



# **ACFID Code of Conduct Committee**

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## **Terms of Reference and Operational Guidelines**

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Reviewed: December 2010  
Revised: October 2015  
Amended: May 2017  
Review Period: Annual

*To be read in conjunction with the Rules and Objects of ACFID (2011),  
ACFID Code of Conduct (June 2017), and  
ACFID Code of Conduct Good Practice Toolkit 2017.*

The ACFID Code of Conduct Committee was established in 1997 following a resolution at Council 1997 from the Interim Code of Conduct Committee.

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## **PURPOSE STATEMENT**

We exist to support the Australian international aid and development sector in achieving the highest ethical standards and effectiveness by promoting integrity and best practice in accountability and transparency.

## **TERMS OF REFERENCE**

The Code of Conduct Committee operates in accordance with the Rules and Objects of ACFID (Rules) and has the following responsibilities:

- 1 Approve applications for Code Signatory Status and maintain an up-to-date list of signatories to the ACFID Code of Conduct.
- 2 Investigate any complaint received according to the Complaints Handling procedures set out in the Code, make a determination on such complaint and notify the relevant bodies.
- 3 Initiate inquiries into potential breaches of the Code received according to the Code of Conduct Committee Inquiry Protocol.
- 4 Monitor adherence to the minimum reporting standards necessary for a signatory organisation to maintain its compliance with the Code of Conduct, and report to ACFID Board and DFAT the failure of any signatory to adhere to these requirements.
- 5 In cooperation with the ACFID Board, promote the Code of Conduct to agencies, donors, and the wider public.
- 6 Provide advice to the ACFID Board and ACFID Council (Council) on areas in which the Code needs to be strengthened or developed further. Consider advice from the ACFID Board on such matters and collaborate with them in making necessary amendments/additions to the Code or the Operational Guidelines.
- 7 Report on the activities of the Code of Conduct Committee and key aspects of Code compliance to ACFID and other stakeholders as required. Present the Code of Conduct's report annually at Council.
- 8 Contribute to the development and review of strategies for enhancing member compliance with the Code of Conduct and good practice.

## **OPERATIONAL GUIDELINES**

### **COMMITTEE COMPOSITION**

In accordance with the Rules (Rule 12.10) the Code of Conduct Committee must consist of:

1.1.1 Six (6) elected committee members

1.1.2. Up to four (4) specialist based appointed positions, comprised so that:

1.1.2.1 One (1) of the four (4) specialist positions is an Australian community representative and

1.1.2.2. Up to three (3) specialist based appointed positions with skills and experience as determined by the Code of Conduct Committee in accordance with current requirements of the Code of Conduct Committee.

1.1.3 An independent honorary Chair, who is:

1.1.3.1 Selected by the Code of Conduct Committee from nominations by the ACFID Board and

1.1.3.2 Formally appointed by the ACFID Board on the advice of the Code of Conduct Committee.

1.1.4 The gender ratio of the members complies with the ratio of the ACFID affirmative action policy applying to the ACFID Board as amended from time to time. Currently, this requires that women comprise at least one third of the total membership of the Committee.

#### **Elected committee members**

Members are elected for a three (3) year term, and may serve no more than two (2) consecutive terms. Terms commence on January 1<sup>st</sup> in the year following the ballot for their election.

Vacancies on the Committee of elected Committee members shall be filled by an election undertaken annually.

The voting method shall be full preferential voting. That is, voters shall place the number one (1) against the candidate of their first choice, and then place numbers in order of preference against all other candidates. The counting of votes will be in accordance with the instructions laid down in the Conduct of Ballots for Officers and ACFID Board

The ACFID Board shall appoint a Returning Officer who will oversee the conduct of the election in consultation with the Chief Executive Officer or their nominee.

Nominations to the Code of Conduct Committee for elected committee members shall be called within timeframes that align with nominations and election for ACFID Board

If insufficient nominations are received nominations shall be reopened for the unfilled positions.

Candidates may appoint authorised scrutineers to observe the conduct of the ballot.

All signatories will be notified of elections results as announced by the Returning Officer at the AGM.

#### Casual vacancies

- 1.1.1.1. Results shall be kept on file for a minimum of three (3) years to allow for the filling of casual vacancies.
- 1.1.1.2. If casual vacancies occur the Code of Conduct Committee shall consult the last election results and appoint the next nominee, from the sector vacated, to fill the casual vacancy for the remainder of the term.
- 1.1.1.3. If the above have been exhausted, casual vacancies may be filled by the Code of Conduct Committee in consultation with the ACFID Board A representative from the sector vacated will be appointed to fill the vacancy until the next annual election at which time the casual vacancy shall be filled by electing a representative for the remainder of the term vacated.

If an elected member of the Code of Conduct Committee represents a signatory that is subject to a Code of Conduct complaint (via the Complaints Handling Process or the Inquiry Protocol), the member will stand down from their position when the complaint is received and until the outcome of the complaint is known.

If the outcome of the complaint is that:

- 1.2.13.1 No breach of the Code was found; the Code of Conduct Committee member will recommence their term.
- 1.2.13.2 A breach of the Code was found, the Code of Conduct Committee member's term will be terminated and the casual vacancy protocol followed.

Signatories found (via the Complaints Handling Procedure) to be in breach of the ACFID Code of Conduct, but who have not been removed as signatories, will be ineligible to nominate representatives for the Code of Conduct Committee for a period of one year.

Only Signatories with valid Code of Conduct Compliance Certificates are eligible to nominate representatives for Code of Conduct Committee elections.

#### Specialist Based Appointed Positions

All specialist based appointed positions will be nominated, where relevant, by the appropriate professional bodies as determined by the Code of Conduct Committee.

Members are appointed for a three (3) year term, and may serve no more than two consecutive terms. Terms commence on January 1<sup>st</sup> in the year following the nomination for their appointment.

On the completion of a specialist appointment or on resignation from the Code of Conduct Committee by the appointee, the Committee will:

1.1.1.4. Develop a specialist appointment Terms of Reference for the subsequent specialist appointment (to be determined at the discretion of the Committee); and

1.1.1.5. The relevant professional body will – where relevant - be contacted and asked to nominate a person to the Code of Conduct Committee with appropriate expertise.

1.1.1.6. The President of ACFID, in consultation with the Chair of the Code of Conduct Committee, will review the nomination and:

1.1.1.6.1. Accept the nomination pending ratification by the ACFID Board; or

1.1.1.6.2. Reject the nomination for clearly detailed reasons and request an alternate nomination.

On ratification by the ACFID Board of a new specialist based appointment:

1.3.4.1. The Code of Conduct Committee will be notified.

1.3.4.2 Signatories to the Code of Conduct will be notified.

#### Independent Honorary Chair

The independent honorary Chair must:

1.4.1.1. Not be a current employee, volunteer, board member of or a consultant to a Code of Conduct signatory;

1.4.1.2. Have demonstrated knowledge of the international development sector; and

1.4.1.3. Have experience in policy development, ethics, financial and/or legal issues.

The Chair is appointed for a three (3) year term, and may serve no more than two (2) consecutive terms. Terms commence on January 1<sup>st</sup> in the year following their appointment.

On the completion of a Chair's appointment or on resignation from the Code of Conduct Committee by the Chair:

1.4.3.1 The ACFID Board will provide the Code of Conduct Committee with a minimum of three (3) nominations for the position.

1.4.3.2 The Code of Conduct Committee will select their preferred nominee and advise the ACFID Board

1.4.3.3 The ACFID Board will formally appoint the Chair of the Code of Conduct Committee on the advice of the Code of Conduct Committee.

The Minister for Foreign Affairs (and/or International Development) will be notified in writing of the appointment of a new Chair or the completion/resignation of a Chair's term.

#### Deputy Chair

The Committee will appoint a Deputy Chair on an annual basis.

The Code of Conduct Committee will appoint the Deputy Chair from current senior members of the Code of Conduct Committee (senior means that they have served a minimum of 12 months on the Code of Conduct Committee; current means that they are not up for re-election during the period for which they are standing as Deputy Chair).

The Deputy Chair will assist the Chair in undertaking all tasks associated with this position apart from tasks relating to the complaints handling process which are specifically the responsibility of the Chair. If the Chair is absent and unable to perform their duties, the Deputy Chair will be formally appointed to act as Chair for the period of absence.

Appointment process:

1.1.1.7. A minimum of two (2) weeks prior to the final meeting of the Committee in the calendar year, the Chair will call for expressions of interest for the position of Deputy Chair from senior Code of Conduct Committee members, whose term extends into the following year.

1.1.1.8. At the final Code of Conduct Committee meeting of the calendar year, the Committee will discuss the expressions of interest received and appoint the Deputy Chair for the following year.

Leave of absence

1.1.1.9. Members may take a leave of absence for up to six months for health/personal/workload reasons at the discretion of the Chair.

1.1.1.10. Longer absences may result in a casual vacancy.



## **MEETINGS OF THE COMMITTEE**

Ordinary meetings of the Code of Conduct Committee will be held at least three (3) times each year.

A quorum for the purposes of a Code of Conduct Committee meeting shall be one half of the members of the Code of Conduct Committee plus one. No business shall be transacted at a meeting unless a quorum of Code of Conduct Committee members is present at the time when the meeting proceeds to business.

## **COMPLIANCE**

The Code of Conduct Committee assesses the compliance of signatories through their triennial Code Self Assessment, Annual Report Assessment, the Code of Conduct Inquiry Protocol, the Code of Conduct Complaints Handling and via other investigatory mechanisms as agreed by the Code of Conduct Committee.

The Code Secretariat and Code of Conduct Committee will assess compliance and address non-compliance according to the Compliance Policy Framework for the ACFID Code of Conduct.

Where a signatory is found to be non-compliant with the Code of Conduct it will be reported to the ACFID Board. The report may include recommended actions on which the ACFID Board, under section 7.9 (k) of the Rules, will make a determination.

### **Code of Conduct Complaints Handling Process**

The Code of Conduct Committee investigates complaints according to the Code of Conduct Complaints Handling Process as described in the Code of Conduct Good Practice Toolkit..

Appeals Officers are independent decision makers appointed by the ACFID Board according to the Code of Conduct Good Practice Toolkit Complaints Handling (Section E.3.1).

The ACFID insurers will be notified immediately if there is any indication that a complaint may escalate to legal action.

### **Code of Conduct Inquiry Protocol**

The Code of Conduct Committee may initiate inquiries into potential breaches of the Code via the Code of Conduct Inquiry Protocol as detailed in the Code Guidance attached to these Operational Guidelines. (Annexure 1)

### **General**

Signatories must lodge their current Constitution or Articles of Association with the Code of Conduct Committee.

## DFAT Relationship

Where a breach of the Code is found, and the signatory is an DFAT accredited agency, the Code of Conduct Committee, will act in accordance with the Code of Conduct Good Practice Toolkit to:

3.8.1.1 Inform DFAT of the findings of the investigation by the Code of Conduct Committee within seven (7) working days of the decision

3.8.1.2 Inform DFAT of any subsequent actions taken by the ACFID Board.  
NOTE 3.2.4 ABOVE

As per the contract with DFAT for provision of services by ACFID, the Code of Conduct Committee will inform DFAT of the status of signatories in relation to adherence to the Code of Conduct , as required from time to time. This primarily relates to DFAT accreditation checks of signatories.

## **SIGNATORIES**

### Application Process

Applications received will be assessed according to the ACFID Member Application Policy, which includes an assessment of Code compliance on application .

### Resignation Process

All resignations by signatories must be formally noted by the Code of Conduct Committee.

All signatories that resign will be contacted by the Code of Conduct Committee for an exit interview.

### 4.3 Fees

4.3.1 All signatories are required to pay annual Code fees as part of the ACFID membership fee as set by the ACFID Council each year.

## **SECRETARIAT**

### Code of Conduct Committee Support

ACFID shall provide secretariat facilities for the Code of Conduct Committee

The Chief Executive Officer of ACFID and/or their nominee shall attend ordinary meetings of the Code of Conduct Committee to provide secretariat services and shall not be entitled to vote.

Meetings in relation to the complaints process will not be attended by the Chief Executive Officer of ACFID but secretariat support will be provided by ACFID.

While the Code of Conduct Committee may delegate some of its responsibilities to the Code secretariat, it retains accountability for the execution of its decisions.

### Insurance

ACFID shall arrange insurance cover for members of the Code of Conduct Committee including travel, attendance at meetings and Directors and Officers Liability Insurance and will provide the same indemnity that covers the ACFID Board under section 15 of the Rules.

## Annexure 1 – Inquiry Protocol

*Amended January 2010*

### **Purpose:**

The purpose of this protocol is to assist in maintaining and improving good practice and to provide a mechanism for the Code of Conduct Committee to:

Initiate inquiries into areas of Signatory/ies practice which may have impact on the wider aid and development sector but which do not currently fall within the scope of the Code of Conduct,

- Initiate inquiries into potential breaches of the Code in the absence of a formal external complaint.

An inquiry may lead to:

- The referral of a sector wide issue to the ACFID Board for consideration,
- The generation of a complaint via the Code of Conduct Clause 8 Complaints Handling Process.

### **Principles:**

- Issues for the subject of an Inquiry can only be raised by a member of the Code of Conduct Committee; the ACFID Board or an ACFID member CEO.
- To protect the reputation of the sector and Signatories, Inquiries under this protocol are treated as strictly confidential at all times, unless the Committee decides otherwise. The Chief Executive Officer and the President of ACFID are notified of the Inquiry if there is the possibility of media interest.
- Formal communication with Signatories will happen only through the Code Secretariat or Code Chairperson and will be directed to the Signatory's CEO and Chairperson.
- Members of the Code of Conduct Committee are required to declare any potential conflict of interest relating to any matter raised under this protocol. Where a conflict of interest is identified, the Committee member will stand aside from all procedures and deliberations entered into under this protocol.
- Inquiries should generally be completed within six (6) weeks. However, some inquiries may require more time due to the complexity or breadth of the issue and may depend on the scheduled meeting dates of the Code of Conduct Committee.



## ACFID Code of Conduct

### Inquiry Form

This Inquiry Form is to be used to:

1. Initiate inquiries into areas of Signatory/ies practice which may have impact on the wider international aid and development sector but which do not currently fall within the scope of the Code of Conduct
2. Initiate inquiries into potential breaches of the Code of Conduct in the absence of a formal external complaint.
3. Can only be raised by a member of the Code of Conduct Committee (CCC); the ACFID Board or an ACFID member CEO.

*Please ensure that you have reviewed the Code of Conduct Complaints Handling Process and the Inquiry Protocol.*

### Contact Details

<b>Inquiry Initiator</b>
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Name	<input type="text"/>
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Postal Address	<input type="text"/>
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Phone Number	<input type="text"/>
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Email address	<input type="text"/>
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### Inquiry information

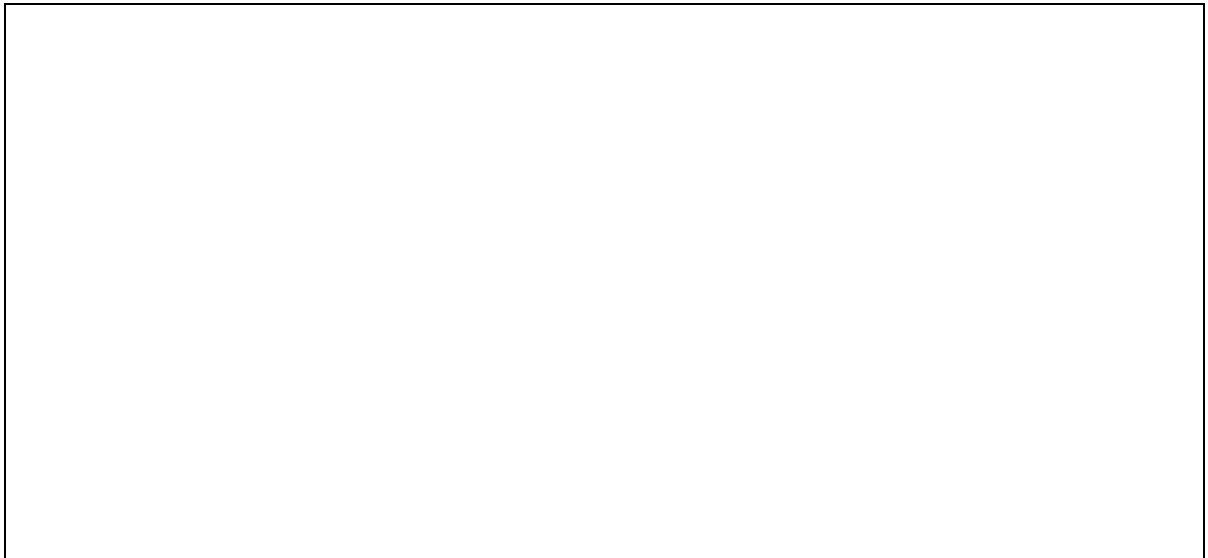
**On what basis is this inquiry initiated?** Please tick the appropriate box

Areas of Signatory/ies practice which may have impact on the wider aid and wider international development sector and which do not currently fall within the scope of the Code of Conduct	<input type="checkbox"/>
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Potential breach/es of the Code in the absence of a formal external complaint.	<input type="checkbox"/>
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## Supporting documentation

Please provide as much detail as possible regarding the proposed Inquiry (attach additional information if required)

A large, empty rectangular box with a thin black border, occupying the central portion of the page. It is intended for the user to provide supporting documentation for the proposed inquiry.

## Annexure 2 – Conflicts of Interest Protocol

### 1. Introduction

- 1.1. The Code of Conduct Committee is an independent body consisting of elected and appointed members. To maintain the independence, reputation and integrity of the Code of Conduct all Committee members have an obligation to avoid ethical, legal, financial or other conflicts of interest and to ensure that their activities and interests do not conflict with their obligations to the Code of Conduct Committee.
- 1.2. Any potential breach of this protocol will be investigated by the Code of Conduct Committee and could result in the termination of a Code of Conduct Committee member's term on the Code of Conduct Committee.

### 2. Purpose

- 2.1. The purpose of this protocol is to provide clear guidelines on how conflicts of interest are to be identified and managed. This Protocol should be read in conjunction with the Rules 7.14 – 7.19.

### 3. Definition of Conflict of Interest

- 3.1. A conflict of interest arises when a person participating in decision-making is able to gain or could be perceived as gaining:
  - 3.1.1. Material personal advantage from the outcome of the decision and/or
  - 3.1.2. Material advantage for another organisation/person with which they are involved and/or
  - 3.1.3. Material advantage due to access to privileged information.

### 4. General

- 4.1. On appointment or election, Code of Conduct Committee members will complete the Code of Committee register of interests, ~~prior to every meeting of the Code of Conduct Committee a Conflict of Interest Declaration Form~~ declaring any relevant appointments or affiliations whether paid or voluntary. Members are required to promptly inform the Code Secretariat of any changed circumstances that require updates to this register.
- ~~4.2. All completed conflict of interest declaration forms will be kept on record within the Code Secretariat for five (5) years.~~
- 4.3. Code of Conduct Committee members must not solicit business based on information brought to or discussed by the Code of Conduct Committee.

Code of Conduct Committee members should only accept token gifts (valued at less than \$50) for formal presentations etc. and must declare to the Code of Conduct Committee any gifts received from signatory/ies. Assessment will be undertaken by the



Chair to ensure that the gift is not in any way designed to create indebtedness. A record of the assessment will be kept by the Code Secretariat.

## **5. Committee meetings and discussions:**

- 5.1. At the start of all meetings and formal discussions of the Code of Conduct Committee, all Code of Conduct Committee members present will be asked to review the register of interests, and declare any conflicts of interest with agenda items listed. Conflicts of interest declared will be Minuted and kept on record in the Code Secretariat.
- 5.2. In any discussion of the Code of Conduct Committee regarding a signatory with which a Code of Conduct Committee member has declared a conflict of interest, the following action will be undertaken:
  - 5.2.1. The Code of Conduct Committee member will absent himself or herself from voting or otherwise participating in any decision on any issue related to the conflict of interest.
  - 5.2.2. The Code of Conduct Committee member may be requested to leave the room for the duration of the particular discussion.
  - 5.2.3. The Minutes of meeting will record the Code of Conduct Committee member's absence from discussion/voting related to the conflict of interest.

## **Annexure 3 – Providing Advice Protocol**

### **1. Introduction**

- 1.1. The Code of Conduct Committee is an independent body consisting of elected and appointed members. To maintain the independence, reputation and integrity of the Code of Conduct all Code of Conduct Committee members must strive to meet the highest standards of ethical and transparent behaviour.

### **2. Purpose**

- 2.1. The purpose of this protocol is to provide clear guidance on how Code of Conduct compliance-related advice might be obtained or given to signatories.
- 2.2. From time to time signatories may need to seek advice regarding compliance with Code of Conduct requirements. In the interest of maintaining the credibility and independence of the Code of Conduct this protocol has been developed to ensure a consistent approach to the provision of all advice given regarding compliance with the Code of Conduct.

### **3. Key Points**

- 3.1. Advice may only be provided in relation to compliance with the Code of Conduct.
- 3.2. Only the Code of Conduct Committee or the Code Secretariat may provide formal advice.
- 3.3. All advice requests must go through the Code Secretariat. If Code of Conduct Committee members are approached individually for advice they must refer the signatory to the Code Secretariat.
- 3.4. In any informal discussions or interactions regarding the Code of Conduct, Code of Conduct Committee members must state that they can provide a personal opinion but are not able to represent the views of the Code of Conduct Committee.
- 3.4. Where there is a more appropriate source for information, this may be provided to the signatory.
  - 3.4.1. Code of Conduct Committee members and the Code Secretariat may not recommend individuals or companies to undertake work for signatories – e.g. accountants, lawyers.

### **4. Process**

- 4.1. Advice request is received by Code Secretariat:
  - 4.1.1. If request is standard (i.e. a common request) :
    - 4.1.1.1. Advice is provided by phone, email or letter

- 4.1.1.2. Record of advice is added to signatory file (electronic or hard copy).
- 4.1.2. If advice request requires particular expertise:
  - 4.1.2.1. Signatory is requested to provide advice request in writing.
  - 4.1.2.2. Written request is forwarded to relevant Code of Conduct Committee member/s.
  - 4.1.2.3. Response of Code of Conduct Committee members is provided to the Code Secretariat in writing.
  - 4.1.2.4. Response is forwarded the signatory.
  - 4.1.2.5. Record of advice is added to signatory file (electronic or hard copy).
  - 4.1.2.6. Copy of advice is incorporated into a Frequently Asked Questions document (electronic or hard copy).
- 4.2. If individual Code of Conduct Committee members cannot answer a particular question, the advice of the whole Code of Conduct Committee may be sought or the signatory may be advised to seek professional assistance.

## **Annexure 4 – Governance and Management of Code of Conduct**

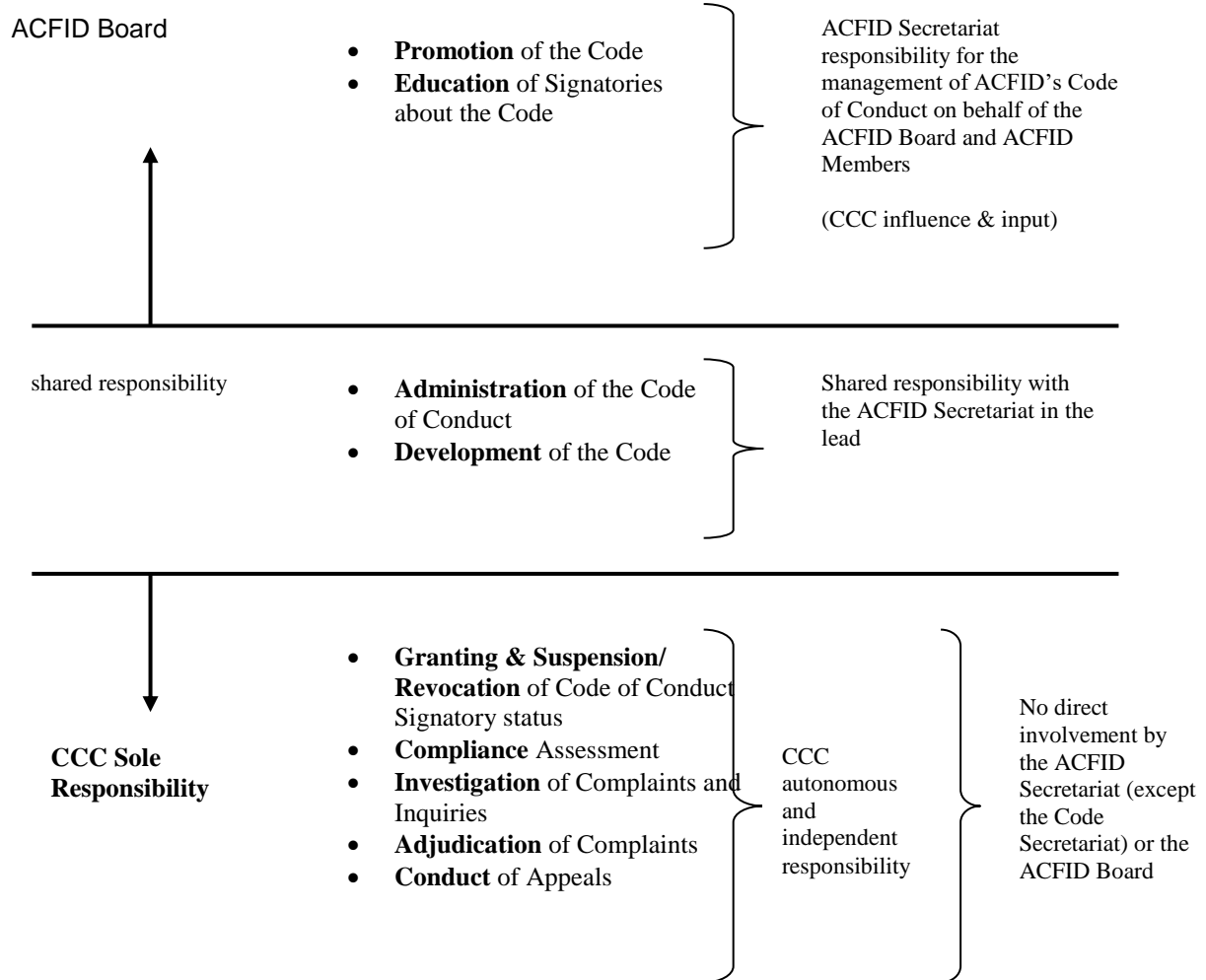
### **1. Governance**

- 1.1. ACFID's Code of Conduct is legally "owned" by ACFID.
- 1.2. The structure of ACFID consists of its members (Council); the ACFID Board, the Code of Conduct Committee and various committees and working groups appointed by the ACFID Board. The ACFID Secretariat carries out the directions of the ACFID Board and administers ACFID.
  - 1.2.1. ACFID's Code of Conduct is independently governed on behalf of the ACFID Board by the Code of Conduct Committee.
  - 1.2.2. The Code of Conduct Committee comprises members elected by signatories and specialist based positions and an independent Chair appointed by the Board.
  - 1.2.3. The Code of Conduct Committee has autonomy and independence for the following aspects of the Code of Conduct:
    - 1.2.3.1. The granting of signatory status to applicant organisations, the determination of signatory status of organisations found in breach of the Code of Conduct;
    - 1.2.3.2. Compliance assessment; the investigation of complaints and inquiries and findings regarding alleged breaches of the Code of Conduct;
    - 1.2.3.3. Determination of corrective and disciplinary action.
    - 1.2.3.4. The conduct of appeals.

The Code of Conduct Committee is supported by the Code Secretariat in conjunction with the Chair, the Code Secretariat manages the Code of Conduct Committee's business; the Code Secretariat manages the Code of Conduct on a day to day basis on behalf of the Code of Conduct Committee.

## **2. ACFID and Code of Conduct Committee responsibilities**

- 2.1. The Code secretariat is fully integrated into ACFID as one (1) of the teams comprising the Secretariat. However, in order to fulfil confidentiality obligations, the Code secretariat is located in a separate locked office and uses secure administrative systems to ensure the confidentiality of Code of Conduct compliance records and complaints.
- 2.2. The Code secretariat supports the Code of Conduct Committee in all areas of its responsibilities.
- 2.3. The Code Secretariat, members of the Code of Conduct Committee, the Chief Executive Officer of ACFID and the President of ACFID sign confidentiality agreements.
- 2.4. The ACFID Board's and the Code of Conduct Committee's respective responsibilities for the Code of Conduct are:



## 2.5. Committee Expenses

- 2.5.1. The Chair shall be reimbursed through ACFID for all reasonable expenses incurred in undertaking the work of the Code of Conduct Committee within the agreed budget.
- 2.5.2. A sitting fee or honorarium may be offered to the Chair.
- 2.5.3. Members of the Code of Conduct Committee shall be reimbursed through ACFID for all reasonable expenses incurred in undertaking the work of the Code of Conduct Committee within the agreed budget

## 3. Line Management

- 3.1. The staff of the Code secretariat are employees of ACFID and appointed by the Chief Executive Officer under ACFID's constitution:
  - 3.1.1 The Chief Executive Officer may appoint persons to fill other staff positions, as and when necessary.
- 3.2. The Code Secretariat is responsible to the ACFID Chief Executive Officer in all matters under the ACFID Constitution which confers power from the ACFID Board to the Chief Executive Officer in accordance with Rule 11,5 (a)<sup>1</sup>.
  - 3.2.1. The Chief Executive Officer is responsible for managing the Secretariat to implement the policies and programs of the Council within the approved budget excluding the Powers delegated to the Code of Conduct Committee namely:
    - 3.2.1.1. Granting and Suspension or Revocation of Code of Conduct signatory status
    - 3.2.1.2. Compliance Assessments
    - 3.2.1.3. Investigation of Complaints and Inquiries

## 4. Performance Management

- 4.1. All issues of performance management regarding the Code Manager lie with the Chief Executive Officer, who is required to consult with the Code of Conduct Chair in regards to input to performance reviews for the Code Manager.
- 4.2. If the Chair has any concerns regarding the performance of the Code secretariat they should be raised in the first instance with the Code secretariat. If the issues remain

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<sup>1</sup> ACFID Rules and Objects, January 2012

unresolved, the Chair should raise these issues with the Chief Executive Officer who will take appropriate action.

## **5. Involvement of the Chief Executive Officer in Code of Conduct complaints**

- 5.1. One of the responsibilities of the Code of Conduct is to mitigate the "contagion" risk of damage to the reputation of the sector from the alleged or real misdeeds of one or more signatories.
- 5.2. Logically, any complaint regarding a signatory's compliance with the Code of Conduct has potential to have sector wide significance. This risk is increased if the issue has already, or is likely to, attract media interest.
- 5.3. For this reason, the Chief Executive Officer will be informed by the Code Secretariat as soon as a complaint has been made and will be provided with the nature of the complaint.
- 5.4. The decision to provide additional information and involve other levels of governance within ACFID is permitted under the Good Practice Toolkit Section E (Clause F (iv) Determination by Code of Conduct Committee and should be guided by the Precautionary Principle (Attachment A).
- 5.5. The President and Chief Executive Officer are required to sign a confidentiality agreement relating to complaints. The confidentiality agreement lists information confidential to ACFID as covered by the agreement and does not specify information relating to complaints or the Code of Conduct.
- 5.6. If the Chief Executive Officer feels that additional information is required and the Precautionary Principle should be adopted, a meeting will be held involving the Chief Executive Officer, the Code of Conduct Chair and the Code Secretariat to devise an appropriate strategy, which may involve the President.
- 5.7. The types of precautions taken may include:
  - 5.7.1 Ensuring that the President or Chief Executive Officer is prepared to deal with media enquiries which may arise from a complaint preparing a response or approach to government or the sector if needed.



## Attachment A – the Precautionary Principle

1. The principle and accompanying need to take precautionary measures is "triggered" when two prior conditions exist: a broader impact for the sector generally interpreted to be negative such as that it constitutes a threat of serious or irreversible damage to the sector, and uncertainty as to the extent of possible damage.
2. Once both are satisfied, "a proportionate precautionary measure may be taken to avert the anticipated threat to the sector, but it should be proportionate."
3. The threat of serious or irreversible damage should invoke consideration of five factors: the scale of threat (local, regional etc.); the perceived value of the sector overall e.g. good reputation; whether the possible impacts are manageable; the level of public concern, and whether there is a rational basis for the concern.
4. The consideration of the level of uncertainty should involve factors which may include: what would constitute sufficient evidence; the level and kind of uncertainty; and the potential to reduce uncertainty.
5. The precautionary principle invokes preventative action: "the principle permits the taking of preventative measures without having to wait until the reality and seriousness of the threat become fully known".
6. "The principle should not be used to try to avoid all risks."
7. The appropriate precautionary measures will depend on the combined effect of "the degree of seriousness and irreversibility of the threat and the degree of uncertainty... the more significant and uncertain the threat, the greater...the precaution required". "...measures should be adopted... proportionate to the potential threats".<sup>2</sup>

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<sup>2</sup> Telstra Corporation Limited v Hornsby Shire Council. New South Wales Land and Environment Court under Justice CJ Preston (24 April 2006)

