



**European Foundation Centre (EFC)  
European Union Committee**

**Code of Practice Working Group Meeting**

Brussels, 16 February 2005

**List of Participants**

Rien Van Gendt, Van Leer Group Foundation (Chair)

Robin Stephenson, The Health Foundation

Volker Then, Bertelsmann Stiftung

Liesbeth Zwitser, Bernard van Leer Foundation

**EFC Secretariat**

Emmanuelle Faure

Robert Plummer

***Apologies***

Marco Demarie, Fondazione Giovanni Agnelli

Iwona Jaworska, Leopold Kronenberg Foundation

Ana Sastre, Fundación ONCE

## **Code of Practice Working Group Meeting**

Note of 16 February 2005

The EFC Code of Practice Working Group convened in Brussels on 16 February 2005. The EFC secretariat expressed the apologies of Marco Demarie, Iwona Jaworska and Ana Sastre who could not attend the meeting.

### **1. Approval of the minutes of the last meeting**

Participants approved the minutes of the last meeting held in Brussels on 13 October 2004 with slight amendments.

### **2. Review of Codes of Practice**

The review of the EFC Code of Practice was the main focus of the second meeting of the Working Group. The Group also studied other codes and standards developed by associations of foundations and donors' fora in Europe and beyond and examined which new topics highlighted at the country level should be included into the updated EFC Code.

#### **2.1. Revised EFC Code**

Members of the Working Group received a revised version of the EFC Code prior to the meeting, including the proposals for changes made by the participants at the October meeting. However, as agreed at the previous meeting, the structure of the revised Code had not been changed compared to the initial edition. A table comparing topics covered in the last two versions of the code and listing potential new items for inclusion was also provided to the group (annex 5). Modifications made to the Code were as follows:

*Values and Principles* of independent funders are now outlined in a distinct section

Section: "*Towards the Public at Large*":

- A reference to disclosing the results of foundations' programmes and projects was added to the policy and programmes section.
- The governance section was further detailed with specifications concerning the composition of the board and the periodic review of its membership.
- A reference to the disclosure of investment policy was added to the finance section.

Section: "*Towards the those supported*"

- The paragraph has been refocused on support practices rather than grantmaking practices to cover the various types of foundations.
- Emphasis was also placed on transparency of payment procedures; justification for refusing support; the monitoring and evaluation of support programme. Finally, a statement on preventing the misuse of funds was included.

"*Section Towards Self*": Key changes include new references to

- The periodic review of board performance
- Conflict prevention policies
- Investment policies

A new section “*Towards other independent funders*” was added to the text. It aims to encourage foundations to share knowledge and to cooperate, where appropriate.

The Chair took the group through the revised text of the Code and invited comments from the participants.

Further amendments to the Code were proposed at the February meeting as follows:

### **Scope of the Code of practice**

*Clarification of the term “independent funders” and variety of the sector.* It was suggested that

- The independence of foundations should be underlined in the Code; the term independent could be removed.
- The term funders should be replaced by foundations to cover the range of players, i.e. grantmaking, operational and mixed foundations.
- The note shall explain that the term foundations includes corporate funders for the purpose of the document
- The text should further underline that the Code cannot accommodate all foundations’ approaches (depending on their structures, concerns, sizes etc) and that the principles of good practices set out in the Code will not be fully applicable by all foundations, and corporate funders in all cases.

### **Structure of the Code**

Participants recommended changing the overall structure of the Code. This modification aims to avoid repetitions in terms of recommendations to the various stakeholders, and to put the emphasis on the principles/issues, rather than on those to which they are addressed. The following new structure and headings were suggested, values, governance, programmes and operations, finance, communications, evaluation and cooperation.

### **Topics**

Participants made additional recommendations and comments regarding the various topics of the EFC Code as follows:

**Values:** The Code should put strong emphasis on the importance of the public benefit objective of foundations’ action.

**Compliance issues** should be moved to the beginning of the Code.

#### **Governance:**

- The section on the role of the board should include references to the furtherance of the mission of the foundation, programmatic development, and fiduciary responsibility (e.g. effective generation of resources, investment and spending and financial management), and evaluation.
- The reference to conflict of interest policies, should deal with personal and institutional conflicts
- A new reference should be made to policies regarding compensations for board members and staff.

#### **Finance:**

- The section on finance must underline that foundations should develop an investment policy that helps pursue the public benefit objective of the foundation, whether it is set up in perpetuity or for a limited duration.
- The new wording should also mention the nature of the investment including social, ethical investment, where it exists.

#### **Policy, Programmes and activities:**

- The revised paragraph on policy and programmes, should address the need for foundations to define clear policies and support programmes as well as the relations between foundations and other stakeholders.

- Recommendations tailored to grantmaking foundations should be tackled in a distinct paragraph.
- Recommendations regarding the refusal of grants should be reworded. The new version could read “Independent foundations should justify their decision to decline a funding request.” The remaining sentence of this paragraph is to be removed.

#### **Communications and annual reporting:**

- The new section should first cover practices regarding communication and disclosure in general before addressing specific requirements about annual reports.
- A reference to information on investment policies should be added
- A reference to the disclosure of evaluation results should also be incorporated in this section.

The group decided that the following issues were too specific for the EFC Code and should not be added to the revised edition:

- Reference to the description of the organisational structure of the foundation in the governance section;
- Recommendations to encourage grantees to be aware and comply with their legal / contractual obligations; and
- Recommendations to include in the grants, funds to cover costs for projects evaluation and dissemination of results.

## **2.2. Update on the European Developments**

The Working Group reviewed the compilations of “Codes of Practice of Donors / Foundations Associations and Support Organisations Across Europe”. This paper has been updated since the last meeting to reflect the fact that:

- The Code of Conduct from the Association of Foundations in the Netherlands is now available in English.
- A new code was brought to our attention in Poland. Representatives of 12 organisations, which are members of the Local Philanthropic Organisation Network and the Academy for the Development of Philanthropy, compiled this code “Standards of Operation of a Polish Local Philanthropic Organisation”.

Members assessed whether any of the topics covered by the various standards should be incorporated into a revised version of the EFC Code. These included standards from Belgium, the Czech Republic (for endowed, and non-endowed foundations), Finland, the Netherlands, Poland, Russia, Slovakia and the United Kingdom). The group highlighted that a series of elements are or could be further reflected in the EFC Code aspects:

- Compliance with the law
- Clear policy procedures
- Evaluation
- Clear policies and procedures to exclude conflict of interest
- Clarity and user-friendliness of foundations communications, regulations/procedures
- Wish of the founders and due respect for donors
- Protection of intellectual property / confidentiality of applicants, grantees donors
- Fairness in funding
- Assets management

Additional issues, which are covered by some of the other codes, will not be included in the EFC text at this stage. These include:

- A statement on the need to provide for diversity in the projects that foundations should support, as well as diversity in the composition of the managing organs, committees, staff, consultants
- recommendation on the size of operating costs.

Working Group participants also discussed the possibility to refine the structure of the Code in the longer term, addressing in different sections a) core and essential guiding principles, and b) complementary information in the form of additional recommendations.

Volker Then informed the group that the German Association of Foundations has recently finished compiling their own Code and that they may be able to share some ideas with the EFC Code of Practice Working Group on content and implementation issues. The EFC secretariat will contact the Association on the matter.

He also suggested that the EFC secretariat should compare the various recommendations and provisions regarding governance, finance, and transparency issues in the EFC Code of Practice and in the EFC proposal on the European Foundation Statute.

The EFC secretariat will update the current Code of Practice in view of the comments made at the meeting to alter the new structure and refine the content. The revised draft version will be forwarded to the Working Group, including members who could not attend the February meeting, to collect their input by early May. The code will be further modified following this consultation, where appropriate. The group will then decide if the working document can be presented to the EFC Governing Council in June, prior to the EFC annual Conference in Budapest or if it requires additional work, in which case it will not be tabled before November 2005.

### **2.3. US Examples**

The Working Group reviewed codes and other self-regulatory initiatives from the US. Specifically, the group was provided with documents from:

The US Council on Foundations:

- Recommended principles and practices for effective grant-making
- Proposed governance principles for discussion with large foundations
- National standards for US community foundations
- Stewardship principles for corporate grant-makers
- Stewardship principles for family foundations
- Standards for operating donor-advised funds

Examples of individual foundations guidelines (Ford Foundation and Trust for civil Society in Central and Eastern Europe)

- Trustee code of ethics
- Staff code of conduct and ethics
- Audit committee and procedures for the receipt, retention and treatment of complaints
- A memorandum relating to violence, terrorism, bigotry and the destruction of any state.
- Conflict of interest policy

The Working Group identified a series of elements as being of particular interest:

- Policies and practices as regards trustees' compensations.
- Detailed conflict of interest policy papers
- Trustee orientation
- Whistleblower policies
- Procedures for compliance:
  - The development by individual foundations of their own codes of conduct, and codes of ethics, including procedures for compliance ( e.g. Ford's Staff code of conduct and ethics)
  - Creation of an audit committee for the receipt and treatment of complaints
  - The approach of the US Council on Foundations with the 'National standards for Community foundations, which provide in the same document both the standards to follow, and how to comply with these standards by listing the related relevant compliance documents.

Some of these elements could be further examined for the drafting of the revised EFC code (e.g. compensation issues) others may be looked at in the longer-term in particular as regards implementation issues.

### **3. Report on EFC – US Council on Foundations joint project on effective and accountable cross-border grantmaking**

The EFC/ Council on Foundations (COF) joint project aims to develop a set of stewardship principles and practices for accountable cross-border grantmaking. A working team of EFC and COF members will coordinate the initiative. This joint EFC-COF working group is co-chaired by Luc-Tayart de Borms, King Baudouin Foundation and Natalia Kanem, Ford Foundation.

The EFC Working Group was provided with a document, which outlines the composition of the team, objectives, proposed time frame for activities.

The first meeting of this joint working group will take place on 11-12 May 2005 in Brussels. The Chair of the Code of practice Working Group is a member of this new working team. The Chair and the EFC secretariat will keep members of the Code of Practice Working Group up informed of the discussion and future developments of the project.

### **4. Implementation mechanisms**

Working Group members recalled that compliance with the EFC Code of Practice remains a voluntary exercise. However, EFC Members should be encouraged to adhere to the values, principles, and practices set out in the Code. The way to proceed needs further attention. The Group suggested that an effective way to move forward would be through the self-regulation or internal audit systems of the members themselves. In this context the Working Group discussed the following recommendations and measures:

#### **Recommendations to members to promote their commitment to the EFC Code**

1. Encouraging members to promote their commitment to the Code in their promotional literature, annual report
2. Encouraging EFC members to bring the EFC Code of Practice to their boards for discussion and review of their practices, where appropriate
3. Encouraging foundations to develop their own individual Code(s) of ethics / practice and / or other policy instruments to self-regulate their activity according to the values and principles set out in the EFC Code.
4. Encouraging independent funders to develop relevant mechanisms to deal with internal and external complaints

#### **Facilitate the implementation of and compliance with the Code.**

Here, the Working Group should review

5. Whether the Code's principles and practices should be "prioritised" to outline the core principles with which to comply and other principles which would just be recommended practices.
6. The drawing-up of a self-regulation tool-kit, which could be used to help EFC members comply with the Code of Practice.
7. The identification of existing compliance documents and tools relevant to the principles set out in the revised EFC Code. They could cover all principles or they could focus on a series of key issues (financial disclosure, conflict of interest, compensations etc.). The Working Group will have to decide how to proceed on the matter.

#### **Monitoring**

Monitoring whether EFC members adhere to the Code of Practice is a considerable task to

undertake. The Working Group advised that it would be unreasonable to expect the EFC secretariat to be able to fulfil this role.

8. The most effective way to monitor compliance with the EFC Code would be through the self-regulation and regular reporting to the EFC Secretariat by members themselves about:
  - Difficulties to comply with certain issues in the code,
  - Measures and mechanisms they have put into place to implement the principles and practices outlined in the Code

Participants suggested that key moments for the membership to inform the secretariat and provide relevant information would be at the time of application for membership, and at the yearly renewal of the membership.

### **Membership information and application forms**

The Working Group would also have to draw-up recommendations to the EFC Resource and Development Committee (RDC), on members documents as follows:

9. The RDC should examine and review
  - specific membership criteria for reviewing applications (from both potential members and associate organisations) to the EFC
  - the current EFC membership application form
10. The Working Group and the RDC should review how members could update their information on a regular basis (annual): e.g. through specific forms regarding their mission, activity, finance - this is currently done every two years- as well as through compliance documents and procedures.

Finally, the participants raised the issue of what would happen to members who failed to comply with the principles that the EFC established.

11. Should the Working Group identify a minimum “border-line” and criteria that would serve as policy and action guidelines to address non-compliance of members?

The possibility to have a joint event or have a report from the Code of Practice Working Group to the RDC group for their next meeting will be examined.

## **5. Peer-learning events and information tools: an update**

### **EFC events**

Participants were informed about the upcoming EFC peer-learning events on issues related to the EFC Code of Practice. The EFC organises seminars, roundtables and symposia that aim to address the professional development needs of European foundations and corporate funders. These events take place within the framework of the EFC Annual General Assembly and Conference (AGA) and the Philanthropy Institute Programme / Professionalism in Philanthropy (PIP/PIP).

This years AGA will include the following “organisational capacity-building” sessions:

- From Reactive to Proactive – Impact-Driven Foundation or Rudderless Hybrid?
- Human Bridges – International Fellowship and Grant Programmes for Young Leaders in Eastern, Central and Western Europe
- Making the Case – How to Identify, Measure and Communicate the Impact of Our Work As Philanthropic Institutions for Women
- New Ways of Financing Non Profit Organisations
- Social Entrepreneurs as a Channel for Social Change – How to Support Them and Measure Their Impact and Effectiveness
- Strategic Communication and Branding of Foundations

Participants were also provided with the details of the EFC 2005 PIP/PIP roundtables, symposia and summer academy. The roundtables focus on one main topic of interest and are led by a resource person in the field.

- "Small Grantmaking" led by Chet Tchozewski from Global Greengrants Fund, February 4th
- "Media Relations" led by Anna Sarotto from Compagnia di San Paolo, June 24th 2005
- "Venture Philanthropy" led by Rob John from European Venture Philanthropy Association, September 30th

The next symposium "Thinking beyond borders, Acting globally: the role of foundation chief executives" will take place on 28/29 April in Hamburg, Germany with the cooperation of the ZEIT-Stiftung Ebelin und Gerd Bucerius and the Bundesverband Deutscher Stiftungen e.V

Finally, the 2005 Summer Academy on Philanthropy will take place on August 31st - September 2nd 2005 in Stockholm, Sweden in partnership with the Swedish Institute of Management (IFL) and the Riksbankens Jubileumsfond. It provides a platform and a mix of peer learning opportunities and exchanges between foundations representatives, other experts and academics.

A review of existing EFC promotional and capacity-building events to promote good practices and facilitate compliance will be addressed in 2006.

### **Other events**

Participants were also informed about a peer-learning event organised by the World Wide Initiative for Grantmaker Support (WINGS) in London from 20 - 22 May 2005. This will focus on codes and standards for grantmakers. The EFC secretariat will attend the event.

### **Reference materials**

The Group examined the EFC Selected Bibliography on Self-Regulation and Good Practices. Members were invited to recommend new publications for inclusion in the document, where appropriate. The English version of the publication "Foundations in Europe: Society Management and Law", by the Bertelsmann Foundation will be added to the list.

## **6. Date of next meetings**

### **6.1. Budapest June 2005**

A special and shorter meeting of the Code of Practice Working Group will take place at the EFC 2005 AGA in Budapest, Hungary on 3 June 2005, from 12.30 to 14.30. The focus will be on implementation issues with a presentation by Char Mollison, Vice President, Constituency Services, of the US Council on Foundations.

### **6.2. Autumn 2005**

The autumn meeting of the Working Group will take place on 28 September 2005 at the EFC in Brussels between 10:30 and 15:30.

## **Action points**

- EFC secretariat to update the EFC Code of Practice in accordance with comments made at the meeting.
- EFC secretariat to email the updated version of the EFC Code to all group members for their written feedback by early May, and potential presentation to the EFC Board in June
- EFC secretariat to contact the German Association of Foundations regarding their code
- Working Group Chair, and secretariat to report on progress of the EFC – US Council on Foundations joint project on effective and accountable cross-border grantmaking.
- EFC secretariat to compare the EFC Code recommendations with the governance and transparency issues set out in the EFC proposal on the European Foundation Statute.
- Working Group to draw-up recommendations for the EFC Resource and Development Committee (RDC) regarding membership information and application forms
- EFC secretariat to examine the possibility of a presentation of COP work and recommendations at the next RDC meeting, or a joint meeting.
- Working Group members to provide the secretariat with references to key publications for inclusion in the selected bibliography on self-regulation and good practices.
- EFC secretariat to update the bibliography.