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Amended 30 October 2009

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ACFID CODE OF CONDUCT

For Non Government Development Organisations



This Code of Conduct sets out standards and requirements to which signatories to the Code are bound and against which **complaints and compliance is assessed**.

1. Preamble

- 1.1 This Code of Conduct defines standards of governance, management, financial control and reporting with which non government development organisations (NGDOs) should comply. It identifies mechanisms to ensure accountability in NGDO use of public monies. The Code aims to maintain and enhance standards throughout the NGDO community, ensuring public confidence in: the integrity of individuals and Organisations comprising the NGDO community; and quality and effectiveness of NGDO programs.
- 1.2 Organisations which are signatories to this Code aim to build creative and trusting relationships with people of developing countries and to meet program standards which:
 - give priority to the needs and interests of the people they serve;
 - encourage self help and self-reliance among beneficiaries and thus avoid creating dependency;
 - involve beneficiary groups to the maximum extent possible in the design, implementation and evaluation of projects and programs;
 - respect and foster internationally recognised human rights, both socio-economic and civil-political;
 - seek to enhance gender equity; and
 - are based on an understanding of the history and culture of the people served.
- 1.3 NGDOs are required to meet a range of state and federal legal obligations which are presumed in this Code. These obligations may include corporations laws, rules of incorporation of associations, fundraising and charitable institutions legislation, privacy legislation, equal employment opportunity principles, occupational health and safety standards, anti discrimination legislation, intellectual property and copyright legislation and other codes of ethics.

2. Organisational Integrity

- 2.1 In all of its activities and particularly its communications to the public, the Organisation will accord due respect to the dignity, values, history, religion, and culture of the people with whom it works consistent with principles of basic human rights.
- 2.2 The Organisation will be formed voluntarily and be not-for-profit.
- 2.3 The Organisation will oppose and not be a willing party to wrongdoing, corruption, bribery, or other financial impropriety in any of its activities. It shall take prompt and firm corrective action whenever and wherever wrongdoing is found among its Governing Body, paid staff, contractors, volunteers and partner Organisations.
- 2.4 The Organisation will have a policy to enable staff confidentially to bring to the attention of the Governing Body evidence of misconduct on the part of anyone associated with the Organisation. All reports must be channelled through the Chief Executive Officer unless it is an issue concerning the Chief Executive Officer which should be taken directly to a member of the Governing Body.
- 2.5 The Organisation will conduct itself in ways that do not denigrate other agencies, or make misleading or false public statements regarding other agencies.
- 2.6 The Organisation will have policies and procedures to promote the safety and well being of all children accessing their services and programs, particularly to minimise the risk of abuse of children.
- 2.7 Funds and other resources designated for the purposes of **aid and development** will be used only for those purposes and will not be used to promote a particular religious adherence or to support a political party, or to promote a candidate or organisation affiliated to a political party.
- 2.8 An Organisation (being an Australian NGDO) should only disburse donated funds or resources to a third party (including to an international affiliate or an overseas partner organisation) for use in relation to an aid and development program if it is satisfied that:
 - a. the particular aid and development program is aligned with or consistent with the Organisation's strategy for achieving its objects and purpose;
 - b. the third party to whom funds or resources are to be disbursed has the capacity to utilise the funds or resources in accordance with the specific instructions of the Organisation, in accordance with relevant provisions of the Code of Conduct and in a manner consistent with the Organisation's donor promise, express or implied;
 - c. the funds and resources will be disbursed in accordance with relevant laws including counter terrorism financing and anti-money laundering legislation; and
 - d. appropriate control and risk management mechanisms (such as contractual arrangements specifying funding conditions and relevant reporting and monitoring obligations) are in place to mitigate the risk of misappropriation or improper use of the funds or resources once disbursed.

3. Governance

- 3.1 An Organisation's governing instrument (constitution, articles of association, rules, by-laws or similar documents) will be consistent with legislative requirements and set forth the Organisation's basic goals and purposes, define membership, governance structure of the Organisation including the frequency of meetings (at least two a year) and the size of a quorum.
- 3.2 Each Organisation will have a governing body elected/appointed by members from within the membership/supporters. The Governing Body will approve the annual budget and may delegate authority to staff or others but must accept ultimate responsibility for governance over all aspects of the Organisation. There should be clearly defined lines of authority between the Governing Body and management.
- 3.3 There will be written policies covering appointment, termination and, where applicable, remuneration of members of the Governing Body. The Organisation will have policies restricting the number of paid staff who are voting members of the Governing Body.
- 3.4 Members of the Governing Body, paid staff, and volunteers will make known to the Governing Body any conflict of interest or any affiliation they might have with an actual or potential supplier of goods and services, recipient of grant funds or Organisation with competing or conflicting objectives. Members of the Governing Body and paid staff will absent themselves from discussion and abstain from voting or otherwise participating in the decision on any issue in which there is a conflict of interest. Large or otherwise inappropriate gifts to members of the Governing Body or staff for personal use shall be forbidden.
- 3.5 The Governing Body will commit the Organisation to open and accurate disclosure of information concerning its goals, programs, finances and governance. Due regard will be given to the human rights and personal safety of staff, partners and aid recipients, legal requirements regarding privacy and confidentiality, proprietary information and personnel matters.
- 3.6 The Organisation will hold an annual general meeting of its members as defined in its governing instrument and which meets the requirements of the legislation under which the Organisation is incorporated. The AGM will receive the annual audited financial statements and appoint an independent auditor for the subsequent year(s).

4. Communication with the Public

- 4.1 An Annual Report is to be produced and made available to the organisations own members, supporters and members of the public upon request.
- 4.2 Fundraising solicitations will be truthful, will accurately describe the Organisation's identity, purpose, programs, and needs and will only make claims which the Organisation can fulfil. There will be no material omissions or exaggerations of fact, no use of misleading photographs, nor any other communication which would tend to create a false impression or misunderstanding.
- 4.3 In all fundraising activities initiated or authorised by it, the Organisation will have policies (consistent with the Privacy Act 1988) set up to protect donors' rights to:
 - have their names deleted from mailing lists;
 - have their names deleted from mailing lists the Organisation may intend to share;
 - be informed whether those seeking donations are volunteers, paid staff or agents of the Organisation;

- be informed about the causes for which funds are being raised;
 - get information on the application of their donation; and
 - be able to identify collectors and have documentation confirming the bona fides of the Organisation.
- 4.4 The Organisation will be responsible for all fundraising activities outsourced to a third party and will put all such contracts and agreements in writing.

5. Finances

- 5.1 The Organisation will have internal control procedures which minimise the risk of misuse of funds. Reporting mechanisms which facilitate accountability to members, donors and the general public will be used. The Organisation will have adequate procedures for the review and monitoring of income and expenditure. Loans to and transactions with Governing Body members or related parties shall be publicly disclosed. Loans to staff shall be disclosed to the Governing Body.
- 5.2 Notwithstanding any other legal requirements, the Organisation must publish in their Annual Report, financial statements prepared in accordance with the Code of Conduct Summary Financial Report Format found in the Guidance Document to the ACFID Code of Conduct. Additionally, organisations may choose to publish their Full Financial Statements within their Annual Report.
- 5.3 Code of Conduct Summary Financial Reports and Full Financial Reports must be audited by at least a qualified accountant who is a member of CPA Australia, the Institute of Chartered Accountants in Australia, the National Institute of Accountants or by a Registered Company Auditor. The Auditor's statement of the summary reports presented must accompany the financial report in the Annual Report.
- 5.4 Where an organisation chooses to publish only their Code of Conduct Summary Financial Reports in their Annual Report and not the organisation's Full Financial Report, the Annual Report must make reference to the fact that the Full Financial Report is available on request. Any other organisational publications that detail, summarise, or comment on financial performance must also indicate that the Full Financial Report is available on request.
- 5.5 Donations shall be used as promised or implied in fundraising appeals or as requested by the donor. When funding is invited from the general public for a specific purpose, the Organisation shall have a plan for handling any excess and shall make this known as part of the appeal. Organisations shall substantiate, upon request, that their application of funds is in accordance with donor intent or request.
- 5.6 The use of ratios in publications shall at all times be accompanied by a note explaining how these have been determined.

6. Personnel and Management Practice

- 6.1 The Organisation will seek to achieve best practice in its personnel policies in response to initiatives in the aid sector and to changes in working and legal environments. The Organisation will have well defined policies and procedures relating to paid staff including expatriate and local staff employed overseas and volunteers working in Australian or overseas. These policies and procedures will clearly define and protect the rights and safety of personnel assuring fair treatment in all matters. Policies and procedures relating to staff and volunteers based outside Australia will be informed by the *People in Aid: Code of best practice in the management and support of aid personnel*.

- 6.2 The Organisation's expectations of its employees' and volunteers' professional conduct shall be clearly communicated and consistent with the requirements of the ACFID Code of Conduct.
- 6.3 The Organisation will be committed to continuous improvement in its management practice including the provision of regular opportunity to employees for training and professional development.
- 6.4 The Organisation will have policies and strategies to promote gender equity especially in senior positions in the management and governance of the Organisation.

7. Reference to Other Codes and Standards

- 7.1 Organisations that are signatories to the ACFID Code of Conduct are guided by the strategies and standards of engagement for program management in the ACFID NGO Effectiveness Framework.
- 7.2 Organisations which are signatories to this Code, will also be informed by the following codes and standards where they are relevant to the work of the Organisation:
 - *The Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief*
 - *Sphere Humanitarian Charter and Minimum Standards in Disaster Response*

8. Complaints Handling Process

- 8.1 No legal representation or hearings

No person has a right to:

- a. legal representation;
- b. a hearing; or
- c. make oral submissions,

under this complaint handling process set out in this clause 8.

- 8.2 **Complaint received**

A Complaint may be made by any person and must:

- a. be in writing, and should be addressed to the chairperson of the ACFID Code of Conduct (**Chairperson**);
- b. include the name and contact details of the person making the Complaint (**Complainant**),

and should be made in the form (if any) approved by the ACFID Code of Conduct Committee.

- 8.3 **Complaint to be acknowledged**

Receipt of the Complaint will be confirmed in writing to the Complainant.

8.4 Chairperson review of Complaint

The Chairperson (in consultation with one member of the ACFID Code of Conduct Committee of the Chairperson's choosing) will review the Complaint and decide whether:

- a. to recommend to the ACFID Code of Conduct Committee that the Complaint be dismissed. If such a recommendation is made and the ACFID Code of Conduct Committee does not accept the recommendation, the Chairperson must appoint an Investigating Officer under clause 8.5;
- b. to recommend to the ACFID Code of Conduct Committee that the Complaint be referred to a more appropriate body. If such a recommendation is made and the ACFID Code of Conduct Committee does not accept the recommendation, the Chairperson must appoint an Investigating Officer under clause 8.5; or
- c. to appoint an Investigating Officer under clause 8.5 to investigate the Complaint further.

If the ACFID Code of Conduct Committee accepts a recommendation made under paragraph (a) or paragraph (b) of this clause 8.4, then the Complaint is dismissed (in the case of a recommendation under paragraph (a)) or must be referred to the other body (in the case of a recommendation under paragraph (b)).

8.5 Investigating Officer review of Complaint

- a. If a Complaint is to be investigated following the Chairperson's review under clause 8.4, the Chairperson must appoint a member of the ACFID Code of Conduct Committee or a team including at least one member of the ACFID Code of Conduct Committee, and any number of other people (as the Chairperson considers appropriate) with expertise related to the nature of the Complaint (**Investigating Officer**) to investigate the matters raised in the Complaint. A person may not be appointed as the Investigating Officer (and a person may not be appointed to the team which is the Investigating Officer) if they have, or the Chairperson reasonably considers them to have, a material personal interest in the outcome of the Complaint.
- b. The Investigating Officer must give the Affected Signatory a copy of the Complaint and invite the Affected Signatory to respond to the Complaint in writing no later than 21 days after the date of the notice.
- c. The Investigating Officer must inform the Complainant in writing of the decision to investigate the Complaint further and any expected timeframes for dealing with the Complaint. The Complainant will be notified in writing of any substantial changes to expected timeframes.
- d. The Investigating Officer must consider the Complaint and any response submitted by the Affected Signatory if that response is submitted within the time period set out in paragraph 8.5(b). The Investigating Officer may, but is not required to, seek further information or invite further written submissions from the Complainant, the Affected Signatory or any other person, with such time limits to respond as the Investigating Officer considers reasonable in the circumstances. The Investigating Officer must consider any further submissions made in accordance with this paragraph 8.5(d), if they are submitted within the relevant time limit set by the Investigating Officer.

- e. In its investigations, the Investigating Officer is not limited to the breaches of the Code and/or, if applicable, the Rules specified in the Complaint and may investigate any other breaches arising from substantially the same circumstances as those set out in the Complaint. The Investigating Officer is not bound by the laws of evidence.
- f. The Investigating Officer must prepare a draft report regarding the Complaint and make a recommendation on whether, in the opinion of the Investigating Officer:
 - i. the Complaint should be dismissed;
 - ii. the Complainant should be referred to a more appropriate body; or
 - iii. the Affected Signatory has breached the Code.
 - iv. If the Investigating Officer considers that the Affected Signatory has breached the Code and/or, if applicable, the Rules, the Investigating Officer must make a recommendation as to the disciplinary action that should be taken by the ACFID Code of Conduct Committee.
- g. A copy of the draft report (with recommendations) must be given to the Affected Signatory, who may, within 7 days after the date on which the draft report is sent, submit written submissions in response to the draft report.
- h. The Investigating Officer must consider any submissions in response to the draft report made by the Affected Signatory, and may, but is not required to, make changes to the draft report when it prepares a final report (with recommendations) for the ACFID Code of Conduct Committee.
- i. The final report of the Investigating Officer and the submissions of the Affected Signatory in response to the draft report must be submitted to the ACFID Code of Conduct Committee for a final determination.

8.6 Determination by ACFID Code of Conduct Committee

- a. The ACFID Code of Conduct Committee must consider the Complaint, the final report of the Investigating Officer, any submissions made by the Affected Signatory in response to the draft report, and may consider any other information it considers relevant. The ACFID Code of Conduct Committee must make a determination (by simple majority of those present and eligible to vote) as to whether the Affected Signatory:
 - i. has not breached the Code, in which case the Complaint must be dismissed; or
 - ii. has breached the Code and/or, if applicable, the Rules.

The ACFID Code of Conduct Committee is not bound to follow the recommendations made by the Investigating Officer or the laws of evidence.
- b. A member of the ACFID Code of Conduct Committee who:
 - i. is the Investigating Officer (or any member of the Investigating Officer, if a team has been appointed);
 - ii. is an employee or director (or equivalent) of either the Complainant or the Affected Signatory; or

- iii. for some other reason has a material personal interest in the outcome of the Complaint,

must not be present at discussion regarding the Complaint or at any vote in relation to the Complaint.

8.7 Signatories must co-operate

If the Investigating Officer or the ACFID Code of Conduct Committee requests information from a signatory to the Code in relation to an investigation, the signatory must not without reasonable excuse fail to comply with the request. Without limiting what may be considered a reasonable excuse, the signatory is not required to comply with the request to the extent that:

- a. to do so would involve the signatory breaching a law or an obligation under a contract to which it is a party; or
- b. the request involves the disclosure of information which is subject to legal professional privilege or an obligation to keep the information confidential.

To avoid doubt, a breach of the obligation under this clause 8.7 is a breach of the Code.

8.8 If a breach is found

If the ACFID Code of Conduct Committee determines that the Affected Signatory has breached the Code and/or, if applicable, the Rules, it may:

- a. attempt to negotiate (including through conciliation or mediation) a course of action with the Affected Signatory. If the ACFID Code of Conduct Committee and the Affected Signatory are not able to reach an agreement within such time as the ACFID Code of Conduct (in its absolute discretion) considers appropriate in the circumstances, the ACFID Code of Conduct Committee may take disciplinary action in accordance with clause 8.9; or
- b. take disciplinary action in accordance with clause 8.9.

8.9 Disciplinary action

- a. The ACFID Code of Conduct Committee may take any of the following actions (including any combination of them) as it considers appropriate:
 - i. require the Affected Signatory to provide information concerning the breach to the Affected Signatory's donors;
 - ii. revoke the Affected Signatory's status as a signatory to the Code, or suspend its status as a signatory to the Code or any period it determines not exceeding 1 year;
 - iii. notify the ACFID Executive Committee of the details of the disciplinary action (if any) which the ACFID Code of Conduct Committee has determined it will take under this clause 8.9;
 - iv. if the Affected Signatory has been accredited by AusAID, notify AusAID of the breach; and

- v. publish the name of the Affected Signatory and the nature of the breach on the ACFID website.
- c. No disciplinary action may be taken until the expiry of the period within which an appeal may be requested in accordance with clause 8.13(a), or if an Appeal (as defined in clause 8.11 has been made, until the Appeal has been determined by the Appeals Officer.
- d. The Affected Signatory must comply with any disciplinary action the ACFID Code of Conduct Committee determines in response to the breach. If the Affected Signatory fails to do so, the ACFID Code of Conduct Committee may take any further disciplinary action in accordance with this clause 8.9 as it considers appropriate.

8.10 Notification of outcome

The ACFID Code of Conduct Committee must notify the Complainant and the Affected Signatory in writing:

- a. of its determination under clause 8.6(a);
- b. of any action it has determined to take in accordance with clause 8.8 or clause 8.9(a); and
- c. that the decision may be appealed in accordance with this clause 8.

A copy of the notices must be given to the ACFID Executive Committee.

8.11 Appeal

An appeal from a determination of the ACFID Code of Conduct Committee made under clauses 8.6 to 8.9 (inclusive) (**Appeal**) may be made to the Appeals Officer in accordance with clause 8.13.

8.12 Appeals Officer

The ACFID Executive Committee must appoint an Appeals Officer, for a term of three years and on such other terms and conditions as the ACFID Executive Committee resolves. The Appeals Officer is to be selected from nominations made by the ACFID Code of Conduct Committee.

8.13 Review process

- a. An Appeal must be:
 - i. made in writing;
 - ii. sent to the ACFID Code of Conduct Committee Appeals Officer;
 - iii. received within 30 days after the date of the notice referred to in clause 8.10; and
 - iv. specify the grounds on which the Appeal is made.
- b. An Appeal may be made on any grounds, and may relate to the whole or a part only of a determination.

- c. The Appeals Officer must
 - i. consider the Appeal;
 - ii. give:
 - A the Complainant, if the Affected Signatory has made the Appeal; or
 - B the Affected Signatory, if the Complainant has made the Appeal,

a copy of the Appeal and the opportunity to make written submissions in response to the Appeal within 21 days after the date of the notice;
 - iii. consider any submissions made in accordance with clause 8.13(c)(ii).
- d. The Appeals Officer must notify the ACFID Code of Conduct Committee and the Investigating Officer of the Appeal. The ACFID Code of Conduct Committee must give the Appeals Officer copies of:
 - i. the Complaint and all submissions received by the Investigating Officer in relation to the Complaint;
 - ii. the Investigating Officer's draft report and the Affected Signatory's submissions in relation to it;
 - iii. the Investigating Officer's final report; and
 - iv. the ACFID Code of Conduct Committee's notices to the Complainant and Affected Signatory under clause 8.10.
- e. The Appeals Officer may:
 - i. uphold the determinations of the ACFID Code of Conduct Committee in whole or in part;
 - ii. overturn the determinations of the ACFID Code of Conduct Committee in whole or in part;
 - iii. make a new determination in relation to the Complaint; and
 - iv. if the Appeals Officer determines that there has been a breach of the Code, exercise the powers of the ACFID Code of Conduct Committee set out in clauses 8.8 and 8.9.
- f. The Appeals Officer must notify the Affected Signatory, the Complainant and the ACFID Code of Conduct Committee in writing of the determination made under clause 8.13(e).

8.14 No further appeal

A determination of the Appeals Officer may not be appealed.

8.15 Resignation of Affected Signatory

If an Affected Signatory ceases to be a signatory to the Code at any time before any action that must be taken under this clause 8 is taken, the ACFID Code of Conduct

Committee may resolve that any current procedures under this clause 8 in relation to the Complaint are to cease. If it does so, any action which may have been required to be taken under this clause 8 if the Affected Signatory had continued to be a signatory to the Code, is no longer required to be taken.

However, the resignation of an Affected Signatory does not prevent:

- a. the investigation of a Complaint concerning the Affected Signatory;
- b. a determination being made in relation to the Complaint; or
- c. the taking of any disciplinary action under clause 8.9, which is capable of being taken despite the Affected Signatory's ceasing to be a signatory,

in accordance with this clause 8.

8.16 **ACFID may publicise**

The ACFID Code of Conduct Committee may, but is not required to, publicise at any time and by any method it considers appropriate:

- a. the fact that a Complaint has been made, including the names the Complainant and the Affected Signatory;
- b. the fact that a Complaint will be, is being or has been investigated; and
- c. the outcome of an investigation and any disciplinary action taken.

9. **Amending the ACFID Code of Conduct and the Guidance Document**

- 9.1 The **ACFID Code of Conduct** may only be amended by ACFID Council according to the procedures in the ACFID Rules and Objects. The consent of non-members of ACFID which are signatories to this Code is not required for amendment of the Code of Conduct.
- 9.2 The **Guidance Document** to the ACFID Code of Conduct may be amended by ordinary resolution of the ACFID Council or by the ACFID Executive Committee on the recommendation of the ACFID Code of Conduct Committee.

10. Definitions

ACFID Code of Conduct

The standards and requirements set out in this Code to which signatories to the Code are bound and against which complaints and compliance is assessed.

Annual Report

The annual report is one of the principal windows of Organisational performance, activity and accountability. It should be both reflective of the pursuits, issues and achievements for the period being reported and be predictive on future directions and activity. It shall contain, as a minimum:

- a statement of the Organisation's goals or purposes;
- a summary of overall program activities by country or region;
- the names, qualifications and experience of current members of the Governing Body as well as those who served at any time during the period being reported on;
- financial statements using the Code of Conduct Summary Financial Report Format; and
- an audit opinion on the financial statements, clearly identifying the auditor (name, company, address and signature).

Code of Conduct Summary Financial Report

Summary Financial Report derived from Full Financial Report as detailed in the Guidance document to the Code of Conduct.

Full Financial Report

Organisations Full Financial Report (inclusive of statements, notes and auditors report) as approved by the organisations Governing Body and presented to Members.

The Governing Body

The Governing Body is the authority ultimately responsible for governance over all aspects of the Organisation and is the responsible for the Organisation's signature to and compliance with this Code of Conduct. The Governing Body must be elected or appointed by members from within the membership or support base of the Organisation.

Guidance Document

The guidance document to the ACFID Code provides guidelines on how signatories maintain adherence to the ACFID Code of Conduct. It includes the Code of Conduct Summary Financial Report Format, the Complaints Handling Process, explanatory notes and other documents which the Code of Conduct Committee recommend as useful to inform and guide the application of the ACFID Code to the work of signatories.

Organisation

A Non Government Development Organisation (NGDO), which is a signatory to this Code.