

# CODE OF CONDUCT FOR TBC REPRESENTATIVES AND PARTNERS

This Code of Conduct is specific to those groups or individuals who are engaged by TBC to carry out various aspects of the TBC programme. The term 'representative' encompasses Board Members, contractors, TBC camp-based stipend staff, consultants, suppliers, service providers, inspectors, interns, volunteers, and the TBC camp-based stipend staff. In addition, this Code of Conduct applies to individuals or groups who visit the camps under the auspices of TBC. **Note that there is a separate Code of Conduct for TBC staff.**

## INTRODUCTION

In accordance with the mission and practice of The Border Consortium (TBC) and principles of international law and codes of conduct, all TBC representatives, TBC-arranged visitors to camps and beneficiary communities, are responsible for promoting fundamental human rights, social justice, human dignity, and respect for the equal rights of men, women, and children. While respecting the dignity and worth of every individual, TBC representatives and visitors must treat all persons without distinction in terms of an individual's race, gender, religion, national or ethnic origin, marital status, sexual orientation, age, or disability.

TBC representatives and visitors commit that they will:

- Always strive to treat all persons with respect and courtesy in accordance with applicable international and national conventions and standards of behaviour;
- Never intentionally commit any act or omission that could result in physical, sexual or psychological harm to the beneficiaries we serve, or to their fellow workers;
- Not condone or intentionally participate in fraudulent, corrupt, or other illegal activities.

While respecting and adhering to these broader frameworks of behaviour, TBC specifically requires that TBC representatives and visitors adhere to the following policies:

## I. ABUSE AND EXPLOITATION OF BENEFICIARIES<sup>1</sup>

### Definitions:

a) **Sexual Abuse:** Threatening or forcing someone to have sex or provide sexual favours under unequal or forced conditions.

b) **Sexual Exploitation:** The exchanging of money, shelter, food or other goods for sex or sexual favours from someone in a vulnerable position

TBC recognizes the unequal power dynamic and the resulting potential for exploitation inherent in our work. TBC further recognizes that exploitation not only undermines the credibility of our work and but may also severely damage victims of these exploitive acts and their families and communities.

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<sup>1</sup> The term 'beneficiaries' refers to individuals, groups, or organizations, whether targeted or not, that benefit, directly or indirectly, from The Border Consortium programme.

TBC expects all of its representatives and visitors to uphold the highest ethical standard of integrity, accountability, and transparency in the delivery of goods and services while executing the responsibilities of their position and in any interactions with beneficiaries.

TBC representatives are strongly discouraged from engaging in sexual relationships with beneficiaries. Should a relationship develop between a representative and a beneficiary, the TBC representative is obliged to report this to management at the earliest opportunity. Sexual activity with children (defined according to the Convention on the Rights of the Child (CRC) as all persons under the age of 18) is strictly prohibited. Mistaken belief in the age of a child is not a defence. This strict prohibition does not apply where the staff member is married to someone under the age of 18.

Given the inherently unequal power dynamic, TBC representatives should avoid recruiting beneficiaries to work for them in a personal capacity (e.g., as domestic workers) because of the potential and/or perception of abuse or exploitation.

TBC representatives must never abuse his/her power or position in the delivery of humanitarian assistance, either through withholding assistance or by giving preferential treatment. Requests/demands by TBC representatives for payment, privilege or any other benefit, including sexual favours or acts, are strictly prohibited.

TBC representatives are prohibited from engaging in any forms of intimidating, humiliating, degrading, or aggressive behaviour towards beneficiaries.

## **2. ABUSE AND EXPLOITATION OF CHILDREN**

TBC's Child Protection Policy actively promotes and monitors child protection within all its programmes. TBC considers any inappropriate behaviour towards a child as abuse and a serious breach of the Code of Conduct. All representatives are required to agree to the terms of the Child Protection Policy as a condition of their contractual agreement.

### **Definition of Child Abuse**

**Child Abuse** is a general term used to describe *ill treatment that can harm or is likely to cause harm to a child's safety, well-being, dignity, and development*. It is usually a failure on the part of a parent/caregiver or organisation/community to ensure a reasonable standard of care and protection. Child abuse can be broadly categorised into five main forms of maltreatment; **physical abuse, sexual abuse, emotional abuse, neglect, and commercial exploitation**. Children may be subject to more than one form of abuse.

### **Active Prevention and Immediate Response**

TBC is committed to protecting children in our programmes from all forms of abuse and exploitation. In cooperation with local partners, we do this by:

- Providing a positive and safe environment where children can learn and develop to their fullest potential.
- Engaging the active commitment of the caring adults who surround the children to care for them with dignity, respect and integrity at all times.
- Preventing and/or reducing the risks of the incidence of abuse through enforcing child protection policies, strategies and procedures.

## **Representatives and Partners Behaviour toward Children**

TBC representatives, and partners **WILL NOT**:

1. Act in ways that will shame, or humiliate a child; or perpetrate any form of verbal, emotional sexual or physical abuse on a child
2. Use inappropriate language – offensive, discriminatory, demeaning, abusive, or sexual in nature – or behaviour, when either speaking to or in the presence of a child
3. Physically abuse children by shoving, hitting, slapping, shaking, throwing, punching, kicking, biting, burning, strangling, poisoning, etc.
4. Engage in any type of sexual activities with a child including paying for sexual services or acts
5. Invite unaccompanied children into their home unless they are at risk of injury or physical danger
6. Be alone with or travel alone with a TBC-assisted child. Adults should avoid being placed in a situation that might expose them or make them vulnerable to suspicion, scandal, etc. or could be misinterpreted. Where possible and practical, a ‘two-adult’ rule should be followed; i.e. an adult should be in the presence of another adult when in the presence of a child. This could be a parent, caregiver, relative, other TBC representative, NGO worker, etc.
7. Solicit or engage in a dating relationship with a TBC-assisted child
8. Hire a child or children, below the minimum working age according to Thai and Myanmar law, as house help or other kinds of help (e.g. gardener, etc.);
9. Hold, hug, kiss, fondle, or touch children in an inappropriate or culturally insensitive way.
10. Use any computers, mobile phones, video cameras, cameras or social media inappropriately; exploit or harass children or access child exploitation material through any medium
11. Take photographs of children without permission from the parent or primary caregiver. (Any photographs for which permission has been given should present children in a dignified and respectful manner not vulnerable or submissive. Local traditions and restrictions for reproducing personal images should be assessed and attempts made to comply with them. Photographs should be an honest representation of the context and the facts. Children should be adequately clothed and not in poses which could be interpreted as sexually suggestive.
12. Reveal identifying information about a child through file labels, meta data, or text descriptions when sending images electronically or publishing images in any form.

TBC staff **WILL**:

1. Comply with all relevant Thai and Myanmar legislation, including labour laws in relation to children
2. Promote proper respect and dignity for all children, and will demonstrate care, regardless of their race, gender, age, religion or disability, sexual orientation, social background and culture.
3. Expect these standards of behaviour by other adults and will report any concerns or violations, through the proper reporting mechanism as described in this Code of Conduct below and within the TBC Child Protection Policy.
4. Ensure that activities or programmes for which they are responsible do not pose any risk to children.
5. Immediately disclose all charges, convictions, and other outcomes of an offense, which occurred before or occurs during the association with TBC that relate to child exploitation and abuse.

### **3. HARASSMENT OF TBC STAFF**

TBC’s policy is that the work environment should be free from all forms of harassment based upon a representative’s race, gender, religion, national or ethnic origin, marital status, sexual orientation, age, disability, or any other characteristic protected by law. Harassment, including sexual harassment, will not be tolerated.

For the purposes of this policy, harassment includes verbal, non-verbal or physical conduct, perpetrated by a supervisor, co-worker or third party with whom TBC does business, that discriminates against a TBC

representative because of his/her race, gender, religion, national or ethnic origin, marital status, sexual orientation, age, disability or any other characteristic protected by law. Examples of such discrimination can generally be separated into two categories: sexual harassment and other forms of harassment:

### **Sexual Harassment**

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favours, and other verbal, non-verbal or physical conduct of a sexual nature when:

- A representative's submission to such conduct is either explicitly or implicitly made a term or condition of that representative's employment; or
- A representative's submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with a representative's work performance or creating an intimidating, hostile, or offensive working environment.

Some examples of what may constitute sexual harassment are:

- Threatening or taking adverse employment actions if sexual favours are not granted, or demanding sexual favours in exchange for favourable or preferential treatment,
- Unwanted remarks of a sexual nature, including those made as a part of any purported humorous conduct,
- Persistent and unwanted sexual flirtations, propositions or requests for sexual favours,
- Unwanted physical touching of any kind,
- Open displays or unsolicited showings of nude or sexually explicit photographs, derogatory or demeaning e-mails, screen savers, posters, cartoons, cards, or graffiti.

### **Other Forms of Harassment**

Other forms of harassment include verbal, non-verbal or physical conduct when such conduct is based upon a staff member's race, gender, religion, national or ethnic origin, marital status, sexual orientation, age, disability or any other characteristic protected by law, and has the purpose or effect of unreasonably interfering with that staff member's work performance and/or creating an intimidating, hostile or offensive working environment.

Examples include:

- Offensive language or materials (such as epithets, slurs, e-mails, screen savers or jokes) that have the purpose or effect of creating an intimidating, hostile or offensive work environment;
- Employment decisions that have the purpose or effect of unreasonably interfering with a staff member's work performance.

## **4. HOSTILE COMMUNICATION**

All TBC representatives have a duty to make TBC a respectful and courteous work environment. Communication with other TBC representatives and all relevant stakeholders, whether in-person, by telephone, or in writing, via email or social media must be in accordance with international and national conventions and standards of behaviour. Communication from a representative to a staff member or another representative or beneficiary that is hostile, unconstructive, and/or unprofessional is prohibited.

Although these incidents are often demonstrated as a pattern of behaviour, a single incident may also be considered a breach of the Code of Conduct.

## 5. FRAUD AND CORRUPTION

Any fraudulent or corrupt activity is strictly prohibited. In addition, TBC expects all representatives to maintain the highest standards of ethical conduct and to ensure their and TBC's compliance with all applicable laws, accounting principles and TBC policies.

Gains from fraudulent or corrupt activities can be financial or non-financial. Some examples of fraudulent and corrupt activities include, but are not limited to: unauthorised or unethical use of TBC funds, falsifying documents, theft, embezzlement, offering or accepting bribes, blackmail, nepotism (favouritism shown to relatives or close friends by those in power), spending TBC funds inefficiently or unnecessarily, colluding (acting together secretly to achieve a fraudulent, illegal, or deceitful purpose) with suppliers or donors, misuse and unauthorised personal use of TBC resources, improperly gaining or potentially gaining financial or other personal benefit from beneficiaries, and aiding and abetting another's impropriety. A wilful failure to report a fiscal impropriety may be construed as aiding and abetting the wrongdoer.

## 6. ILLEGAL ACTIVITY

TBC representatives must make every effort to comply with local Thailand and Myanmar laws. (For example, using the services of a commercial sex worker is an illegal activity in both Thailand and Myanmar.)

Criminal convictions incurred prior to, or during, employment with TBC must be reported to management.

## 7. BREACHES OF CONFIDENTIALITY AND MISUSE OF INFORMATION

TBC representatives often have access to information of a sensitive nature and in some cases to unique sources of information. All TBC representatives are required to notify Senior Management of any pertinent information and details of conversations that might affect the TBC programme. All information gathered during the course of their duties is considered confidential to TBC and should not be used for personal gain or remuneration.

## 8. MISUSE OF ELECTRONIC MAIL AND THE INTERNET

**If a representative during the period of his/her work with TBC is using or has access to TBC computers or TBC's electronic mail system, the following conditions apply.**

The electronic mail system hardware is TBC property. Additionally, all messages composed, sent or received on the TBC electronic mail system are and **remain the property of TBC. They are not the property of any representative.**

Personal use of internet and email facilities is permitted, provided such use does not interfere with the performance of work duties. Participating in "chain letters" is one example of inappropriate use of TBC's electronic mail.

The TBC electronic mail system or social media are not to be used to solicit or proselytise for commercial ventures or political causes, religion, outside organisations, or other non-job-related solicitations.

No e-mail or internet use, or social media may involve creating, sending or receiving intimidating, hostile, or offensive material:

- To abuse, harass or discriminate (by virtue of sex, race, religion, national or ethnic origin, disability, or any other distinguishing feature);

- To send or receive or view obscene or pornographic material (the downloading or sending of child pornography is considered a particularly serious breach of this Code of Conduct. **Note that sending child pornography is a criminal offence in Thailand.**
- To harass or cause offence to a staff member, other representative, or beneficiary ;
- To perform any other unlawful or inappropriate act.

If representatives receive inappropriate material by e-mail, the internet, or social media, it should be deleted immediately and not forwarded to anyone else.

The TBC electronic mail system, the internet, or social media is not to be used to distribute confidential or proprietary TBC materials without proper authorisation.

TBC representatives who use the TBC electronic mail system, the internet or social media do not have personal privacy in any material stored in, created by, received, or sent over electronic mail, the internet or social media. TBC reserves the right to monitor stored materials at any time, as authorised by management with or without notice. Passwords for TBC e-mail accounts must be kept on file with the TBC management.

Notwithstanding the right of TBC management to retrieve and read any electronic mail messages, internet or social media communications such messages will be treated as confidential by other staff members and accessed only by the intended recipient . TBC representatives are not authorised to retrieve or read any e-mail messages not sent to them, except with the permission of the intended recipient. Any exception to this policy must receive approval by TBC management. TBC representatives shall not use a code, access a file, or retrieve any stored information unless authorised to do so.

Any TBC representative who violates this policy or uses the TBC electronic mail system, internet, or social media for improper purposes will be subject to disciplinary action, up to and including dismissal.

These policies apply to use on computers, which are the property of TBC.

## **REPORTING VIOLATIONS OF THESE POLICIES**

These policies are intended to prevent any of the above-mentioned abuses from occurring in any TBC work environment and apply to all TBC representatives. TBC representatives have the responsibility to report any known, reported, or suspected cases of alleged breach of these standards by TBC staff, other representatives, any other humanitarian or development workers, representatives of local or national government, police, military personnel, outside contractors who are associated with the TBC, and/or all third parties doing business with the TBC. TBC representatives must report alleged violations immediately to their supervisor, or the Executive Director. Under no circumstances is any TBC representative required to report the alleged violation to a supervisor whom he/she believes to be involved in the violation.

It is not the responsibility of the reporting TBC representative to ascertain whether the complaint is true. It is his/her responsibility to report any concern in good faith, via the process outlined herein.

When a report of an alleged violation is made:

TBC senior management will conduct a full, fair, prompt, and thorough investigation as appropriate under the circumstances. Steps taken will depend upon the nature of the allegation. All TBC representatives must cooperate fully in the course of any investigation. Confidentiality will be maintained throughout the investigation subject to the need to conduct a full and fair investigation.

If the TBC determines that a violation of these policies has occurred by a TBC representative, prompt remedial action will be taken against the offending person(s), up to and including his/her discharge. Additionally, if appropriate, TBC management will alert the proper legal authorities as to the violation.

Individuals who report alleged violations of these policies in good faith or who are involved in the investigation of a violation of these policies will not be subject to reprisal or retaliation in any form. Retaliation is regarded as a very serious violation of these policies and should be reported immediately. Retaliation against a complaining party by anyone will result in immediate discharge.

All TBC representatives are expected to report instances of violations truthfully and responsibly. TBC representatives, who fail to report allegations that have been brought to their attention or to act on information that they know or should know, will be subject to disciplinary measures. Intentionally false reports of violations of these policies will result in termination of employment.

### **PLEDGE OF COMMITMENT TO THE CODE OF CONDUCT**

(This pledge shall be made by all TBC Representatives)

I \_\_\_\_\_ have read and understood TBC's Code of Conduct. I recognise that I may face substantial adverse consequences for breach of this code of conduct. I am aware that allegations of abuse will be reviewed and, as determined necessary by TBC, investigated. I recognise that, if I violate this code of conduct, I may be subject to applicable local laws and to organisational disciplinary measures.

I acknowledge that this Pledge of Commitment to the Code of Conduct states TBC's expectations of me in my service with TBC. With my signature affixed herein, I agree to abide by this Code of Conduct.

NAME: \_\_\_\_\_

JOB TITLE/POSITION: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_