



**PHILANTHROPY**  
*Australia*

# Code of Practice

Philanthropy Australia Members Voluntary Code of Practice

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## 1. Introduction

This voluntary Code of Practice constitutes a recommendation to full Grantmaking Philanthropy Australia members (as defined in the Constitution). Its aim is to encourage best practice, openness and transparency in all aspects of grantmaking by these member organisations whether they are family foundations, corporate foundations or corporate giving programs, community foundations, private foundations or government-initiated foundations.

## 2. Principles of Good Practice

This code is based on some key principles about grantmaking in Australia which Philanthropy Australia commends to its members. These include:

- Acknowledgment by grantmakers of the importance of operating in accordance with the wishes of founders who provided initial capital, or in the case of community foundations and corporations which are dependent on multiple donations, the wishes and concerns of these donors.
- Commitment by grantmakers to the development and promotion of innovative, flexible and effective responses to specific social, cultural, environmental, educational, scientific, health and economic challenges in today's society.
- Acceptance by grantmakers, that in fulfilling their particular role in helping build a just, sustainable and pluralistic society, it is important that there is openness, transparency, integrity, accountability and self-regulation in the provision of resources to grantees.

## 3. Legal Responsibilities

All Boards of grantmaking members of Philanthropy Australia should be aware of the legal duties and obligations imposed on grantmaking member trustees. In summary, the major duties imposed on a trustee comprise:

- The duty of the trustee to avoid conflicts of interest – a trustee should not put himself or herself in a position where the trustee's own interests conflict with the interests of the beneficiaries
- The duty of the trustee not to make a personal profit from the position of trustee
- The duty of the trustee to act in the best interests of the beneficiaries
- The duty of the trustee to comply with the relevant trust instrument – the trustee should be familiar with the terms of the trust instrument
- The duty of the trustee to use ordinary business prudence when investing funds on behalf of the trust, and
- The duty of the trustee to seek advice where the trustee is unsure whether he or she is complying with one of the above duties



Additional duties may apply if the grantmaking member trustee is a corporate trustee. The Board of a grantmaking member that has corporate trustees should therefore be fully apprised of and comply with such additional duties.

The above is not intended to be a complete explanation of the legal principles that apply to trustees. If Boards of grantmaking members have any doubt as to which duties apply to them or whether they are in compliance with particular duties, the Board should seek independent advice.

This code of conduct is a voluntary code. However, adherence to the code by grantmaking members will ensure that members have a high standard of corporate governance that will in turn foster good practices and enhance public confidence in the integrity of the member.

## 4. Procedures

### Clarity of Purposes

Grantmaking organisations should define clearly their purposes and the purposes for which they provide grants and review these on a regular basis.

Communicating to the public and to applicants/grantseekers these purposes and the procedures that are followed in grantmaking is in the interest of all concerned. Effective communication is important if the grantmaking process is to function well and if trust in the responsibility and accountability of grantmakers is to be maintained. Wherever possible, grantmakers should disclose appropriate information regarding their grantmaking practices, including geographic and policy limitations and procedures and timetable for making grant decisions.

Grantmakers must comply with the Privacy Act (Cwlth). They should respect the confidentiality of applicants, grantees and donors and use discretion in communicating with others about specific organisations and individuals.

Grantseekers should be advised of the monitoring, evaluation and reporting requirements associated with receiving a grant.

Grantmakers need to be alert and responsive to changing conditions in society and to the changing needs and merits of particular grantseeking organisations. Grantmaking organisations are encouraged to seek ideas and comments from a variety of independent sources with appropriate knowledge and expertise to add to the input from staff and board members.

### Governance

Grantmaking organisations acknowledge the importance of having an identifiable decision making body (hereinafter called “the Board”) whose members should be nominated and for which succession arrangements for members are made in accordance with legal requirements, established principles and procedures.

Grantmakers also recognise the need for the clear definition of:

- obligations of their Board
- decision-making procedures within the organisation
- the provision of authority to speak on behalf of the organisation

Grantmakers undertake to inform the general public about their activities in ways commensurate with the size of grantmakers operations. This may include periodic reports, preferably annual reports, possibly supplemented by newsletters, articles and the use of other communication channels such as websites.



Grantmakers must comply with obligations and restrictions at relevant states/territories and other jurisdictions in which they operate.

Grantmakers should ensure their management practices, investment strategies and use of resources are prudent.

Grantmakers should ensure appropriate internal control of resources and internal monitoring that would ensure the integrity of their grantmaking process.

All grantmaking organisations should review their purposes and organisation structures and assess the overall results of their grantmaking from time to time. Consistent with the provisions of the legal establishing instrument of the Board, grantmakers should review the structure and membership of the Board from time to time.

In addition to the legal requirements that forbid staff, Board members and their families from profiting financially from any philanthropic grants (See Section 3) it is important that grantmakers weigh carefully all circumstances in which there exists the possibility of accusations of self-interest. In particular, staff and Board members should disclose to the Board the nature of their personal or family affiliation or involvement with any organisations for which a grant is considered, even though such affiliation may not give rise to any pecuniary conflict of interest. This may lead to the development of an appropriate conflict of interest policy for Board members and staff.

Grantmakers are encouraged to maintain interaction with others in the field of philanthropy including Philanthropy Australia and its associated affinity groups as well as relevant state and national organisations. Grantmakers are encouraged to share with others responsibility for strengthening the effectiveness of the many private and corporate philanthropic initiatives that serve the needs and interests of the Australian community.