, which may include dismissal from employment, or termination of any engagement contract.

(46) Conscious disregard, deliberate ignorance and wilful blindness will not avoid liability in relation to any of the matters set out in this Policy.

Section 15 - Reporting bribery

(47) In line with the [Fraud and Corruption Control Framework](#) and [Protected Disclosures Policy](#), ACU recognises the value and importance of ACU personnel reporting identified or suspected instances of bribery and other improper conduct.

(48) It is the responsibility of ACU personnel to remain alert to any instances of directors, officers, employees, subsidiaries, suppliers or other contractors engaging in, or attempting to engage in, bribery or other improper conduct, or otherwise not meeting the standards of behaviour required under this Policy.

Section 16 - Training and Resources

(49) ACU will develop Procedures to support the implementation of this Policy.

(50) ACU will also develop and deliver appropriate training in relation to this Policy.

Section 17 - Policy Review

(51) ACU will review the Policy regularly. It may amend the Policy and the Procedure from time to time to ensure their currency with respect to relevant legislation and University policy and procedures and to improve the general effectiveness and operation of this Policy.

(52) In line with the [Policy Development and Review Policy](#) and [Policy Development and Review Procedure](#), policies and procedures are generally scheduled for review every five (5) years or sooner in the event that the Approval Authority or the Governing Authority determines that a review is warranted. In the case of the Anti-Bribery and Corruption Framework, the review shall occur every three (3) years, or sooner as determined by the Chief Legal Assurance and Governance Officer, to ensure ongoing compliance with the Act.

(53) Unless otherwise indicated, this Policy will still apply beyond the review date.

Section 18 - Further Assistance

(54) Inquiries concerning this Policy should be directed to the 'Enquiries Contact' in the Legal, Assurance and Governance Directorate.

Status and Details

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Effective Date	18th October 2024
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Responsible Executive	Diane Barker Chief Legal Assurance and Governance Officer
Responsible Manager	Dalton Langenhoven National Manager, Assurance
Enquiries Contact	Legal, Assurance and Governance Directorate