

# Guiding Principles of Good Practice for Foundations

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## Foreword

Foundations are living evidence of citizens' freedom and responsibility towards society. Foundations are involved in many crucial fields of society. The significance and function of foundations must thus be suitably reflected in the responsible performance of the duties incumbent upon their trustees. These principles of good practice are meant to serve as guidelines for foundations' governing bodies, managers, other members of foundation staff, as well as future founders. In particular, they are intended to enhance awareness on the part of all persons concerned with regard to avoiding potential conflicts of interest, ensuring adequate transparency in the conduct of foundation affairs, and ensuring that foundation funds are allocated efficiently. In view of the diverse size, purpose, and type of foundations in existence, the following Principles of Good Practice should be treated solely as guidelines and adapted to individual circumstances.

## I. Foundations

These guiding principles refer to foundations that are set up for the purpose of the common good in a material sense:

- Foundations serve to pursue a particular common interest as determined by its founder. The aims of a foundation are clearly laid down in the foundation bylaws and pursued through the allocation of proceeds from the foundation's assets.
- Its financial assets are to be at the foundation's disposal on a continuous and undiminished basis.
- Foundations set up governing bodies or supporting institutions to ensure the proper attainment of their respective aims.
- Foundations may adopt various legal forms (e.g. incorporated under public law (rechtsfähige Stiftung), limited liability company (Stiftungsgesellschaft), or association (Stiftungsverein). Foundation trusts also fall under the general category of foundations.

## II. Guiding Principles of Good Practice for Foundations

### 1. Foundations in society

Foundations are an integral part of a liberal society in our democratic state under the rule of law. Their legitimacy is established by the liberties guaranteed under the Basic Law. Foundations act within the scope of these liberties. Despite the diversity of founders and the wide variety of aims

among foundations, all foundations are committed to the values of our democracy. Through their charitable work, foundations comply with the obligation established in the Basic Law that the use of property “shall also serve the public good”.

**Principle 1:** Foundations shall respect the human dignity of every individual in accordance with the Basic Law: “No person shall be favoured or disfavoured because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions. No person shall be disfavoured because of disability”. Opinions are free, as is the case with art, scholarship, faith, and conscience.

**Principle 2:** Foundations should see themselves as part of our fortified and disputatious democracy that is prepared to defend the liberal democratic order. Within the legal framework, foundations shall play an active role in maintaining, shaping, and advancing the democratic polity.

**Principle 3:** Even when foundations operate solely in Germany, they are still part of international developments related to civil society. Insofar as their means allow, foundations shall promote peace and open societies beyond their national borders as well.

**Principle 4:** In their work, foundations shall strive to put gender equality into practice and to take advantage of the opportunities that diversity offers.

**Principle 5:** Foundations should embrace the challenges and potential that social and technological change harbours. Insofar as their means allow, foundations shall work to ensure that as many people as possible are able to share in the opportunities of such change.

**Principle 6:** Foundations should act in a sustainable manner, mindful of their responsibility towards future generations. Insofar as their means allow, foundations shall promote the preservation of the natural bases of life, particularly with regard to curbing the climate crisis and preserving biodiversity, in accordance with the UN’s 2030 Agenda for Sustainable Development and the Paris Agreement.

## **2. The people involved**

In the performance of their duties, the members of a foundation’s governing bodies, its managers, and staff must act at all times in compliance with the legal regulations for the charitable and foundation sector, and in accordance with the following principles in particular:

**Principle 7:** They act as trustees of the founder’s intentions as laid down in the foundation bylaws. They are bound to the foundation bylaws and pursue its objectives in good faith and to the best of their ability.

**Principle 8:** They are committed to maintaining the sustainable earning capacity of the assets placed in their trust. Foundations should therefore reflect on their targets concerning earning capacity and value retention, as well as with regard to sustainability and possible contributions to the attainment of their respective aims. Foundations should also draw up relevant policies in writing for investing their assets.

**Principle 9:** Accounting and financial reporting procedures are to provide a real-time, accurate, and complete picture of the foundation’s financial situation.

**Principle 10:** They must ensure that the administrative costs do not become excessive.

**Principle 11:** They embrace transparency as an expression of the responsibility foundations have towards society and as a vehicle for creating trust. Consequently, they provide the public in a suitable way with information on the foundation's financial situation and its affairs (especially the purpose of the foundation, the attainment of goals for the respective reporting period, funding criteria, and information on the members of its bodies).

**Principle 12:** They make their funding criteria public and, if advisable, engage the services of independent experts or evaluators.

**Principle 13:** They promptly and conscientiously carry out any legal obligations for the disclosure of information.

**Principle 14:** Members of a foundation's body act with integrity and responsibility, carrying out their duties on the basis of sound information. When acting in an honorary capacity, they are prepared to expend the necessary time and effort in pursuit of the foundation's affairs, in addition to their other commitments.

**Principle 15:** Members of supervisory and advisory boards remain independent from other bodies concerned with operational affairs, while these bodies are to keep them comprehensively and correctly informed.

**Principle 16:** A foundation's governing bodies are responsible for the regular monitoring of the efficacy of the foundation's programmes, in particular with regard to achieving the objectives laid down in the bylaws, the efficiency of funding measures, and behaviour towards applicants for funding and the public at large; they ensure that foundation staff also act in accordance.

**Principle 17:** The internal bodies of endowment foundations regard applicants for funding as their indispensable partners in pursuit of the foundation's objectives. Inquiries should be answered promptly, and applicants are to be kept informed of the progress of application procedures.

**Principle 18:** A foundation's governing bodies are to promote the exchange of experience and cooperation with other foundations. Foundations should handle data responsibly and check which information is made freely available.

### **3. Avoiding conflicts of interest**

Members of a foundation's governing bodies, the supervisory and advisory boards, and the foundation staff must ensure that they are not guided by their personal interest and motivation in carrying out their duties. In particular, they should abide by the following rules:

**Principle 19:** In the event of any direct advantage or disadvantage for themselves or any related person or party, they must disclose any issues that lead to a conflict of interests on their own accord and voluntarily cease having further involvement in the decision-making process. Also, any personal or family ties to applicants for funding and to service providers must be openly declared.

**Principle 20:** They must refrain from accepting any financial advantages offered by interested parties. This also applies when benefits for favourable considerations or services are indirectly expected or are only expected in future.