



# Help

## Hilfe zur Selbsthilfe

**Help – Hilfe zur Selbsthilfe**

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**Implementation Manual Chapter x.x.**

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# **Code of Conduct: Anti-fraud and Anti-corruption Policy and Regulations**

**Revised Version V 1.1 as of 15.11.2016**

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**Effective Date: 01.12.2016**

The Code of Conduct is based on the corporate values and principles of action of “Help – Hilfe zur Selbsthilfe” as stipulated in the statutes of the association.

The Help Anti-fraud and Anti-corruption Policy follows the principles and standards as required by the VENRO<sup>1</sup> Code of Conduct on Transparency, Organisational Management and Monitoring. It applies the German Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration (of 2004) accordingly and respects the Recommendations on Preventing Corruption in the Federal Administration (last update 2012) provided by the German Federal Ministry of the Interior.<sup>2</sup> Transparency International’s “Anti-Bribery Principles and Guidance for NGOs”<sup>3</sup> has served a further key reference document in the development of this code.

## Introduction

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Corruption is contrary to fundamental values of integrity, transparency and accountability and undermines organisational effectiveness. Corruption in its many faces is found in all countries. It hurts the most vulnerable and people in need disproportionately, diverting resources intended for development and humanitarian assistance and increasing the costs of basic public services. It undermines economic growth and is a barrier to poverty alleviation and good governance. Often, corruption can aggravate conflict and insecurity.

Corruption in all its forms may have a major impact on Help’s reputation, on donor confidence and therefore again on those we seek to assist. Help has a zero tolerance approach to corruption of any type or in any circumstances, whether perpetrated by staff, volunteers, contractors or partners, and is determined to prevent, and where this is not possible to detect and investigate such acts.

## Definitions

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Corruption is defined as the misuse of entrusted power for illegitimate private (individual or group) gain. This definition covers both, monetary and non-monetary corruption, manifested as facilitation payments, bribery, kickbacks, favouritism, extortion, embezzlement and forms of fraud. This includes the offering, promising, giving, accepting or soliciting of money, a gift or other advantage as an inducement to do something that is illegal or a breach of trust in the course of carrying out an organisation’s activities. Corruption occurs on various levels and in different forms.

Perceptions of what constitutes corruption may vary within and across cultural boundaries, and are often limited to financial mismanagement and fraud. Other non-monetary corruption, such as nepotism, sexual exploitation and the diversion of aid resources to non-target groups, are less often understood as corrupt practices in some cultures.

According to this policy, within Help’s organisation and in our cooperation with partner organisations and/or contractors the misuse of power to gain non-financial benefits will always constitute a corrupt act, and should be reacted upon.

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<sup>1</sup> VENRO is the federal association of development policy non-governmental organisations in Germany. Help possesses full membership to this association.

<sup>2</sup> Both documents published in the Federal Ministry of the Interior’s brochure “Rules on Integrity”. Download in English: [http://www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2014/rules-on-integrity.pdf?\\_\\_blob=publicationFile](http://www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2014/rules-on-integrity.pdf?__blob=publicationFile)

<sup>3</sup> <http://www.transparency.org.uk/publications/anti-bribery-principles-and-guidance-for-ngos/> (accessed 15.11.2016)

## Objectives and Scope

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Help is entrusted with funds from a variety of donors and acknowledges that we hold a great responsibility to avoid corruption and secure that the funds are spent correctly and transparently towards donors, partners and beneficiaries. This Code of Conduct aims to ensure compliance with requirements of anti-corruption laws and transparency and to uphold and promote a behaviour characterised by high standards of personal and organisational integrity, both internally and with other external stakeholders. The commitment to avoid and prevent corruption and actively fight against it should be the central basis for our worldwide operations and cooperation with partners.

The principles, rules and procedures of this Anti-fraud and Anti-corruption Policy apply to:

- All Help staff – in the headquarters and the field programmes in the countries where we operate;
- Employees of partners or projects which receive assistance through Help;
- Consultants and other freelance advisors that are contracted by Help;
- Members of Help's organisational bodies and volunteers involved in our work.

The principles, rules and procedures of this Anti-fraud and Anti-corruption Code of Conduct are an inherent component of employment contracts, consultancy contracts and partner contracts. Contractors (e.g. in procurement) are expected to acknowledge and live up to this Code.

## Anti-corruption Principles and Instruments

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The following principles and instruments are key to effectively prevent and fight corruption. All Help entities are required to hold up to these principles and act accordingly in the performance of their duties.

### Transparency and Accountability

Help is committed to the highest standards of transparency and accountability. In order to prevent and reduce the risk of corruption the four-eyes-principle and the principle of segregation of functions applies to all relevant decision-making processes, especially in terms of financial management, procurement and human resources management. Where segregation of functions cannot fully be implemented due to limited staff resources, compensatory control measures shall be taken. Transparent and traceable documentation and reporting is required for all relevant processes, decision-making, financial flows and use of funds. Help ensures access to information and documentation to relevant stakeholders for audit and control purposes.

### Risk Assessment and Analysis

An important step in combating corruption is awareness of where and how corruption may occur. It is essential to clearly understand the risks of corruption in order to put in place effective prevention measures. Therefore, corruption risk assessment has to be carried out as part of the Help overall risk management process.

All Help offices – Headquarter and Field Programmes – must undertake an analysis of the corruption risks within their fields of operation and specific contexts in order to identify areas of activity which are specifically vulnerable to corruption. Based on the findings of the risk assessment adequate risk mitigation measures have to be developed and implemented, including procedures and adequate control mechanisms to reduce the potential or detected risks. These have to be monitored and regularly analysed in terms of their adequateness and efficiency. The Help Risk Management Policy provides guidance for the implementation of risk assessment and analysis.

Potential key corruption risk areas include, but are not limited to:

*Country/'cultural' specific* – risks may be higher in certain countries or regions within countries, or in certain cultural contexts depending on the level of practice, perception and acceptance of corruption.

*Emergency relief* – the time pressure and security context may increase risk.

*Sector* – the nature of the sector a project covers may pose specific risks (e.g. construction).

*Partners* – depending on the size/structure/governance of partners, political involvement or connection of partners, administrative structure and internal control systems specific risks may exist.

*Management and support functions* such as accounting and finance, logistics and procurement, HR management (especially recruitment), and administration – should be aware of the settings and areas where corruption is more likely to occur.

### **Due-diligence assessment of staff, partners and contractors**

Due diligence involves carrying out duties professionally, carefully and thoroughly, going well beyond the minimum effort. Due diligence is especially required in the selection of staff for areas of activity which are specifically vulnerable to corruption. The corruption risk associated with entering into partnership or contracting arrangements with other entities shall be assessed with due diligence and periodically repeated for ongoing contract relationships. This includes an assessment of whether these organisations have policies and procedures in place which are consistent with this policy and regulations. Anti-corruption clauses are included into all partnership and procurement contracts.

### **Dissemination and Communication**

Effective internal and external communication of the Anti-Fraud and Anti-Corruption Policy, regulations and related procedures have to be ensured by Help headquarters and field programmes. Training and awareness programmes must be undertaken to ensure that Help staff, contracted consultants and partners are aware of the potential risks, how corruption might affect them, what they should do if they are offered a bribe or any other form of corruptive action (see below 'Behaviour Rules' in this Code of Conduct), and the consequences should they be found to have made or received a bribe or been involved in any other form of corruption. Help field programmes also have to ensure that target groups and beneficiaries and other external stakeholders are informed about Help's commitment and engagement to prevent and fight corruption and the specific reporting mechanisms to file a complaint in case that corruptive behaviour is witnessed or if there is reasonable suspicion thereof.

### **Management Guidelines and Procedures**

The 'Help Implementation Manual' provides guidelines, policies, procedures and tools for project management and administration, finance management, logistics and procurement, human resources management etc. These include instruments aiming at the prevention and fighting of corruption. Where necessary and adequate, the field programme management is responsible to further elaborate the procedures or set up additional control mechanisms based on the findings of the corruption risk analysis for the specific programme and in proportion to the size, resources and complexity of the related programme or projects.

### **Internal Control and Quality Assurance**

The implementation of and adherence to anti-corruption procedures and control mechanisms must be monitored as part of overall risk management, internal control and quality processes. It is the responsibility of the relevant headquarter and field management staff to ensure that effective procedures and control mechanisms are in place and adhered to. Policies, procedures and regulations will be revised periodically in terms of effectiveness and adequateness within the internal revision and quality assurance processes.

**External Audit**

Help's economic activities and management are regularly audited by independent external auditors in terms of sound accounting practice, comprehensive financial reporting and annual financial statements. Internal control mechanisms, including corruption prevention control mechanisms, are also part of this audit.

External Audits on project level, including projects implemented by partner organisations, may be executed by a person or agency authorised by Help at any time.

**Management responsibility**

Managers and leading staff in Help headquarters and field programmes are responsible to establish and maintain a culture across the organisation in which corruption is unacceptable and are expected to lead by example. They have to make sure that they are familiar with the types of corruption that may occur in their area of work and be alert for conflicts of interests and any indication of corruption or improper activity. Additionally, they have to maintain controls to avoid occurrences of any form of corruption.

Managers are required to ensure that all staff under their control receive a copy of this policy in a language they can understand. The receipt is to be acknowledged by signature. Managers also have to ensure that staff is aware about the whistleblowing mechanism (see below 'Reporting of Incidents/Obligation to Notify') and should encourage staff to report suspected issues of corruption.

**Behaviour Rules**

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**Conflict of interest**

The avoidance of conflicts of interest is key to fighting corruption. A conflict of interest exists where the impartial and objective exercise of professional functions is compromised for reasons involving family, emotional life, economic interest or any other interest shared e.g. with partners, applicants, tenderers or contractors. If conflicts of interests are not identified and managed well, they may evolve into corruption which shall be avoided at all times.

All Help staff shall be alert to individual or organisational conflicts of interest. If a conflict of interest arises, it shall be disclosed to the superior manager and the Country Director and appropriate action shall be taken.

**Abuse of power and extortion**

The use of professional status and official position for private gain is strictly prohibited, i.e. it is not allowed to seek to influence any person or institution or offering them personal advantages for private purpose by using the official position. Help management staff or leading staff are not allowed to abuse their power to get personal favours or services done by employees. Help property, facilities, services and financial resources are not to be used for private purposes except for in exceptional cases and after prior permission is given by the management. The use of any form of extortion as a method to gain advantages is strictly prohibited.

**Fraud and Embezzlement**

Fraud and embezzlement are criminal acts and therefore strictly prohibited to be used as methods to gain personal or professional advantages or property. Examples of fraud and embezzlement are falsification of costs or expenses, forgery of documents, untrue statements about qualifications, abusing power or knowledge to abstract cash and/or equipment from the office, misuse of project funds and alike.

**Bribery**

Bribery is illegal and harms the opportunities of fair competition and fair trial. The offering or accepting of bribes in any form is strictly prohibited. Examples of bribery are to receive money, services or valuables from potential partners or bidders to make contracts with them or to give money, services or valuables to partners as a way of influencing.

**Nepotism and favouritism**

The favouring of friends, family or other personal relations in recruitment, procurement, partner selection or in the delivery of humanitarian or development assistance is not allowed. Examples are to offer a job to a relative or friend for reasons of relationship and not qualification, or to grant higher salaries or other benefits to employees or contractors who are relatives of management staff.

If conflicts of interest are handled transparently, it can be acceptable to recruit or contract relatives or friends – provided that the selection is based on qualification and objective criteria and the decision-making process is transparently implemented and thoroughly documented.

**Gifts and Hospitality**

The offering or accepting of, directly or indirectly, any gift, disproportionate hospitality or other favour that might influence the exercise of our function, performance of duty or other ways of possibly harming Help is not allowed. Gifts are defined as services, travel, entertainment, material things or favours and alike. They can range from small gifts (e.g. flowers or sweets) to expensive hospitality (e.g. travels). Excessive gifts and hospitality may be used to conceal corruptive action which is intended to induce improper behaviour.

For reasons of conventional hospitality or respect of local traditions minor gifts may be accepted. The value of an acceptable gift varies depending on the countries where Help operates. All Help staff are expected to show good judgement and when in doubt, contact the superior. A rule of thumb is that a gift should never influence your independent judgment and to share the gifts that you accept with your colleagues. Cash gifts are never accepted.

**Facilitation Payments**

Anti-corruption legislation considers facilitation payments as bribery. The offering or accepting of facilitation payments is not tolerated. Facilitation payments are usually small unofficial payments made to secure or accelerate the performance of a routine or necessary action to which the payer of the facilitation payment has legal or other entitlement. Examples are unofficial payments to customs to expedite the release of imported goods or a facilitation payment to secure or accelerate an NGO registration. Any request for such payments should be reported and is to be fed into the corresponding corruption risk analysis.

**Payments under duress**

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The security and safety of staff, partners and other stakeholders must never be compromised to live up to this policy. There may be instances where payments will need to be made to protect against loss of life, limb or liberty. These are called 'payment under duress'. Any payment or incident such as this must be reported to the Country Director and to Help headquarters as a payment under duress.

Any instance of such payments being repeated, systemic or accepted as part of the way of doing business are not payments under duress, but rather bribery and therefore a contravention of this policy.

## Reporting of incidents / Obligation to notify

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All Help staff are obliged to follow this anti-corruption policy and report breaches of the policy. All incidents of corruption, including attempts at corruption, or reasonable suspicion thereof shall be reported. Help staff are encouraged to report to the respective Country Director, unless the Country Director is involved, in which case one should report directly to the Help headquarters (the responsible HQ Programme Coordinator or HQ Internal Revision Unit) or to the Ombudsperson, if preferred. For more details and further instruction, please refer to Help's Whistleblowing Policy and Procedures.

Persons not employed by or under contract with Help may report allegations of corruption as well. They may report to the supervisor they regard suitable, to the respective Country Director, or directly to Help headquarters or the Ombudsperson, if preferred, making use of the complaint mechanism and in accordance with Help's Complaints Policy and Procedures.

The complaint will be handled confidentially and with great respect for the complainant and the persons / organisations the complaint is pointing at. Harassment for reporting allegations of corruption will not be tolerated.

Anyone filing a report should include as much relevant information as possible that may help shed light on the allegations. However, the whistleblower is not the investigator and therefore, should not do any of the following:

- Contact the suspected individual(s) directly in an effort to determinate facts, demand explanations or restitution.
- Attempt to gather evidence that are not easily at hand, nor, under any circumstances, break the law to obtain such evidence.
- Discuss the issue with anyone within Help other than the people in the whistleblowing line.
- Discuss the issue with anyone outside Help, except as required by law.

The risk that projects where corruption is being detected could close is inevitable, and a potential whistleblower might be reluctant to report due to the risk of losing his/her employment. However, it is essential to detect irregularities early in order to be able to rectify before major damage is done, and thus reducing the risk of closing of projects.

### **Anonymous Reporting:**

Anonymous disclosures are very difficult to act upon as there may be little or no evidence to substantiate the allegations. Proper investigation may prove impossible if the investigator cannot obtain further information from you, give you feedback or ascertain whether your disclosure was made in good faith. Therefore, Help does not accept anonymous reporting as Help considers it more appropriate for individuals to come forward with their concerns.

## Investigation

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Any suspicion of corruption will be taken seriously by Help. All reported incidents or suspicions of incidents will be reacted upon, and the action taken will be in accordance with our policy and regulations, local legislation, and the context and nature of the incident.

The first step when an incident or suspicion of incident is reported, is to find out the severity of the matter and plan for further action, which may be internal and/or external investigation, or closing in the case that the suspicion has no proven or reasonable grounds. In the latter case a note to file has to be made which includes all relevant information (who has received information, who was involved, etc.). In case of reasonable suspicion or detection of irregularities a thorough investigation has to be initialized by the relevant manager immediately and a decision is to be made on the next steps. Help headquarters are to be involved in this process and it is the headquarters' responsibility to ensure that the relevant donor is informed about the matter without any delay.

Next steps could include:

- Identifying if corruption has taken place and who was responsible;
- Undertaking suitable disciplinary action should a staff member be involved;
- Reporting the matter to relevant authorities (police or other legal authorities locally or in Germany; senior person in partner organisation or contracting company if the person is from a partner or contractor);
- Identifying any necessary improvements to the Help procedures.

Investigations should be completed either by appropriately experienced independent Help staff, or by independent third parties. The Country Director should not be involved in conducting the investigation directly as he / she will be the one to review the investigation report and be involved in the decision on any disciplinary action to be taken. However, the Country Director shall take the role of the "Investigation Manager" whose responsibility is to ensure that Help headquarters are informed and consulted about the matter, to appoint a suitable investigation team and ensure that regulations and procedures are being followed throughout the clarifications and investigation process. If the investigation is carried out internally, the appointed investigation team should at least comprise two members. Investigators shall be very alert not to act in a way or reveal documents or other information that will allow others to guess that there is a whistleblower involved. The safeguards for whistleblowers shall be applied in all cases.

All work of the investigation team shall be documented, including transcripts of interviews conducted. In order to ensure confidentiality, a confidentiality clause is part of the interview notes sign-off statement. To maintain confidentiality, disclosure of details of the allegation being investigated should be appropriate to the situation and to the person being interviewed, whilst not misleading the witness in any way.

The conclusion of all investigations must be documented. The investigation report is required to contain all details relating to the investigation, including the transcripts of any interviews, and a timeline of all the events which took place. It should also contain recommendations of the investigation team on the course of action to be taken. Appropriate action to be taken will be decided upon by the Country Director and the relevant headquarter personnel. The causes and deficiencies that led to the irregularities are to be tackled and corrected immediately and in consultation with the HQ Internal Revision Unit and the HQ Quality Assurance Unit and any corrective action taken shall be reported to these entities in order to enable further follow-up and organisational learning.

The person(s) that initially reported the suspicions should be informed of the outcome of the investigation, but this should be done only once the report and proposed course of action has been finalised.

## **Confidentiality and Safeguards for Whistleblowers**

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The safety of whistleblowers is a very important issue and must be taken seriously by those involved in the investigation and clarification of the case. Help has an obligation to protect staff members who have come forward to report wrongdoing. Harassment for reporting allegations of corruption will not be tolerated.

Help will endeavour to protect an individual's identity when he or she raises an issue and does not want their name to be disclosed. It should be understood, however, that an investigation of any malpractice may need to identify the source of the information and a statement by the individual may be required as part of the evidence. However, whistleblowers' identities will not be disclosed without prior consent.

Staff members should be aware of that if an allegation is made in good faith, but it is not confirmed by an investigation, Help guarantees that no action will be taken against the complainant. If, however, individuals make malicious or vexatious allegations, disciplinary action will be considered against an individual making the allegation.

More details are provided in the Help Whistleblowing Policy.

## **Sanctions**

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### **Damage reimbursement, Legal Consequences**

In cases where it can be established that Help has suffered a loss, a claim for compensation or claim for reimbursement of misused funds will be filed against the perpetrator, if necessary by civil action.

In case that Help staff has been involved in corruption appropriate disciplinary (warning or dismissal) and, where necessary, criminal prosecution (report to the relevant local authorities) will be initiated. All Help staff shall receive and sign this Help Code of Conduct and by their signature acknowledge that disregard of the code's provisions may have contractual consequences and dismissal.

### **Termination of the partner or contract relationship**

In case that partners or contractors do not support the clearance of allegations on corruption, the correction or removal of detected deficiencies or the initiation of legal or disciplinary action, Help reserves the right to immediately terminate the partner or contract relationship and cease further cooperation and / or funding, as appropriate. Partners and contractors have the same right in case that Help does not act accordingly.

## **Changes to control systems**

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The corruption investigation is likely to highlight where there has been a failure of supervision and / or a breakdown or absence of control. The course of action required to improve systems should be documented in the investigation report and implemented immediately. Follow-up will be made as part of the internal revision and quality assurance process.

## **Review and Update.**

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This document will be reviewed periodically in order to determinate whether it remains useful, relevant and effective.

## Annex

### Affirmative statement for Help staff

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I hereby confirm that I have received, read, and understood Help's Code of Conduct / Anti-fraud and Anti-corruption Policy and Regulations.

I declare that I shall carry out my duties to comply with the abovementioned rules of behaviour and work for the implementation thereof. This, to the highest professional standards and in the best interests of Help.

I am fully aware that failure to comply with the Code of Conduct requirements may be cause for disciplinary action, which may include contractual consequences and dismissal.

Employee name:

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Position:

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Date:

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Signature:

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