

# Anti-Corruption Policy

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Yancoal Australia Limited

ACN 111 859 119

Approved on 18 December 2019

# Anti-Corruption Policy

## 1 Overview

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The Company is committed to the highest level of integrity and ethical standards in all business practices. Corruption and bribery in all forms are strictly prohibited by the Company. Employees must conduct themselves, at all times, in a manner consistent with Company policy, community expectations and in compliance with state, federal and international legislation.

This Anti-Corruption Policy (**Policy**) has been formally approved by the Board and outlines how the Company expects its employees to behave when conducting business both in Australia and internationally. Corruption and bribery in business practices are universally condemned and governments around the world have introduced strict laws and penalties in combating the issue.

The objective of this Policy is to:

- provide a universal expectation for business behaviour throughout the Company; and
- support the Company's business reputation and corporate image within the community; and
- ensure that the legislative importance of complying with anti-corruption practices is understood; and
- make directors and employees aware of the consequences if they breach the policy.

This Policy forms part of a broader business conduct strategy which includes policies such as the Code of Conduct, the Gifts and Benefits Policy and the Securities Trading Policy, and therefore should be read in conjunction with these policies.

## 2 Who the Policy applies to

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This Policy applies to:

- all directors and officers of the Company (including the chief executive officer (**CEO**));
- all direct reports to the CEO (Senior Executives);
- all employees, including temporary employees and contractors, of the Company,  
(collectively, **Employees**);
- anyone who acts on behalf of or for the benefit of the Company in Australia and overseas, including agents, business partners, distributors, consultants, lobbyists, and other intermediaries; and
- any customers, suppliers and related parties who are involved in any Company-related business activities in Australia and overseas.

Responsibility lies with every person covered by this Policy to conduct themselves in accordance with this Policy and the law when engaged in business-related activities and practices.

### 3 Bribery and corruption

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In Australia, bribery is prohibited under the *Criminal Code Act 1995* (Cth) (**Code**) – specifically, Division 141, *Bribery*, and Division 70, *Bribery of foreign public officials*.

Generally, a person is guilty of giving a bribe if:

- (a) the person dishonestly:
  - 1 provides a benefit to another person; or
  - 2 causes a benefit to be provided to another person; or
  - 3 offers to provide, or promises to provide, a benefit to another person; or
  - 4 causes an offer of the provision of a benefit, or a promise of the provision of a benefit, to be made to another person; and
- (b) the person does so with the intention of influencing a public official (who may be the other person) in the exercise of the official's duties as a public official.

The above also applies to giving a *corrupting benefit* to a Commonwealth public official. A benefit is defined in the Code as *any advantage and is not limited to property*.

Importantly, under Division 70, the business or business advantage that the person intended to secure does not actually need to be obtained or retained for that person to be guilty of an offence. In addition, the person does not need to have intended to bribe a *particular* foreign public official.

Division 70, *Bribery of a foreign official*, extends the same meaning to bribery, with the addition of a person being guilty if the benefit was:

- (a) not legitimately due to the other person; and
- (b) the person extending the benefit did so with the intention of influencing the foreign public official (who may be the other person) in the exercise of the official's duties as a foreign public official in order to:
  - 1 obtain or retain business; or
  - 2 obtain or retain a business advantage that is not legitimately due to the recipient, or intended recipient, of the business advantage.

Internationally, anti-corruption and bribery legislation is and has been strictly enforced. The UK Bribery Act, US Foreign Corrupt Practices Act and legislation in many Asian countries have wide-ranging effects and penalties for any businesses which operate within their respective jurisdictions.

The UK Bribery Act has extended its corporate reach even further and extends to any company, irrespective of its place of incorporation, which carries on any business in any part of the United Kingdom or its territories.

The UK Bribery Act has far reaching consequences for Australian companies with any connection to the UK. The Act may have serious implications for Australian companies that have any demonstrable business presence in the UK – including conducting business with a subsidiary of a UK incorporated company. The offence of failing to prevent bribery by Australia companies that carry on “part” of their business in the UK will be caught by the Act.

Please talk to Group Counsel if you would like further advice in relation to the UK Bribery Act, in particular, setting up procedures to minimise your risk.

The US Foreign Corrupt Practices Act applies broadly to three categories of persons and entities: (1) “issuers” and their officers, directors, employees, agents, and shareholders; (2) “domestic concerns” and their officers, directors, employees, agents, and shareholders; and (3) certain persons and entities, other than issuers and domestic concerns, acting while in the United States.

An “issuer” refers to an entity with securities (either stock or American Depository Receipts) listed on a US securities exchange or which has its stock traded in the US over-the-counter market, where the entity is required to file reports with the SEC.

A “domestic concern” refers to any (i) individual who is a citizen, national, or resident of the US, or (ii) corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship that is organized under US laws or the laws of its states, territories, possessions, or commonwealths or that has its principal place of business in the US.

The FCPA also applies to certain foreign nationals or entities that are not issuers or domestic concerns if they, directly or through an agent, engage in any act in furtherance of a corrupt payment (or an offer, promise, or authorisation to pay) **while in the US**. US authorities have interpreted this broadly.

Please talk to Group Counsel if you would like further advice in relation to the US Foreign Corrupt Practices Act, in particular, setting up procedures to minimise your risk.

The Company requires that all persons covered by this Policy conduct business activities in compliance with this Policy and with the law in Australia and internationally. The Company is committed to delivering responsible and sustainable business practices and all Employees must be aware of their obligations when conducting business activities. Consistent with the Company’s Gifts and Benefits Policy, you must not, under any circumstance:

- a) give, offer, promise or authorise gifts and benefits to any government entity or any Public Official or
- b) accept gifts or benefits from any government entity or any Public Official

Under the Gifts and Benefits Policy, a **Public Official** means any person (and the agents of any such person) defined to be a public official or foreign public official under the *Australian Criminal Code Act 1995*, the *UK Bribery Act* or the *US Foreign Corrupt Practices Act*, including:

- a) any officer, employee, or person acting in an official capacity for or on behalf of any level of government, or any department, agency or instrumentality thereof (including state-owned companies), or of a public international organisation;
- b) any political party or official thereof; or
- c) any candidate for political office.

On a risk based approach, the Company will have processes in place to comply with economic and trade sanctions.

## 4 Facilitation payments

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A facilitation payment is an **unofficial** payment to a foreign official of which the value is minor in nature. Such payments are made to expedite or secure the performance of a routine government action of a very minor nature, and for which the Company or person is entitled to receive the action or service.

A routine government action is an action of a foreign public official that:

- 1 is ordinarily and commonly performed by the official; and
- 2 is covered by any of the following subparagraphs:
  - granting a permit, licence or other official document that qualifies

a person to do business in a foreign country or in part of a foreign country;

- processing government papers such as a visa or work permit;
- providing police protection or mail collection or delivery;
- scheduling inspections associated with contract performance or related to the transit of goods;
- providing telecommunications services, power or water;
- loading and unloading cargo;
- protecting perishable products, or commodities, from deterioration; and
- any other action of a similar nature; and

3 does not involve a decision about:

- whether to award new business; or
- whether to continue existing business with a particular person; or
- the terms of new business or existing business; and

4 does not involve encouraging a decision about:

- whether to award new business; or
- whether to continue existing business with a particular person; or
- the terms of new business or existing business.

The Company prohibits making facilitation payments. If you are asked by a government official for a facilitation payment or told that one is required in order for the routine government action to be taken, you should firmly state that it is the Company's policy that no such payment can be made. If pressed, you should refuse to make the payment and inform your immediate supervisor and/or the Compliance Team of the request/demand as appropriate.

If, however, you are faced with the very rare and exceptional circumstance where there is no alternative but to provide a payment or something of value in order to protect against an imminent threat of physical harm, you may do so, but a record of the value or payment must be kept and you must immediately report the incident(s) to the Compliance Team as soon as possible.

## 5 What to do if you suspect the Policy has been breached

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### (a) Reporting channels

You are encouraged to report to your manager any behaviour or situation which you believe breaches or potentially breaches this Policy, or the law.

Alternatively, you can report unacceptable behaviour through any of the following channels:

- a HR Manager; or
- the Company Secretary.

If you wish to report a breach or potential breach anonymously, you may provide a detailed report to Speak Up.

Managers to whom potential breaches are reported should discuss the issue with Human Resources who will assess the appropriate action to be taken in response to the report.

### (b) Whistleblower protection

The Company is committed to ensuring that you are not disadvantaged or discriminated against for reporting unacceptable behaviour in good faith.

For full details, please see the Company's Whistleblower's Policy.

### (c) Investigations

Preliminary investigations of reported breaches are administered by Human Resources.

If a breach of the Policy is found to have occurred, a formal investigation process is administered by the Company Secretary in consultation with the supervisor or manager of the offending person.

In the investigation process, all Employees are expected to cooperate with the directions of the Human Resources and Company Secretary.

## 6 Management

Appropriate and targeted training in connection with this Policy and the Gifts and Benefits Policy will be arranged on a periodic basis,

To monitor compliance with this Policy and the Gifts and Benefits Policy, a half yearly attestation from all Senior Executives confirming compliance with those policies will be reported to the Audit and Risk Management Committee.

## 7 Consequences of breaching the Code

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Breaches of the Policy and relevant anti-corruption and bribery laws have serious consequences for both the person concerned and the Company.

Breaches of this Policy are regarded as serious and will be subject to appropriate sanctions.

Any person who is suspected of breaching this Policy may be suspended from attending the workplace on full pay pending the outcome of investigations into the alleged breach.

Any person who is proven to have breached this Policy could face disciplinary action (including suspension or termination of employment).

Any material breaches of this Policy must be reported to the Audit and Risk Management Committee.

The Company reserves the right to inform the appropriate authorities where it is considered that there has been criminal activity or an apparent breach of the law.

## 8 Who to contact

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Any Employee who has queries about this Policy should contact his or her manager, HR Manager or the Company Secretary.

If you have any suggestions to improve the company's bribery prevention procedures and controls, please raise those suggestions with your Manager, HR Manager or the Company Secretary or use the Whistleblowing process.

Version control table

Version number	Approved by:	Date
1	Board	22 February 2018
2	Board	18 December 2019