

Fair Practice Code

Version 1.0

1. Why have a Fair Practice Code?

There is a widely acknowledged and urgent need to create and preserve a healthy creative and cultural sector. In their advisory report '*Passie gewaardeerd*', the Social and Economic Council and the Council for Culture conclude that it is a high-quality sector of international standing, but that it is also subject to erosion and a worrisome job market.

The sector has assumed responsibility by joining forces and collectively drafting an '*Arbeidsmarktagenda Culturele en Creatieve Sector*' ('labour market agenda for the cultural and creative sector') to be presented in the autumn of 2017. This document sets out agreements to collectively improve the labour market position of cultural professionals.

One of these agreements concerns the organisation of a permanent public debate: all stakeholder parties will remain in dialogue with each other on this subject and results will be monitored, also after the presentation of the *labour market agenda*. The Fair Practice Code is a concrete elaboration of the *labour market agenda*, while the development, application and evaluation of the Fair Practice Code form a fixed element of the permanent public debate.

2. What is the Fair Practice Code?

The Fair Practice Code aims to offer a normative framework, agreed upon by a broad representation of cultural and creative professionals, for sustainable, fair and transparent employment and enterprise practices in the arts, culture and creative industry. It offers a guideline for responsible market behaviour and encourages critical reflection. With the Fair Practice Code, artists and creative professionals can work out and establish agreements together. The Fair Practice Code refers to the Governance Code Culture and the Cultural Diversity Code, and it supplements these codes. The goal is to have a healthy sector and a future-ready labour market and professional practice.

The code invites all stakeholders to accept a shared responsibility for a *Fair Chain*, giving artists and creative professionals a *Fair Share* and *Fair Pay* in view of the value of their professional skills, expressivity and unicity in society. The Fair Practice Code serves as an umbrella under which regulations and guidelines can be developed for the various sectors which truly contribute to improving the earnings capacity and development perspectives for people working in the cultural and creative sector. The Fair Practice Code takes the form of a statement of intent. Anyone who wishes to comply with the Fair Practice Code and wants to contribute to its further development can sign this statement of intent.

3. For who is the Fair Practice Code?

The Fair Practice Code is for clients, employers, employees and independent professionals in the cultural sector and creative industry. It is relevant to all forms of work relationships and for both publicly funded and non-funded individuals and organisations. The cultural sector and creative industry encompass the following sub-sectors: performing arts, cultural heritage, visual arts, film and literature, architecture, design and new media, cultural education, amateur arts and libraries, media & entertainment, creative corporate services, archives, fashion and gaming. It means that dancers, artists, art restorers, filmmakers, designers, architects and journalists, but also all supporting personnel and production personnel are part of the target group.

The code is also meant for institutions affiliated with the sector, such as trade organisations and funds as well as state, provincial and municipal governments, so that they can share in the responsibility and help create the conditions to apply, support and promote the Fair Practice Code.

Finally, the Fair Practice Code offers the clients and consumers of culture – the general public – the opportunity to add a clear concept to the debate on the value of art and culture; the code contributes to a greater appreciation for the role of the cultural sector in our economy and society. The Code also gives the public insight into the professional practice and ethics of various players and working professionals in the culture sector. The signatories to the Fair Practice Code will be listed on the website currently under development, www.fairpracticecode.nl.

4. How to apply the Fair Practice Code?

The Fair Practice Code will evolve into a practical tool with which an organisation or individual can determine whether the values that underlie the code have been translated into concrete policy, and whether this policy is applied in practice. This application can differ per sector.

By signing the Code, the signatory makes a statement of intent. With the aid of a checklist, organisations and independent professionals can verify whether they fulfil the criteria and agreements set out in the Code. This checklist will be made available, along with other tools and information, on the website, www.fairpracticecode.nl. The website will offer links to existing agreements in collective employment conditions (CAOs), covenants and other relevant underlying documents, which can be used as an example or a framework.

Signatories to the Fair Practice Code are entitled to display the Fair Practice Label. The signatory can refer to the Fair Practice Label in its communication media and messages, contracts and negotiations, so that it is publicly apparent that the Fair Practice Code is observed. In this way the signatories show that they actively pursue a Fair Practice policy, that they are proud to carry the label, and that they are contributing in this way to promoting a widely supported solidarity.

The cultural and creative sector is characterised by a great deal of variety. A tailored approach is therefore necessary and inevitable. Not all signatories will be able to apply every element of the code fully and directly; that is why the principle of 'apply and explain' is used.

If institutes or organisations explain why they were or were not able to fulfil certain agreements, then this will bring to light both hidden flaws and best practices. It is the collective responsibility of the entire sector to further develop and apply the Fair Practice Code: for employers, clients, employees, artists, independent professionals, supporters, funds, unions, associations, organisations and public authorities.

The Fair Practice Code encourages and facilitates asking for and offering insight into practices, from and by clients, contractors and subsidy providers. Communicating that one carries the Fair Practice Label will help spread knowledge of the Code and will stimulate its application.

5. Principles and core values

Many meetings have been held with stakeholders in recent years about the principles and values that should underpin the Fair Practice Code. Drawing inspiration from similar initiatives in surrounding countries and other sectors, the participants examined the need for fair practices and the conditions this requires. This preliminary investigation resulted in five shared values that form the foundation of the Code and serve as a reference framework for reflection and evaluation.

Solidarity: The need for a shared interest and dependency is acknowledged, both in the chain of creation, production and distribution within the sector itself and in society as a whole. This means that it is a matter of course to defend or promote other parties' interests, to seek to establish collective (copyright) agreements, and to acknowledge the importance of collective responsibility.

Transparency: Having trust in and an understanding of each other's interests and possibilities presupposes a certain measure of openness regarding one's policies and operational management. A transparent market – financed in part by societal clients such as funds and public bodies – promotes trust and ownership and offers strategic and practical opportunities for collaboration.

Sustainability: To maintain and increase the high level and the potential of the cultural and creative sector, it is necessary to counteract the discouragement of creative professionals. This can be achieved through forward-looking policy committed to realistic earnings and employment conditions, the growth and development of human capital, and the pursuit of recognition for the immaterial value of artists and creative professionals for the sustainable and creative knowledge society that we aspire to be.

Diversity: The cultural and creative sector wishes to offer and should offer more room and opportunities to everyone, and stands to benefit from the widest possible representation: to be a reflection of the population make-up as a whole (of the diversity that characterises the population) in all organisational fields and levels within the organisation. This pertains not only to cultural/ethnic background, but also to sexual orientation, age, knowledge and skills.

Trust: Unlike in many other societal sectors, in the cultural and creative sector – as in the science domain – it is difficult to directly relate effort, talent and labour to quality and to a quantitative output with measurable returns. Instead of taking *output* as the yardstick, having trust in the *outcome* -dedication, quality and intention- form an essential value and condition for success.

FAIR PRACTICE CODE version 1.0

The undersigned,

Considering that:

- The cultural and creative sector represents an indispensable value in Dutch society and serves a broad societal interest.
- The cultural and creative sector is the calling card of the Netherlands and contributes significantly to our international reputation as an innovative, entrepreneurial and creative country.
- The creativity and expressivity of artists and creatives are at the heart of the unique value this sector represents for society.
- The cultural and creative sector benefits from a wide variety of organisations, businesses and independent professionals in a wide range of fields.
- The economic value created by the cultural and creative sector often does not end up in the sector or with the maker.
- Everyone who carries out work has the right to fair and favourable remuneration, which assures him/her and his/her family of a dignified life, which remuneration will be supplemented, if necessary, by other means of social protection (Universal Human Rights, Article 23.3).
- Strengthening working relations and working conditions is in the interest of a forward-looking, innovative cultural and creative sector.

Set themselves the following goal:

To, with due consideration of:

The Governance Code Culture
The Cultural Diversity Code

Jointly promote Fair Pay, Fair Share and Fair Chain:

- A fair, sustainable and transparent operational management, and to take account of each other's interests with respect, solidarity and trust, in the service of a strong sector that fully utilises and makes profitable the potential and opportunities of creative professionals and artists.

And to promote and uphold the following core values:

Solidarity

- Performed work is matched by fair remuneration
 - Collective employment agreements (CAOs) and honorarium guidelines are applied. These can be developed for each discipline, in the event of their absence. Parties will also agree together on fair copyright remuneration for exploitation agreements, based on Article 25c of the Copyright Act (*Auteurswet*).
 - Close attention is paid to the ratio between paid and unpaid workers, to pseudo-independence, fringe benefits and equal treatment. Offering a volunteer or traineeship position therefore requires a clear description of the job, the employment conditions, and a suitable remuneration.
 - Clients (cultural institutes or artists) only work with (sub-) contractors who observe the Fair Practice Code.
 - For pitches and competition policies, the professional work performed by the participants is remunerated.
- The cultural and creative sector must jointly build and maintain a strong professional field
 - For instance by uniting and by sharing, and by financing the collective.
 - By contributing to the collective protection and promotion of interests, and by supporting education programmes and entrepreneurship.

Transparency

- Organisations' operational management (from funds to independent professionals and everything in between) is as transparent as possible
 - Information on operational management is shared and made publicly accessible as much as possible, giving insight into one another's situation.
- The Fair Practice Code is propagated and accounted for
 - Publicly and privately funded institutions accept the responsibility to apply the Code according to the 'apply and explain' principle.
 - Artists and institutions will discuss the Code in their project reports and annual reports.
 - The label is physically made visible for the public (e.g. by including it on tickets or programme leaflets).
- The Governance Code Culture is propagated and observed.
- Knowledge and expertise are shared if and when possible.
- The Fair Practice Code is also observed by sub-contractors.

Sustainability

- Work is produced with a view to quality and to the long term
 - This implies investing in the potential and further development of workers in the field, and that:
 - Opportunities for further education and development are offered where possible
 - Evaluation is part of any collaboration
 - People should not be overburdened either mentally or physically.
 - It means that the sector makes a collective effort to develop shared policy with respect to responsible market behaviour.
 - It means that workers in the field accept the responsibility to not offer their services at a price below the cost price.
 - It implies a constructive approach to all the material and immaterial assets in the sector, with respect for personal investments in the cultural products.

Diversity

- All parties accept responsibility for the implementation of the Cultural Diversity Code, by implementing it within their own organisation and in the field, and by addressing other parties' responsibility in this respect.
- All parties accept responsibility for *diversity* in terms of public, programme and personnel, and in representation forums and policy-making processes.
- The structure of the internal organisation and the employment conditions are adapted accordingly, where necessary.

Trust

- There needs to be scope for tailored approaches, for instance with regard to grant conditions and operational goals. There must be a balance between transparency/bureaucracy on the one hand and the interests of the individual organisation on the other.
- Quality is the basic premise.
- Parties will treat representation and reference conscientiously by paying due attention to ownership, source acknowledgement and rights payment.
- Parties provide for a low-threshold manner to settle disputes, for instance by registering with the copyright contracts disputes committee.
 - Parties attempt to settle disputes through mutual consultation. The copyright contracts disputes committee can assist in case of disputes relating to the exploitation agreement through mediation and binding advice.

DRAWN UP BY THE FAIR PRACTICE CODE WORKING GROUP:

Anne Breure, director of Veem House for Performance, working group *labour market agenda*, board member Kunsten '92

Yvonne Grootenboer, working group *labour market agenda*, Platform BK

Michelle Schulkens, Platform BK

Jan Zoet, director of the Academy of Theatre and Dance/AHK, chairman of Kunsten '92, working group *labour market agenda* (observer)

Marianne Versteegh, general secretary Kunsten '92, working group *labour market agenda* (coordinator)