POLICY AND COMMUNICATIONS PROTOCOL REGARDING MISUSE OF TRUST FUNDS

Tal Sagorsky
For Decision

Approval of Policy and Communications Protocol on Misuse of Trust Funds
Background

May 2011 (Kigali): Draft Protocol presented → not approved → referred to FAC

June 2011: Requested comments from FAC members (Annex 1) & questionnaire to existing and potential Supervising Entities/Implementers (Annex 2)

September 2011: Presented revised policy to FAC → FAC members not ready to comment

October 2011: Revised policy sent to Board
<table>
<thead>
<tr>
<th>Issue</th>
<th>Before</th>
<th>After</th>
</tr>
</thead>
<tbody>
<tr>
<td>Definition of Misuse</td>
<td>Only Fraud and corruption</td>
<td>use of funds for a purpose other than that for which they were granted</td>
</tr>
<tr>
<td>Roles of Partners</td>
<td>Cast as responsibilities</td>
<td>Adds notion of Accountability</td>
</tr>
<tr>
<td>Accountability of Supervising Entities and Implementers</td>
<td>Vaguely defined</td>
<td>Better defined, includes minimal standards</td>
</tr>
<tr>
<td>Secretariat Role</td>
<td>Only communications focal point</td>
<td>Addition of supporting Supervising Entity/Implementer in fulfilling fiduciary duties</td>
</tr>
<tr>
<td>Board Role</td>
<td>Not Mentioned</td>
<td>Added</td>
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## Revisions (2)

<table>
<thead>
<tr>
<th>Issue</th>
<th>Before</th>
<th>After</th>
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<tbody>
<tr>
<td>Communications Principle</td>
<td>Confidentiality emphasized</td>
<td>First Principle added: transparency</td>
</tr>
<tr>
<td>Confidentiality provisions</td>
<td>Included reputational risk and donor confidence</td>
<td>Reputational risk and donor confidence deleted</td>
</tr>
<tr>
<td>Public Disclosure Provisions</td>
<td>Decision in discretion of Chair and Head</td>
<td>Added considerations</td>
</tr>
<tr>
<td>Confidential Email List</td>
<td>Only Board</td>
<td>Added other donors, with confidentiality undertaking</td>
</tr>
<tr>
<td>Verbal Report</td>
<td>Not mentioned</td>
<td>Required from Head at every meeting</td>
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</table>
Why Do We Need a Policy?

MISUSE

✗ Diversion of funds from students
✗ A major cause of poverty
✗ Leads to loss of donor confidence
   → affects fundraising efforts

= ZERO TOLERANCE
Reminder: Flow of Funds

Donors contribute

Global Partnership for Education Fund (Trustee)

Contribution Agreements (Donor to Trustee)

Transfer Agreements (Trustee to SE/Implementer)

Grant Agreements: use own policies and procedures

SE Multilateral included in Board constituency

Developing Country Government

SE Bilateral included in Board constituency

Developing Country Government

Multilateral or Bilateral Acting as Implementer
- Establish robust financial management & procurement systems with strong internal controls
- Communicate any findings of Misuse to the Supervising Entity

- Fiduciary duties, due diligence of developing country partners (next slide)

- Monitor implementation of education plan
- Communicate with each other and the Secretariat regarding misuse

- Focal point for communications
- Support SEs in fulfilling fiduciary duties (new)

- Approve allocations, Supervising Entities and Implementers
- Fulfill duties in compliance with COI policies and minimization of risk
Accountability of Supervising Entities and Implementers

Supervising Entities: due diligence of developing country partners

Minimal Requirements for SE and Implementers:

• Familiarity impropriety types & alert for indications of irregularity
• Ensure strong risk management & procedures to prevent Misuse at every step of the grant life cycle
• have regular, open & immediate communication with the LEG and Secretariat regarding any suspicion or evidence of Misuse
• recover and reimburse misappropriated funds
• ensure compliance with Board decisions
• Encourage pursuit of perpetrators under appropriate legal mechanism
Actions Taken by Secretariat

**Improving** communication with SEs & Implementers

**Strengthening** Country Support Team: additional staff, greater engagement countries

**Training** staff on fraud prevention and detection

**Improving** communications with Board re suspected misuse

**Visiting** countries where Misuse suspected, acting as “honest broker” with government, civil society, donors

**Monitoring** the findings of misuse by other “global funds” and agencies to focus on high-risk countries
Trust Fund documents requirements, etc.

**Transfer Agreements**
Trustee to Supervising Entities and Implementers

- use their framework to manage Misuse in relation to Trust Funds
- provide prompt information regarding suspicion or evidence of Misuse of Trust Funds to the Secretariat
- comply with the decisions of the Board

**Grant Agreements**
Supervising Entities to Developing Country Partners

- anti-fraud provisions
- obligations to comply with the decisions of the Board
- obligations to provide prompt communication to Supervising Entity re Misuse

**Whistleblowing Protections**

- Prevent retaliatory actions against staff
Balancing Act:
Information on misuse is *sensitive* information

Transparency vs. Confidentiality

- Deterrence of future fraud
- Reputation: zero tolerance
- Protects taxpayer $£€¥

- Protect investigation
- Protect Safety of Whistleblowers
- Risk of Legal Actions

Board of Directors Meeting
9 – 10 November 2011 | Copenhagen, Denmark
Communications with the Board

- Supervising Entities, Implementers and others should direct information to Secretariat Head

Head Shares with Chair

- Consider how/what to share with Board

Head/Chair Share with Confidential Email List

- May lead to public disclosure where appropriate
Decision Requested

**BOD/2011/11-XX – Policy and Communications**

**Protocol on Misuse of Trust Funds:** The Board of Directors approves the Policy and Communications Protocol on Misuse of Trust Funds, attached as Annex 3 to BOD/2011/11—DOC 08.
Next Steps

Post on website

Email to Partnership

Disseminate confidentiality undertakings

Create new Misuse email list