

What is NAVA's Code of Practice?

The *Code of Practice for the Professional Australian Visual Arts, Craft and Design Sector* (the Code) provides a set of best practice, ethical guidelines for the conduct of business between arts practitioners and arts sector employers in the Australian visual arts sector.

The Code is relevant to:

- visual artists,
- craft practitioners, and
- designers

As well as:

- galleries,
- agents,
- dealers,
- retailers,
- buyers,
- sponsors and partners,
- commissioners, and
- managers of residencies, studios and prizes.

The Code provides guidance on best practice contracts and equitable business practices.

Why are we revising the Code?

The Code was first published in 2001. Since that time the Code has undergone a number of incremental revisions, as practices have changed and developed. However, over the last two decades much has changed, and the legal, social, virtual and economic environment of the sector now operates very differently to the way it did in 2001. A more comprehensive revision of the Code is required. Many sections of the Code require a comprehensive update, some sections are no longer relevant, and some gaps have emerged that now need to be addressed.

What is our methodology?

Stakeholder engagement is essential to designing a Code that will be practical and useful for the sector. NAVA is proposing to deliver this comprehensive, new Code of Practice via a three-stage process:

Stage 1: Industry consultation meetings online

Stage 2: A series of discussion papers are prepared in partnership with RMIT, Terri Janke and Company and Accessible Arts. The papers are distributed to the industry for feedback. Each discussion paper has a specific focus area and will be staggered to allow time for consideration and conversation;

Stage 3: NAVA will convene a First Nations working group, accessibility advisory group, dedicated focus groups for each section of the revised Code, and a broader sector group to synthesise and validate processes;

Stage 4: Further consultation and feedback based on review of the discussion papers;

Stage 5: New sections for the Code will be co-authored and shared with the industry for feedback;

Stage 6: Artists and designers are commissioned to develop visual material for the new Code;

Stage 7: Establish a plan for regular revisions and review of content in order to ensure longevity and continued relevance;

Stage 8: The new Code will be launched in 2022 via a campaign to build awareness for implementation and pro-active adoption of the new standards by artists, organisations, institutions and policymakers.

This discussion paper forms part of Stage 2 of the methodology. The purpose is to initiate discussion and feedback that will inform the drafting process.

Revising the NAVA Code of Practice: Funding



Figure 1: Summary of Funding consultation meeting

Overview of Sector Issues

Arts funding in Australia is provided to support the healthy functioning and ongoing growth of the sector. It is delivered by governments, foundations and philanthropists. Through the Government, funding is available at local, state and federal levels in a range of capacities. Through private funding, it can be accessed through foundations, bequests or directly from a donor.

Funding is accessed typically through an application process and is assessed by either a rotating panel of expert peers, a philanthropist, or a selected board of assessors who hold their position for a year or longer.

The funding programs that are openly accessed are designed by workers within the funding bodies to align with and support the strategic directions and objectives of the current government, or the goals and ideals of a foundation.

The glaring issue in arts funding across the country is that there is not enough of it, but in addition to this, there exists a range of complexities and unregulated processes surrounding how funding is applied for, assessed and allocated. There are no industry guidelines for funding in the current Code of Practice.

Key questions and discussion points

Not every artist can be, is, or should be a grant writer

The environment the sector currently works in means that both artists and organisations use a significant amount of time and resources applying for and reporting on funding. This can hinder them from producing the artistic work and creative experiences governments and foundations have set out to support.

In the same way that artists are not expected to be masters of every medium, they should not be expected to be able to produce, manage and monitor a watertight budget, or write at a high skill level. For independent artists, funding is only accessible to a small group who have the experience and skills in both grant writing and project management to access funding. This also excludes first-time applicants who can become overwhelmed at the complexity of the processes and are jaded by the experience.

The often rigid structure of application processes both in format and complexity also tends to disproportionately disadvantage artists with disability.

Questions:

- What changes could be made to application processes to make them more accessible, particularly to artists with disability?
- How can the funding system be fairer to those who do not have experience or expertise in grant writing and project management?

Artist fees and administration hours

As a best practice standard, funded projects should be paying artist fees to an appropriate level to ensure the Australian arts sector is functional.

It is frequently the case that the fee attributed to the artist for a new or existing work does not cover the entire labour cost of the artist to deliver a project of significant scale. Funding levels do not generally allow for artists and organisations to ask for the full cost of the project. Instead, artists contribute a large number of unpaid hours and resources.

For both artists and organisations, the administration hours which go into delivering a project or program are largely unfunded. This also extends to low rates of pay for artists and arts workers and little to no funding for accommodation, travel and per diems.

Artist fees can cause additional issues for artists who are receiving government support such as a disability support pension. This can require extra effort on the artists' behalf or require an auspicing organisation's services.

Questions:

- Should there be a best practice expectation about artist fees for grants, which is addressed in the application process? What form could this take?
- Is it up to funding bodies and panel assessors to decide what is an appropriate salary or wage for an arts worker? (i.e. What is too low, what is too high?)
- What other costs does an artist or organisation incur when delivering a project? Which of these costs are reasonable to be covered in a funding application?
- How can applicants ask for funds which match the value of their time if the funding levels cannot support this?

Applying for the grant and reporting requirements

Application systems and levels of detail required from each funding body vary dramatically. The differentiation between the systems and requirements of funding bodies are critical when it comes to the budget. It is a challenge for organisations to restructure and track their core budgets when funding bodies demand different categories and levels of detail in applications and reporting. Larger organisations have paid staff dedicated to this kind of work, but this disparity of systems creates unnecessary work for small-to-medium organisations and artists.

Application forms should make it as easy as possible for an applicant to address the assessment criteria. There should be an obvious correlation between the application questions and the published assessment criteria so the assessor can see exactly how, and to what degree, an applicant's proposal addresses these.

Some grants require that a proposed project follow certain protocols. For example, artists applying for Australia Council for the Arts grants, who work with First Nations artists or engage with First Nations cultural heritage in their projects, must follow the Protocols for using First Nations Cultural and Intellectual Property in the Arts. Funding bodies must make their

expectations clear to artists, providing copies of relevant protocols to applicants, and must themselves comply with these protocols. For example, when setting time frames for applicants, they should allow sufficient time for applicants to undertake any necessary consultations with collaborators or project partners.

Some funding opportunities include eligibility criteria which can be a useful mechanism for identifying and promoting artists and organisations that promote inclusive representation. Equally, they may exclude people from culturally and linguistically diverse backgrounds. Alternatively, inflexible eligibility criteria may directly or indirectly exclude people with disabilities (e.g. residency locations that are inaccessible).

Concern has been raised about the scale of information requested which can mean a great deal of unpaid labour for an applicant. Applicants typically have a less than 20% chance of receiving funds and may spend up to 30-40 hours preparing the written text, budget and support materials. This time is not covered by the funding that is received.

The application process should be as accessible as possible to ensure equitable and inclusive access to funding opportunities. For example, the promotion of funding opportunities should be in a wide variety of media and mediums to ensure that it is seen by people from culturally and linguistically diverse backgrounds and people with disability. This includes promoting funding opportunities in media frequently accessed and read by First Nations artists. Application processes should be examined for barriers and should not be overly complicated or inflexible. Barriers can include only accepting applications in written formats which may disadvantage those who are Deaf, have vision impairment or English as an additional language.

Reporting and acquittals are important parts of the process, particularly when the applicant has received public funds, but the required information is highly detailed and often unfunded.

Questions

- Are there alternative systems to eligibility criteria and assessment panels that are less time and resource-heavy when funders are determining the value of a project?
How can acquittal and reporting processes be streamlined while maintaining accountability for the use of public funds?
Should all Australian grant bodies, or at least the public funding bodies, agree on using one grant system?
- How can the promotion of funding opportunities be improved to ensure equitable and inclusive access?
- What are the direct and indirect barriers to accessing funding opportunities for people from culturally and linguistically diverse backgrounds and people with disability?
- How can eligibility criteria be used to promote access to funding opportunities, and therefore inclusive representation?
- How can funding bodies support artists and organisations to include accessibility and cultural safety in projects while balancing the additional work this would require both in the application process and delivery of funding outcomes?

The assessment panel

A board of peers, usually referred to as a Committee or an Artform Board, is a selected group of individuals who sit on a panel to assess applications and allocate funding. On these assessment boards, the members' involvement is publicly known, which has the intended purpose of ensuring an assessment process has the highest levels of integrity and accountability.

Diverse representation on funding boards is a prerequisite for equitable funding and self-determination, especially when the funding is for a particular demographic of people. For example, it is best practice for First Nations-led assessment boards to lead assessments of applications from First Nations artists, to consult with a First Nations independent assessor, or have First Nations representatives on their board.

Questions

- What are the positives and negatives of assessment boards?
- What are the positives and negatives of rotating peer assessment panels?
- How can funding bodies ensure appropriate representation on peer panels and assessment boards?
- What training, support or information should be provided to assessors? e.g. unconscious bias training

Conflicts of interest

One of the great benefits of peer-reviewed assessment processes is the shared value for the process' integrity and ethical conduct of panel members. The sense of shared responsibility for the process allows conflicts of interest to be self-identified.

Conflicts of interest are generally defined as an assessor reviewing an application which could directly or indirectly benefit them either financially or personally, for example, a project they could receive payment from, or an application from a partner or family member.

It has been proposed that a conflict of interest in a peer assessment process goes beyond private or personal interest, and can include a lack of peer diversity from cultural or linguistic groups, art forms or regional areas. For example, if a funding program sets out to support the performing arts sector, yet every assessor is from a dance background, is the potential for the assessors to only support their industry a conflict?

Questions:

- At what point does a lack of cultural, artform and artist/organisation diversity create an imbalance on a panel and lead to unsound decision making or a conflict of interest?

Approval and distribution of funding

It has become normalised that Ministers and Directors will review recommendations made by a panel assessment process as a consideration and select which applications they want to support with funding. While this is within the constitution of most government and private funding bodies, it is problematic when a Minister or Director selects an application which was rated poorly by assessors.

If there was an imbalance of funding or the recommendations of a peer assessment process were out of step with strategic objectives, a meeting should be held between the chair of the assessment panel/board and the Minister/Director. Both sides must discuss and agree to the changes.

There is a risk that grant money may be reallocated for purposes outside the scope of the original grant agreement. Sometimes projects change as they progress and so reallocation is necessary to complete the project. In these circumstances, it is best practice to negotiate a variation of the grant before any money is reallocated. Sometimes reallocation of funds only becomes apparent at the end of the project, during the acquittal process. If money is used for a completely different purpose than was originally agreed to, the funding body may request that the grant money is returned.

Funding decisions and the underlying process should be made open and transparent wherever possible to ensure their integrity.

Questions

- To what extent should funding bodies be asking applicants to align their projects with the published strategic goals, objectives and directions of foundations and governments?
- How much decision-making power should Ministers be allowed in funding assessment processes? What is an efficient way to incorporate this input?
- What situations form reasonable grounds for the removal or withdrawal of funding?

Funding delays and the burden of risk

Funding timelines mean that artists often start their projects less than a month after being notified of their successful application. Delays in the announcement of successful/unsuccessful applications are becoming increasingly common.

When an artist or organisation applies for funding, it is also asked of them to have their activities confirmed, which requires a financial commitment. The uncertainty of an 'unconfirmed' project will often lead to the panel not placing their full confidence in an application. It is rare for funding to apply retrospectively, meaning it may not be possible to reimburse payments that have been made before the grant approval.

These factors create acute financial risk for the applicant, which can disproportionately affect those without financial stability. If their application is unsuccessful, they must be allowed ample time to change their projects and reassess relationships with partners/collaborators.

Announcement delays can undermine a project and, depending on the scale, can derail the viability of an organisation or an artists' career. Where there are significant delays, there should be a system of accountability and compensation for applicants.

Questions:

- How can late notification to recipients of funding be prevented or compensated?
- What standards would funding programs be willing to accept as a demonstration that the artist has made reasonable commitments to the project, without having taken on financial risks or liabilities?

Philanthropy and bequests

A philanthropist may see potential in an artist or organisation's work and decide to contribute financial support. This may also include the receiving of a bequest through a will or fundraising.

This funding is at the philanthropist's discretion; the level of funding received as well as administrative and legal obligations can vary. Philanthropy and bequests differ from other funding sources in the endowment process and the expectations between funder and recipient. Wherever possible these rights and expectations should be set out in writing. If the artist or arts organisation is the beneficiary of a will or trust, acceptance of the funds may come with legal and reporting obligations including specific instructions of how the money should be spent.

There may be ethical considerations associated with the acceptance of funding or sponsorship. Recipients may want to do diligence on how the sponsor obtained their money. If the sponsor is a company, the recipient may want to consider whether the company's values align with their own.

Questions:

- Integrity and accountability are essential when using public funds, but how do private foundations allocating philanthropic funds differ from this? What are the expectations of the sector?
- What expectations can exist between a philanthropist and a funding recipient that can be considered best practice?
- What are the ethical factors an artist or arts organisation should consider when accepting funds from a philanthropist?

Existing guidelines and literature

- [Australia Council for the Arts - how application are assessed](#)
- [Australia Council for the Arts – grant agreements](#)
- [Philanthropy Australia](#)
- [The Ian Potter Foundation Funding Principles](#)