Terms of Reference

Review of the ACFID Code of Conduct

June 2022

1. BACKGROUND AND CONTEXT

The ACFID Code of Conduct is periodically reviewed to ensure it continues reflect good practice and the needs of ACFID and its members. The last review occurred in 2015-16 with the changes coming into effect in July 2017. The 2015-16 review was a comprehensive review that restructured the Code into 9 Quality Principles and 33 Commitments which set out high levels of practice and behaviours to which members commit. The Code is supported by the Quality Assurance Framework that describes how compliance with the Code is assessed and verified. The 2015-16 review provided the following benefits:

- A more succinct Code
- A Code that is easier to read and understand
- A Code that is easier to share with and promote with stakeholders
- Clearer requirements in the Code that make it easier for members to implement
- A transparent and defensible compliance assessment and verification
- Reduced reporting burden for members, by shifting to a triennial reporting cycle
- A clear pathway for continual improvement
- Alignment with other global and national codes and standards

Since then, the CCC has overseen the development and introduction of new requirements to address the prevention of sexual exploitation, abuse and harassment. This was in response to issues identified through the 2018 review by the Victorian Institute of Forensic Medicine (VIFM) into sector and member practice around the prevention of sexual misconduct. Changes to the Quality Assurance Framework came into effect in December 2019.

Since 2017, the requirements in ACFID's Code of Conduct have been mapped against the ACNC Governance Standards, ACNC External Conduct Standards and DFAT Accreditation criterion, to identify areas of alignment and differences.

The forthcoming review of the Code aims to build on rather than reproduce the work undertaken over the last five years.

2. PURPOSE

The purpose of the project is to ensure the ACFID Code of Conduct and associated Quality Assurance Framework is relevant, coherent, useful and credible both to Code signatories and external stakeholders.

3. OBJECTIVE

To review and revise, if required, the Quality Principles and Commitments in the ACFID Code of Conduct and the Compliance Indicators and Verifiers in the Quality Assurance Framework, with the aim of:

- ensuring the Code remains relevant in light of the changing roles and practices of NGOs
- aligning the Code with changes in international self-regulation and domestic policies, legislation, standards, other regulatory norms and community expectations
- removing redundancy and overlap within the Code itself and clarifying requirements where there is ambiguity or lack of specificity
- addressing specific gaps in the Code which have emerged over the last five years
- updating guidance and resources in line with the above
- ensuring compliance is manageable for members and ACFID

4. KEY STAKEHOLDERS

The key stakeholders to be engaged in the project are:

- ACFID Council[1]
- ACFID Board
- ACFID Code of Conduct Committee
- ACFID Development Practice Committee
- ACFID member agencies and their partners
- ACFID management team
- ACFID Code of Conduct secretariat
- ACFID Communities of Practice
- DFAT NGO branch and DFAT subject-matter specialists as appropriate.
- Global civil society partners
- Core Humanitarian Standard and Humanitarian Quality Assurance Initiative
- ACNC
- Other regulatory and standards agencies such as Fundraising Institute of Australia, ATO, Austrac.

5. METHODOLOGY

The project will be overseen by the Board and the CCC with the advice and support of a Code of Conduct Review Reference Group (see governance and management section below). It will engage key stakeholders as required throughout the design and delivery phases of the project whilst clearly vesting decision making – as necessary - in the CCC, Board and Council. It will follow the phases

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[1] This refers to the collective body of ACFID members who must ratify any changes to the Code with this done during the annual ACFID AGM.

outlined below which are designed to allow key stakeholders to both shape the change agenda as well as provide feedback on the changes themselves.

The project team will engage consultants to run and assist with the consultative phase of the review. The same or other consultants may be required later to assist with specialist elements and topics that emerge during consultation. The initial consultants will be selected through a competitive process, completed by mid July. Requirements for additional use of consultants will be assessed after the consultation phase. A detailed implementation plan will be developed in July following the sign-off of the ToR by Board and the selection of the initial consultants. This plan will clearly allocate roles and responsibilities between the ACFID secretariat and consultants and will form the basis for a contract with the consultants with this including a detailed task schedule, milestones and deliverables.

Guiding Design Principles

- Changes to the Code of Conduct or Quality Assurance Framework will be undertaken on the grounds of necessity not convenience, keeping in mind the impact of changes on member's compliance requirements;
- The overall architecture and structure of the Code and Quality Assurance Framework shall be maintained; and
- The triennial compliance assessment and reporting cycle shall be maintained

6. KEY PHASES AND TIMING

The project will run over 20 months from April 2022 to November 2023. The project timetable will be structured around ACFID's governance cycle in FY2223 and FY2324, including quarterly CCC and Board meetings and the annual Council in November 2022 and 2023. Subject to the outcome of the design and decision making phases outlined below, it is proposed that changes to the Code will be taken forward in their entirety at ACFID Council in November 2023. The timetable also takes into account the planned timeframe for the DFAT Accreditation review, scheduled to begin in August 2022.

Preparation Phase (April to July 2022)

- Sign-off on ToR by ACFID management team and by CCC in May and Board in June.
- Coordinate with DFAT ANCP to discuss Accreditation Review (May)
- Establish Code of Conduct review reference group (June)
- Engage principal consultants (June/July)
- Socialise ToR with ACFID members (June/July)
- Prepare implementation plan (July)
- Agree purpose and content of discussion paper for consultation phase (June-July)
- Code Secretariat prepare discussion paper (July - early August)

Consultation phase (August 2022 – February 2023)

- Review discussion paper with Code of Conduct review reference group (early August)
- Facilitated consultations with other key stakeholders, in particular, CCC (19 Aug), DPC (mid-August) and Board (14 Sept), relevant CoPs and DFAT.
- Hold member consultations, including session at ACFID Conference (Sept and Oct 2022)

Design and drafting phase (November 2022 – June 2023)

- Prepare propositions paper based on consultations detailing any proposed changes to the Code and/or QAF (November 2022)
- Share propositions paper with Code of Conduct Review reference group, CCC (Nov), Board (Dec) and relevant CoPs with request for feedback by end January 2023.
- Present propositions and consult with member agencies through face to face workshops in Melbourne and Sydney and on-line (end February)
- Review all feedback in consultation with Code of Conduct review reference group and prepare updated draft changes as required (March)

Decision making phase (May 2023 – November 2023)

- Discuss the proposed changes to the Code and QAF with Code of Conduct review reference group. (April)
- Discuss and approve revised changes to the ACFID Code and QAF (CCC in May and Board in June) *NB: If required, this could be shifted to Aug/Sept CCC and Board meetings.
- Circulate proposed changes to the ACFID Code to member agencies in the AGM papers (September/October 2023)
- Ratify any changes to ACFID Code at Council (November 2023)

Implementation phase (December 2023 onwards):

- Reflect approved changes to Code and QAF in on-line and printed versions (Dec 2023).
- Presentations to members in February 2024
- Any updates to the Code and QAF come into effect on 30 June 2024

7. KEY DELIVERABLES

The key deliverables from the project are:

- An implementation plan developed collaboratively by ACFID and the consultants.
- A discussion paper prepared by the Code Secretariat.
- A propositions paper prepared by the consultants.
- Draft changes to the ACFID Code of Conduct and Quality Assurance Framework for consideration by CCC, Board and Council.
- A revised version of the ACFID Code of Conduct prepared by ACFID.
- Corollary changes to Guidance and to Code policies, procedures and tools developed collaboratively by ACFID and the consultants.

8. GOVERNANCE AND MANAGEMENT

ACFID Council is responsible for ratifying any changes to the Code arising from the project.

ACFID Board is responsible for approving the project ToR and reviewing and approving changes to the Code prior to consideration by Council.

ACFID CCC is responsible for endorsing the project ToR, reviewing and providing feedback on the concept paper and propositions paper and reviewing and endorsing any changes to the Code and QAF prior to consideration by Board.

ACFID's management team is responsible for endorsing the ToR, overseeing the selection of the consultants through a call for expressions of interest, mobilising resources, managing risks, providing feedback on key documents prior to submission to decision makers, facilitating access to decision makers and making decisions on matters which fall within their authority.

The EET Director is responsible for project management with support from the Standards and Code Lead. This includes preparing the ToR, allocating roles and responsibilities between ACFID committees, staff and consultants, recruiting and engaging consultants, providing leadership/advice/support during the project, coordinating the decision making process and ensuring project deliverables are delivered within agreed time and budget parameters.

The project will be advised and supported by a Code of Conduct review reference group made up of two members of CCC, two members of Board, one member of DPC, a DFAT representative and 1 or 2 critical friends of the sector with expertise in standard setting. The reference group is responsible for providing advice and support to ACFID staff and consultants over the course of the project, providing feedback on key documents and providing guidance to decision makers as appropriate.

9. BUDGET AND FUNDING

The project will be funded from ACFID's annual program budget. Up to $40,000 for consulting fees and related costs has been set aside in ACFID's FY2223 program budget.

10. RISKS AND OPPORTUNITIES

Risks
- Resourcing insufficient to complete review on time
- Adverse impacts on compliance program, focus area program and other Code activity
- Members' and stakeholder expectations not met or they perceive their expectations not met
- Impasse on key issues delays progress
- Not enough time to run all of the scheduled activity and meet milestones and deadlines
- Some segments of the membership and/or stakeholders are under-represented in consultation
- Accreditation Review not complete or forces late changes
- Disruptions due to COVID-19
- Lack of alignment with work on the International Development Standard

Opportunities

- Engages members, stakeholders and other interested parties in the Code.
- ACFID seen as a leader on development and delivery of standards for the sector.
- Promotion of the Code with external stakeholders.