



**Brien Holden Vision Institute Limited (BHVI)**

**ABN 49 081 303 282**

**Anti-corruption, fraud and bribery  
Policy and Procedures  
External Conduct Standard 3**

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## 1. Background

### 1.1 Introduction

- (a) Brien Holden Vision Institute Limited ABN 49 081 303 282 (BHVI) is a registered charity with the Australian Charities and Not-for-Profits Commission (**ACNC**).
- (b) BHVI believes that sight is a fundamental right for everyone, everywhere. We develop new solutions for vision care, especially refractive error, and work to eliminate vision impairment and avoidable blindness, thereby improving quality of life for people in need and helping to reduce disability and poverty.
- (c) BHVI works with many local and overseas health organisations and its vision related services also include conducting clinical trials, optometry education programs and development of innovative ophthalmic products for vision care.
- (d) BHVI has some dealings in environments which are known to have high risks of corruption, bribery and fraudulent behaviour and so has developed this Policy and related procedures as a means of reducing these risks.

### 1.2 ACNC External Conduct Standards (Standards)

- (a) The Standards were implemented by the Government to assist in meeting Australia's international obligations including under the FATF Recommendations (within the meaning of section 5 of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006).
- (b) In the *Simplified Outline in Section 50.1 Australian Charities and Not-for-profits Commission Regulation 2013* the following quote appears as part of the explanation for the Standards which apply to charities registered with the ACNC and operating overseas:

*"The external conduct standards are intended to provide greater confidence that funds sent, and services provided, outside Australia are reaching legitimate beneficiaries and are being used for legitimate purposes. The standards are also intended to prevent a registered entity from being misused by a criminal organisation."*

- (c) The Standards govern the administration and oversight of BHVI given its overseas operations.
  - (i) **Standard 1** requires charities to take reasonable steps to ensure that activities performed outside Australia are consistent with their not-for-profit purpose and character.
  - (ii) **Standard 2** requires charities to keep records of activities and expenditures outside Australia on a country by country basis.
  - (iii) **Standard 3** requires charities to take reasonable steps to minimise any risk of corruption, fraud, bribery or other financial impropriety and to identify and document perceived or actual material conflicts of interest.
  - (iv) **Standard 4** requires charities to take reasonable steps to ensure the safety of vulnerable individuals overseas who are being provided with services or who are engaged to provide services on behalf of the charity.

### 1.3 Standard 3 – Anti-corruption, fraud, bribery and other financial impropriety

- (a) Standard 3 applies to BHVI because it:

- (i) Is an entity registered with ACNC;
  - (ii) Operates outside Australia; and
  - (iii) Works with third parties that are operating outside of Australia.
- (b) BHVI is required to take *reasonable steps* to:
- (i) minimise any risk of corruption, fraud, bribery or other financial impropriety by its responsible entities, employees, volunteers and third parties outside Australia; and
  - (ii) identify and document any perceived or actual material conflicts of interest for its employees, volunteers, third parties and responsible entities outside Australia.
- (c) This Policy addresses the corruption, fraud, bribery or other financial impropriety obligations in Standard 3. The Conflict of Interest Policy is dealt with in a separate policy.
- (d) The following should be read in conjunction with this Policy:
- (i) Employer Code of Conduct
  - (ii) Conflict of Interest Policy
  - (iii) Terrorism Policy
  - (iv) Whistleblower Policy;
  - (v) Privacy Policy;
  - (vi) Complaints Handling Policy.

## **2. Policy statement and Board Commitment**

### 2.1 Principles

BHVI has adopted the following principles:

- (a) BHVI has zero tolerance for any improper, unethical or illegal conduct associated with corruption, fraud, bribery or other financial impropriety;
- (b) BHVI will use its best efforts to prevent its services and/ or facilities being used for improper purposes; and
- (c) BHVI will use its best efforts to ensure that it provides its services only for legitimate purposes to persons whose identities BHVI has been able to reasonably ascertain.

### 2.2 Implementation Policy

- (a) BHVI will have regard to the nature, size and complexity of its services, manage changes and risk posed by its Beneficiaries, products and services, delivery channels and technology and the foreign jurisdiction in which it deals in to ensure that risks of improper conduct are appropriately identified and managed.

### 2.3 Primary purpose

The primary purpose of BHVI's Policy is to:

- (a) assist BHVI to identify and minimise any actual, potential or perceived risk of corruption, fraud, bribery or other financial impropriety by its Personnel and Third Party Service Providers outside Australia; and

- (b) set out the responsibilities of Personnel and Third Party Service Providers in observing and upholding the prohibition on corruption, fraud, bribery or other financial impropriety;
- (c) provide information and guidance on how to recognise and deal with instances of corruption, fraud, bribery or other financial impropriety.
- (d) set out BHVI's expectations and requirements of beneficiaries and suppliers that it does business with.

## 2.4 Objectives

By approving and implementing this Policy, BHVI's objectives are to:

- (a) comply with the corruption, fraud, bribery or other financial impropriety obligations in Standard 3 and in doing so to give the ACNC and the public (including members, donors, employees, volunteers and benefit recipients of BHVI) confidence that it has managed in a way that:
  - (i) ensures that BHVI remains solvent; and
  - (ii) minimises the risks to BHVI's assets; and
  - (iii) ensures that BHVI, and its resources, are furthering BHVI's purposes; and
  - (iv) ensures that BHVI is operating in a way that is consistent with its purpose and character as a not-for-profit entity; and
  - (v) determine the principles that it uses to identify, manage and mitigate the risk of corruption, fraud, bribery or other financial impropriety occurring through the provision of services by BHVI;
- (b) ensure that BHVI, Personnel and Third Party Service Providers recognize the vulnerabilities BHVI has to the risks of corruption, fraud, bribery or other financial impropriety and follow policies and procedures to minimise these risks;
- (c) protect BHVI from the reputational damage and financial penalties that could be imposed for failing to recognize and mitigate the exposure to such risks;
- (d) protect BHVI from the reputational damage and financial penalties that could be imposed for offences under the Criminal Code and the laws of other countries where it provides assistance.

## 2.5 Application of Risk Assessment

BHVI has established and will maintain:

- (a) basic **Beneficiary** identification procedures for the provision of its funds and services to identify and manage the risks associated with ensuring that the funds and services are not used for improper purposes,
- (b) basic **Benefactor** identification procedures for the receipt of significant donations from persons who are not associated with BHVI to ensure that the funds are coming from legitimate sources and not being used for corruption, fraud, bribery or other financial impropriety,
- (c) **Personnel** due diligence procedures for the identification of key individuals who are in key financial roles to manage the risks associated with corruption, fraud, bribery or other financial impropriety especially in countries outside of Australia, and

- (d) due diligence procedures for **Third Party Service Providers** to identify and manage the risks associated with providing BHVI funds to entities that are in countries outside of Australia where corruption, fraud, bribery or other financial impropriety is rated as high to medium on the Transparency International Corruption Index.

### **3. Allocation of Responsibilities**

- (a) The Board's role is to:
  - (i) Approve and have regular oversight of BHVI's Policy.
  - (ii) Ensure that BHVI's risks, which have been identified and assessed, are subject to proper management.
  - (iii) Ensure that internal reporting processes identify and manage the key risks and report major control weaknesses, as well as any systemic and recurring governance problems, as they are identified
  - (iv) Delegate aspects of the responsibility for the overall management of BHVI's risk to one or more of its direct reports.
- (b) The Management's role is to:
  - (i) Maintain a clear commitment to compliance at all times.
  - (ii) Allocate the necessary resources to implement, develop and maintain BHVI's Policy, with particular attention paid to the provision of adequate training.
  - (iii) Provide clear support to the Compliance Officer.
- (c) Line Management's role is within their area of responsibility:
  - (i) To follow processes and procedures.
  - (ii) To Identify and document any identified exposures in their areas of control and communicate these to BHVI's Compliance Officer.
  - (iii) Establish controls to measure compliance with all required processes and procedures.
  - (iv) Provide regular reports to senior management on compliance.
  - (v) Ensure that this Policy and Procedure is considered in all changes to business processes, products and services and in all new processes, products and services.
  - (vi) Ensure that the translated documents are provided in the relevant countries and
  - (vii) Check all documents and contracts, invoices and accounts for accuracy and relevance.
- (d) BHVI's Personnel and Third Party Service Providers
  - (i) BHVI Personnel:
    - (A) are expected to comply fully with all of BHVI's procedures;
    - (B) receive regular training;
    - (C) are expected to report any unusual or suspicious activity detected to the Compliance Officer; and

- (D) are required to cooperate fully with the Compliance Officer in the investigation of any possible breaches of BHVI's procedures or the reporting of any suspicious activity.
- (ii) All BHVI's third-party service providers:
  - (A) are subject to contractual obligations regarding compliance with BHVI's procedures; and
  - (B) form part of BHVI's corruption, fraud, bribery or other financial impropriety obligations reporting and escalation processes, if relevant to the services they provide.

#### **4. Identified Risks**

- (a) BHVI has identified the following broad areas of conduct as within the definition of corruption, fraud, bribery or other financial impropriety.
- (b) BHVI has taken a broad approach for the purposes of transparency and so includes conduct that includes attempted corruption, fraud, bribery or other financial impropriety including but not limited to the following:
  - (i) Theft;
  - (ii) Accounting fraud such as false invoice and any dishonest or fraudulent act;
  - (iii) Making, or using, forged or falsified documents;
  - (iv) Bribery, including bribery of foreign officials, corruption or abuse of authority;
  - (v) Providing false or misleading information to the organisation, or failing to provide information where there is an obligation to do so;
  - (vi) Stealing cash donations;
  - (vii) Submitting false applications for grants or other benefits;
  - (viii) Processing illegal money derived from the proceeds of any illegal activity (e.g. the proceeds of drug dealing, human trafficking, tax evasion);
  - (ix) Unlawful destruction, removal or misappropriation of BHVI's banking facilities (such as credit cards) for personal expenditure, funds, securities, supplies, records, furniture, fixtures and equipment other assets;
  - (x) Impropriety in the handling or reporting of money or financial transactions;
  - (xi) Profiteering as a result of insider knowledge of organisational activities;
  - (xii) Disclosing confidential information to outside parties;
  - (xiii) Disclosing to other persons activities engaged in or contemplated by the organization;
  - (xiv) Seeking anything of material value from contractors, third parties or persons providing services/materials to the organization;
  - (xv) Seeking to obtain advantage by offering improper inducements to public officials and others;
  - (xvi) Money laundering.

## **5. What Conduct is Prohibited?**

### **5.1 Prohibition for BHVI Personnel and Third Party Service Providers**

- (a) Anyone associated with BHVI, its services or its facilities must not engage in any act that constitutes corruption, fraud, bribery or other financial impropriety as described in this Policy. This means that BHVI Personnel and Third Party Service Providers must not directly or indirectly give, offer, promise, request or receive a bribe or cause a bribe to be given or received.
- (b) Irrespective of the law of the country where BHVI provides services and facilities the making of facilitation payments by any of BHVI Personnel or Third Party Service Providers is also prohibited.
- (c) In addition, the payment of secret commissions by any BHVI Personnel and Third Party Service Providers is prohibited.

## **6. What are the Consequences of a Contravention?**

- (a) Corruption, fraud, bribery or other financial impropriety are very serious offences.
- (b) If BHVI is found to have taken part in corruption, fraud, bribery or other financial impropriety addressed by this Policy, it could face a fine, be prosecuted in a foreign country and/or suffer reputational harm.
- (c) If any Personnel or Third Party Service Provider is found to have taken part in corruption, fraud, bribery or other financial impropriety addressed by this Policy, the person could face a fine, or be prosecuted in a foreign country and/or BHVI could suffer reputational harm. An individual may be subject to penalties or lengthy terms of imprisonment.
- (d) A breach of this Policy by any Personnel will be regarded by BHVI as serious misconduct and may lead to disciplinary action which may include termination of employment and/or referral of a matter to relevant authorities.
- (e) A breach of this Policy by any Third Party Service Provider will be regarded by BHVI as serious misconduct and a breach of contract that may include termination of the contract and/or referral of a matter to relevant authorities.

## **7. What is Bribery**

### **7.1 Bribery for the purposes of this Policy**

- (a) Bribery is a term usually defined by the law of the relevant country. However, as BHVI operates in multiple countries it has adopted the definition in Australian law as the reference point.
- (b) For the purposes of this Policy Bribery is the act of offering or accepting a benefit, with the intention of influencing a person to behave outside the responsibilities of their role or to not act in good faith, in order to gain a personal or business advantage that is not legitimately due.
- (c) Acts of bribery are typically intended to improperly influence individuals to act dishonestly in the performance or discharge of their duty.
- (d) A bribe could be a direct or indirect promise, offering, or authorising anything of value designed to exert improper influence.

- (e) The benefit that is offered, given or received may be monetary or non-monetary. For example, it may involve non-cash gifts, political or charitable contributions, loans, reciprocal favours, business or employment opportunities or lavish corporate hospitality.

#### 7.2 Target of the bribery

- (a) Whether the target of the act of bribery works in the public or private sector is irrelevant.
- (b) As a matter of clear Policy, BHVI does not make nor does it receive Bribes or incentives of any form or amount whether involving individuals, government officials, Beneficiaries or Benefactors.

#### 7.3 Acceptance of a bribe

It is irrelevant if a bribe is accepted or paid. Merely offering the bribe will usually be sufficient for an offence to be committed.

#### 7.4 Bribery of foreign officials

- (a) The laws of most countries make the payment or offer of payment or even receipt of a bribe, kickback or other corrupt payment a crime, subjecting both BHVI and individual employees to fines and/or imprisonment of individuals. These anti-corruption laws make it a crime to pay, offer, or give anything of value to governmental officials, a political party (or official thereof) or candidate for office, for the purpose of influencing the acts or decisions of those officials, parties or candidates. ***This is true even if such payments are common within the country in question.***
- (b) It is acknowledged that BHVI works across many countries, some of which have inherently difficult environments to operate in; governance arrangements may be weak and attitudes towards accountability and transparency may be variable. However, it is the policy of BHVI when conducting operations **anywhere in the world** that BHVI and all affiliates (employees and directors and all persons that act as a representative of BHVI or any of its affiliates) **must comply fully** with applicable anti-corruption and anti-fraud laws.
- (c) In particular:
  - (i) BHVI employees and affiliates are prohibited from directly or indirectly offering, giving, soliciting or receiving any form of bribe, kickback or other corrupt payment, or anything of value, to or from any person or organisation, including government agencies, individual government officials, private organisations and employees of those organisations under any circumstances.
  - (ii) When engaging in the provisions of services or facilities outside of Australia BHVI will obtain advice from local legal practitioners on the relevant law.

### 8. Corruption

#### 8.1 What is Corruption for the purposes of this Policy?

- (a) Corruption is the misuse of office or power or influence for private or personal gain. BHVI has adopted the definition used by Transparency International.

***We define corruption as the abuse of entrusted power for private gain.***

- (b) Corruption can take many forms, and can include behaviours like:
  - (i) public servants demanding or taking money or favours in exchange for services,

- (ii) politicians misusing public money or granting public jobs or contracts to their sponsors, friends and families,
- (iii) corporations bribing officials to get lucrative deals.

## 8.2 What are facilitation payments?

Facilitation payments are typically, but not always, minor unofficial payments made for the purposes of securing or expediting a routine government action by a government official or employee. They are not unlawful under current Australian law but this is not the law in other countries. For this reason, BHVI has adopted a policy of not permitting the payment of facilitation payments.

## 8.3 What are secret commissions?

Secret commissions typically, but not always, arise where a person or entity (e.g. any the Personnel) offers or gives a commission to an agent or representative of another person who is not disclosed by that agent or representative to their principal. Such a payment is made as an inducement to influence the conduct of the principal's business.

# 9. What Gifts and Hospitality may be given or accepted?

## 9.1 Gifts and hospitality

Gifts, meals, travel, entertainment and other hospitality (**Gifts**) often form part of a legitimate commercial relationship. However, in some circumstances Gifts can compromise the exercise of objective business judgement and may result in a breach of this Policy. It is important to be careful when offering, promising, giving or receiving anything of value, particularly involving any government official, to ensure that it does not constitute a bribe or corrupt payment or that it would not be perceived as engaging in improper conduct. As such, precautions must be taken and this Policy must be complied with when offering Gifts to, or receiving Gifts from, any external party or entity.

## 9.2 Criteria for allowable Gifts

- (a) This Policy does not preclude any Personnel from giving to, or accepting a Gift from, a government official or any other person, when engaging in BHVI business in accordance with the following guidelines.
- (b) Before giving a Gift to, or accepting a Gift from, any person, including a government official it is important to:
  - (i) ensure that the Gift is directly connected to a legitimate business activity;
  - (ii) ensure that no regulatory approvals (such as the granting of permits or licences) are currently being considered by that person or government official such that a Gift could, or could be seen to, influence or reward action taken by that person or government official;
  - (iii) ensure that the proposed recipient can accept any such Gift (many government officials and other private sector representatives cannot do so under local laws or their own code of conduct);
  - (iv) ensure that it is of an appropriate value and nature considering local custom, the position of the recipient and the circumstances and:

- (A) the value of the Gift does not exceed the value of \$300, or when aggregated with other Gifts given to that person during the current calendar year, \$500;
- (B) the Gift does not include cash, loans or cash equivalents such as gift certificates or vouchers;
- (v) assess that the giving or acceptance of the Gift would not cause a third party to form an impression that there is an improper connection between that Gift and the business.
- (c) If a Gift does not satisfy the criteria set out in paragraph 6.2, the Gift must not be given or received by BHVI or any BHVI Personnel.

### 9.3 Giving Gifts

If any BHVI Personnel proposes to give a Gift to any external party which is of a value in excess of \$300, they must obtain prior written clearance from their immediate manager or immediate superior.

### 9.4 Receipt of Gifts

- (a) Gifts of any kind must not be demanded or sought from any supplier, customer, government official or other party with whom BHVI conducts business.
- (b) If any member of BHVI Personnel receives a Gift from an external party which is of a value in excess of \$300, they must report it to their immediate manager or immediate superior, who will then decide whether to provide clearance for BHVI Personnel to accept the Gift having regard to the criteria set out in this Policy.

### 9.5 Register of Gifts

- (a) Gifts given to an external party must be recorded in a register (**Register of Gifts**), which will be maintained by each office and consolidated quarterly and provided to the Board of Directors of BHVI.
- (b) Gifts received by a member of BHVI Personnel must be recorded in the Register of Gifts.

## 10. Record Keeping

All accounts, invoices, and other documents and records relating to dealings with any external party or third party should be prepared and maintained with accuracy and completeness. No accounts may be kept "off-book" to facilitate or conceal potential breaches of this Policy. All expenditure by BHVI Personnel, including on Gifts, must be included in expense reports and approved in accordance with BHVI's policies.

## 11. What Reporting Obligations Apply Under This Policy?

### 11.1 Responsibilities of BHVI Personnel

- (a) All Personnel have a responsibility to aid in the prevention, detection and reporting of behaviour in contravention of this Policy.
- (b) All suspected corrupt and fraudulent activities are investigated and dealt with in a timely fashion and appropriately by the Board (as advised by the CEO), and if appropriate, by the relevant local authorities under the relevant local laws.

- (c) All suspected corrupt and fraudulent activities are recorded in a fraud and corruption register by the CEO, in order to identify trends and mitigate reoccurrence.
- (d) All staff reports will be kept confidential and if illegal activity continues to occur and is not actioned by management or the Board, personnel may raise their concern to external authorities such as ACNC using their online form <https://www.acnc.gov.au/raise-concern/concerns-about-charities/how-raise-concern> or call the advice team on 13 22 62
- (e) How to report an incident
  - (i) Should a member of BHVI Personnel reasonably believe or suspect that a breach of this Policy has occurred, or is likely to occur, they must immediately notify the to their line manager, or to any of the following personnel Chief Executive Officer, Compliance Officer and then the Board.
  - (ii) Where it is not appropriate to report the complaint to the CEO, these can be raised to the Chairman of the Board after consultation with the Compliance Officer.

#### 11.2 Protection for persons reporting behaviour

- (a) BHVI is committed to ensuring that no person will suffer detriment because they have reported a matter. Detriment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with reporting a matter.
- (b) Persons who are subjected to such treatment should inform their immediate manager or immediate superior.

## 12. Identification of risks - The Risk Management Framework

### 12.1 Background

BHVI recognises the very specific risks associated with:

- (a) losing money through fraud or other financial misconduct;
- (b) contributing payments or other gifts, knowingly or unknowingly, to corrupt people or organisations;
- (c) damaging its reputation and losing funding;
- (d) regulatory action being taken against the charity.

### 12.2 Risk Assessment

- (a) BHVI has identified three categories of risk: Low, Medium, High.

- (i) “Low Risk”

Low risk means that the risk factor carries inherent qualities that, in the normal course, should severely constrain any potential concerns and only a minimal amount of due diligence is required.

- (ii) “Medium Risk”

Medium risk means there could be circumstances in which the risk factor requires mainly objective tests, but with scope to apply qualitative assessment where there is an irregularity.

- (iii) “High Risk”

High risk means that the risk factor may present that makes heightened due diligence a requirement including a qualitative assessment in order to make a business judgement as to whether the risk is acceptable.

- (b) BHVI is aware that risks can be posed by the following factors (Risks):
  - (i) Beneficiary Risk
  - (ii) Services Risk;
  - (iii) Donation Risk;
  - (iv) Regulatory Risk;
  - (v) Jurisdiction Risk
  - (vi) Delivery Channel Risk;
  - (vii) Personnel Risk;
  - (viii) Third Party Service Provider Risk
- (c) BHVI has considered how each of the Risks impacts on the likelihood and consequences of corruption, fraud, bribery or other financial impropriety.
- (d) In relation to each of the risks BHVI has considered the following questions in order to generate a comprehensive list of risk events which may facilitate or contribute to money laundering or terrorism financing:
  - (i) what can happen?
  - (ii) when and where can it happen?
  - (iii) how can it happen?
  - (iv) why can it happen?

### **13. Risk Register**

- (a) All risks and steps taken to mitigate the risk are to be recorded in the Risk Register.
- (b) Any risk identified for a specific Project must be highlighted in the Risk Register for that project as guided by the Project Cycle Management Guidelines to reflect areas that need to be managed or addressed if BHVI is to engage or continue to engage with the Third Party Service Provider.

### **14. Beneficiary Risk**

- (a) Given the services provided by BHVI it has assessed Beneficiary risk as LOW and that if such risk does arise it is considers the risks posed by the following:
  - (i) Identify fraud;
  - (ii) Fraudulent use of services;
  - (iii) Social security fraud;
  - (iv) Beneficiary is from certain high-risk jurisdictions.
- (b) To reduce the Beneficiary risk BHVI will require a basic form of Beneficiary identification such as two of any one of the following:
  - (i) In the case of individuals basic identity documents used in the relevant country;

- (ii) In the case of institutions, clinics and hospitals official documents issued by the relevant accreditation service and company registration documents (where applicable).

## **15. Services Risk**

- (a) Given the services provided to BHVI it has assessed services risk as LOW and that if such risk does arise it considers the risks posed by Service provider identity.
- (b) To reduce the services risk BHVI will require a basic form of identification to confirm Service provider identity.

## **16. Donation and source of funds risk**

- (a) BHVI does not rely significantly on donations from Benefactors for financial support. On the rare occasions that BHVI receives donations (primarily in the form of bequests) from Benefactors who are not associated with BHVI and are not a government organisation, BHVI recognises the need to consider information relating to the donor's source of funds and/or wealth.
- (b) BHVI considers the risk as LOW. For all donations in excess of \$5000 from one source in any 12 month period BHVI will seek to determine the source of funds and wealth to be used by the Donor making donations to BHVI.
- (c) For all donations in excess of \$10,000 for one source in any 12 month period BHVI will carry out basic identification processes to confirm the donor's identity and source of funds.

## **17. Regulatory Risk Profile**

BHVI assesses its "regulatory risk" as MEDIUM

### **17.1 Corruption, fraud, bribery or other financial impropriety laws**

- (a) Most countries have laws that prohibit corruption, fraud, bribery or other financial impropriety domestically and the local laws will apply in each country where BHVI provides services or facilities. It is essential that BHVI operate in accordance with these even when day to practice may appear to pay only token observance to them.
- (b) Australia, the United Kingdom and the United States, among others, also have laws that prohibit bribery even when it is committed in another country. In Australia, those prohibitions apply to businesses incorporated in Australia and to individuals who are Australian citizens or residents, wherever they may be.

### **17.2 Bribery offences within Australia**

- (a) Each State and Territory has legislation criminalising bribery of both public officials and private individuals. The Commonwealth also criminalises the bribery of Commonwealth public officials under Divisions 141 and 142 of the Criminal Code.
- (b) Each piece of legislation is different and needs to be specifically considered. However, they have a number of similar features and the following situations are likely to give rise to serious concerns.

### **17.3 Criminal Code**

It is a criminal offence under the Criminal Code 1995 (Cth) Code for a person to bribe or attempt to bribe a foreign public official by providing them or their family with a benefit if the benefit is not legitimately due to the other person.

- (a) Foreign public official is also broadly defined and may include employees of state-owned commercial enterprises.
- (b) The following types of benefits could be captured by s 70.2 if not legitimately due and given with the intention of influencing a foreign public official to obtain or retain business or a business advantage:
  - (i) Making political or charitable donations.
  - (ii) Gifts or corporate hospitality.
  - (iii) Promotional expenses, travelling expenses or accommodation.
  - (iv) Employing foreign public officials or their relatives.
  - (v) Provision of services such as use of a car.

#### 17.4 Corruption

- (a) Australia both at the Commonwealth and at the State level has various laws that make it a criminal offence to misuse public office or power or influence for private or personal gain. To make or accept Secret commissions.
- (b) Foreign countries will have laws making these types of conduct criminal offences.

### 18. Jurisdiction Risk

- (a) It is acknowledged that BHVI works across many countries, some of which have inherently difficult environments to operate in where governance arrangements may be weak and attitudes towards accountability and transparency may be variable. However, it is the policy of BHVI when conducting operations anywhere in the world that BHVI and all Personnel and Third Party Service Providers must comply fully with applicable anti-corruption and anti-fraud laws.
- (b) Several of these countries are high on the Transparency International Corruption Index which means that in these countries the risk of corruption and bribery involving public officials is considered a very real and significant risk.
- (c) The Corruption Perceptions Index ranks 180 countries and territories by their perceived levels of public sector corruption, according to experts and business people
- (d) Bribery of officials in these high risk countries is considered to be the normal way of doing business so it is essential that a high level of vigilance be maintained by BHVI and that there be strict adherence to transparency in these countries.
- (e) There are often demands for large or uncommercial payments for goods or services so extra care must be taken with invoices and cross checking with the work performed;
- (f) Care must be taken when entering into any contracts or joint ventures;
- (g) Care must be taken with accounts, invoices and payment transactions.

### 19. Delivery Channel Risk

- (a) BHVI's Services are provided:
  - (i) face to face; or
  - (ii) electronically

- (b) All money transfers to or from BHVI, wherever practicable, are conducted by EFT transfer rather than by hard or digital currency.
- (c) Extreme care is to be taken with the payment of cash although it is recognised that in some countries payment by EFT or credit card may not be feasible for the payment of small items.

## **20. Personnel risk**

- (a) The success or failure any compliance or risk program relies ultimately on the co-operation and diligence of the Personnel. The risk rating for Personnel Risk is determined to be Low on the basis that BHVI is based in Australia with service providers around the world where day to day supervision is not possible.
- (b) BHVI recognises that Personnel, especially those operating outside of Australia may be at risk of coercion, threats and other external pressure to 'turn a blind eye' or to act in accordance with 'local custom'.
- (c) For these reasons and to manage such risks staff training on the topics of corruption and fraud prevention and detection are embedded into BHVI's staff induction programs. Refresher training will be conducted for all existing staff and will be repeated when required.
- (d) All Personnel are expected to be aware of their responsibilities under this policy.
- (e) The Manager of any staff, consultant or volunteer is responsible for distributing and explaining this policy to all staff/consultant/volunteers based both in Australia and overseas.
- (f) Fraud awareness training is to be delivered to all staff at least once a year.
- (g) All Personnel are required to complete the appropriate acknowledgment in Annexure B on completion of induction to confirm that they are aware and have read this policy.

## **21. Third Party service provider risk**

- (a) BHVI relies on the services of a diverse group of Third Party Service Providers when providing services and facilities outside of Australia. For the reasons discussed in the Jurisdiction Risk the risk rating allocated to this is High – Medium.
- (b) In several of the countries where BHVI is operating the use of facilitation payments and corrupt offers, promises and payments made through partners or third parties are a common component of doing business.
- (c) This policy prohibits corrupt offers, promises and payments made through partners or third parties including facilitation payments in any form or size even payments of small amounts made to secure or expedite the performance of routine non-discretionary government action by government officials. As facilitation payments may be requested by government officials for obtaining routine permits to do business, processing visas and work orders, obtaining mail or telephone services, or expediting shipments through customs it is essential that BHVI Personnel be aware of this risk and have suitable responses prepared for such requests.
- (d) In all instances BHVI will conduct due diligence on all Third Party Service Providers and agents, and not disregard or ignore facts which indicate a probability that a corrupt payment may occur.

- (e) BHVI will not engage or deal with any third party (being any person or entity who is not a member of BHVI Personnel, including agents, consultants, distributors, other contractors or joint venture partners) if there is a known risk that they will breach applicable anti-bribery or anti-corruption laws or the BHVI's policies and procedures relating to anti-bribery and anti-corruption.
- (f) Third parties (clients or suppliers) must be chosen carefully and engaged appropriately, as any improper conduct by a third party could damage BHVI's reputation and expose BHVI and its directors and employees to criminal or civil liability or other sanctions.
- (g) Before entering into a relationship with any third party, appropriate due diligence enquiries must be undertaken in relation to the third party. The necessary enquiries will vary depending on the nature of the proposed relationship, but will typically, among other things, determine whether:
  - (i) the third party is reputable, competent and qualified to perform the work for which they are being engaged;
  - (ii) the compensation the third party requests is reasonable;
  - (iii) the proposed arrangement complies with all applicable legal requirements; and
  - (iv) there is any conflict of interest that means engaging the third party would be inappropriate.
- (h) Once a third party is engaged, they must be given a copy of the Policy in Annexure A and be required to complete the acknowledgement form in Annexure C.
- (i) Standard terms of all business conducted with BHVI must be included in contractual arrangements with the third party obliged to operate in accordance with relevant anti-bribery and anti-corruption laws and in accordance with this Policy.
- (j) Furthermore, reasonable steps must be taken to monitor the transactions of the third party, which may involve periodic due diligence and review.
- (k) Project Managers are required to include an anti-fraud and corruption risk assessment within their project risk registers, implement mitigation procedures and monitor this on a regular basis.
- (l) All Contracts and agreements will include reference to this policy, and systems must be in place to ensure any financial payments are linked to contractual activities.

## **22. Review**

This Policy is to be reviewed:

- (a) as soon as practicable after a key change in the nature or scope of BHVI's activities or a change in legislation relating to bribery and corruption; or
- (b) otherwise at least once every two years.

## Glossary

<b>Benefactor</b>	means a person or organisation that donates funds to BHVI.
<b>Beneficiary</b>	means a person or organisation that benefits from the assistance provided by BHVI either financially or through the provision of services.
<b>Bribery</b>	means offering money or something of value to a public official to persuade them to do them to do something in their official duties that they would not otherwise do for an advantage.
<b>Corruption</b>	means dishonest or illegal behaviour for private gain, especially by people with power or influence.
<b>Conflict of Interest</b>	Means someone's personal interests conflicted with their responsibility to act in the best interests of BHVI.
<b>Personnel</b>	<p>Means all individuals at all levels who are employed by, act for, or represent BHVI in all countries. This includes, but is not limited to, the following:</p> <ul style="list-style-type: none"><li>(a) directors;</li><li>(b) officers;</li><li>(c) employees;</li><li>(d) volunteers; and</li><li>(e) any other person representing BHVI</li></ul> <p>irrespective of their employment status (that is, whether they are employed on a full-time, part-time, fixed term, casual or temporary basis or are volunteers.</p> <p>It is also an important part of BHVI's practice to require its Beneficiaries and suppliers to apply the same Policy in relation to any business dealings that they have with BHVI.</p>
<b>Third Party Service Provider</b>	Means any person, including government agency whose assistance (paid or unpaid) is provide to or relied on by BHVI for the provision of its services and facilities in Australia or overseas.

## Annexure A Statement of Zero Tolerance

- 1.1 BHVI says 'no' to all forms of bribery and has a 'zero tolerance' for any form of corruption, fraud, bribery or other financial impropriety conduct by its personnel, its customers or its business associates including its third party suppliers. BHVI will take decisive corrective action where wrongdoing is identified.
- 1.2 At BHVI we:
- conduct all business in all countries in an honest and ethical manner and in accordance with the law of the country and the law of Australia;
  - are committed to acting professionally, fairly and with integrity in all business dealings and relationships;
  - do not permit the making of any inappropriate promises, gifts or excessive hospitality in order to achieve unfair advantage or benefit; and
  - resist any efforts made by others (including suppliers, customers or clients) to unfairly affect any official decision making process in order to achieve unfair advantage or benefit.
- 1.3 BHVI's employees, contractors and volunteers must:
- conduct all business in an honest and ethical manner;
  - be committed to acting professionally, fairly and with integrity in all business dealings and relationships;
  - not permit the making of any inappropriate promises, gifts or excessive hospitality in order to achieve unfair advantage or benefit; and
  - resist any efforts made by others (including existing or potential suppliers, customers or clients) to unfairly affect any official decision making process in order to achieve unfair advantage or benefit.
- 1.4 We encourage charitable donations/sponsorships only when they are ethical and legal under local laws and practices and to entities which have been approved by the Board.
- 1.5 We do not encourage contributions to political parties.
- 1.6 We do not make or support the payment of facilitation payments as a means of doing business.
- 1.7 We expect our customers, business partners and agents to implement and enforce effective systems to counter bribery and we ask that they sign a declaration this effect when entering into commercial arrangements with us.
- 1.8 We will always report and document any breach of the law that is brought to our attention through the reporting mechanism provided by this Policy.

## Annexure B Employee Acknowledgement Form

*This form is to be completed by all existing and new employees and is an acknowledgement that they have received a copy of BHVI's Anti--Corruption, fraud and bribery Policy and understand the conduct and behaviour expected of all employees.*

I \_\_\_\_\_ (employee's full name)

acknowledge that I have received a copy of the Policy and understand that this document describes the conduct and behavior expected of me as an employee of BHVI.

Further I declare that I have not undertaken any activity, at any time during my employment by BHVI, that would be in breach of the Policy, had it been in place at the time.

I understand that I am required to participate in annual training and that each year I will be required to sign an Acknowledgment Form confirming my understanding of the Policy.

\_\_\_\_\_  
Employee (signature)

\_\_\_\_\_  
Chief Executive Officer (signature)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Employee ID No

*The original signed form must be sent to the Executive Director, People & Culture and placed on the individual employee's file.*

***The employee must receive a copy.***

## Annexure C Supplier Acknowledgment and Promise

*This form is to be completed by all existing and new suppliers of goods and/or services to BHVI and is an acknowledgement that they have received a copy of the BHVI Anti-Bribery and Corruption Policy and Statement of Zero Tolerance Policy (collectively **the Policy**) and understand the conduct and behavior expected of all employees.*

I \_\_\_\_\_ (supplier full name and name of person authorised to sign on behalf of the client) acknowledge that a copy of the Policy has been provided to us and understand that this document describes the conduct and behavior expected of any person entering into a business relationship with BHVI.

On behalf of .....it is acknowledged that an annual Acknowledgment Form must be given to BHVI confirming understanding of the Policy and compliance with this Policy in all dealings with BHVI or when using BHVI's products and/or services.

..... will not participate in any corruption, fraud, bribery or other financial impropriety, including, without limitation, any bribery, extortion, fraud, cartels, abuse of power, embezzlement, money-laundering and other similar activities.

### **Termination**

In the event of any breach of this agreement by the Supplier, BHVI will have the right to terminate this agreement with immediate effect by giving notice to Supplier.

The Supplier will indemnify BHVI for any liability or loss suffered by BHVI due to any breach by the Supplier of this agreement.

\_\_\_\_\_  
Supplier (signature)

\_\_\_\_\_  
Chief Executive Officer (signature)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Supplier ID No \_\_\_\_\_

*The original signed form must be sent to accounts payable  
and placed on the supplier's business file.*

***The supplier must receive a copy.***