



# WorkInCulture

Jurisdictional Scan: Precarity and Arts Funding  
Policies and Programs

Final Report

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## Part 1: Jurisdictional scan

### Promoting fairer pay

#### Local context

Fair pay has become part of the agenda and policies of arts funders in many jurisdictions in recent years. The major public arts funders in Ontario have yet to adopt strong policies requiring funded organizations to pay artists fairly for their work. To review:

- Ontario Arts Council’s assessment rubric for grants to organizations includes a section, worth 15% of the overall score, on “contribution to artists, the art form and the artistic community.” The criteria in this section are broken up into six points, one of which refers to payment of artist fees relative to standard industry rates. Assuming equal weighting of each of the six points in this section, payment of appropriate artists’ fees is worth 2.5% of the overall assessment score.
- While eligibility requirements for Toronto Arts Council operating grants in some areas include paying “appropriate” professional fees, there are no available guidelines on what constitutes appropriate fees, and in some areas (e.g. dance) there is no explicit requirement to pay artists’ fees.
- Canada Council for the Arts similarly lacks policies on fair pay— while organizations are required to pay artists’ fees to be eligible for grants, it is not stated in the Council’s eligibility requirements for all organizations that the fees should be paid according to any standard, and when industry standards are referred to, it is not clear by whom the standards are set.

#### Creative New Zealand

In 2019, Creative New Zealand incorporated “remuneration guidance” into its general funding guidelines. The guidelines now prescribe a uniform minimum “advised” rate of \$25 NZD (approximately \$22 CAD) per hour for artists’ labour, regardless of discipline. According to the guidelines, Creative New Zealand expects applicants “to include within their budgets fair remuneration levels for artists and arts practitioners,” meaning that pay rates for “more experienced artists and arts practitioners” should:

- Be at a level above or well above the minimum
- Be in line with their relative skills and experience
- Recognize the duration of the project and other work-related factors (i.e. the ‘contract’ nature of the work)

Notably, the minimum rate is not given as an eligibility requirement, and the recommendation does not apply to all artists, but only to those who are “more experienced,” a definition of which is not provided.

The incorporation of guidelines for minimum remuneration came following a Creative New Zealand-commissioned study on the careers of creative professionals in the country that was released in May 2019. Through a survey of just under 1500 creative professionals, the researchers found that 63% of creative professionals in New Zealand feel their remuneration is unfair. Further, the study found that \$26 per hour is “the level at which creative professionals start to feel their remuneration is fair.” The median hourly income of creative professionals surveyed was \$24.63. By sub-sector, the numbers varied significantly, from \$28.85 per hour in media production to \$15 per hour in dance. The recommended minimum rate of \$25 would appear to approximate the study’s findings on artists’ views of ‘fair compensation’ (although it falls slightly short, and is closer to the current median). Nonetheless, if the minimum is applied consistently, it could bring up the average rate of pay for artists in less well-compensated disciplines.

## Netherlands

In the Netherlands, there has been a concerted effort over the past few years to develop a broad consensus on how to improve labour market conditions in the cultural sector. In 2015, the Social Economic Council (an independent body funded by the Dutch business community) and the Cultural Council (an independent, government-funded advisory body for the cultural sector) carried out a study on the cultural sector labour market. Following on the findings of the study, in 2017, at the request of the Minister of Education, Culture and Science, a group of Dutch cultural sector organizations led by Kunsten '92, the national association of arts organizations and institutions, produced the “Labour Market Agenda for the Cultural and Creative Sector 2017–2023.” The Agenda is made up of 22 points<sup>1</sup>, divided into three broad themes:

1. Promoting a structural social dialogue between employers and workers;
2. Strengthening earning capacity; and
3. Improving labour conditions for workers

The agenda includes a Fair Practice Code<sup>2</sup>, which was developed through sector-wide consultation. The Fair Practice Code does not set out fees itself, but stipulates that collective agreements and fee guidelines should be applied as much as possible, and that, in the absence of collective agreements, cultural work should be compensated with reasonable and fair payment.

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<sup>1</sup> The list is available online at <https://smacc.nl/agendapunten/>, with discussion and tracking of progress. (In Dutch only; see appendix for English translation of the Agenda points.)

<sup>2</sup> Available online at <http://fairpracticecode.nl/en>

The consensus within the sector arising from the consultation was that, while following the rules set out in the Code would almost certainly lead to an increase in costs for organizations, the principle of fair remuneration is more important than quantitative objectives or the number of jobs in the sector. Acknowledging and accepting the financial consequences of guaranteeing fair pay—which could include fewer work opportunities in the sector and the need to scale back activities—is one of the points of the Agenda.

In order to further the implementation of the Agenda, the group responsible for producing it has since reformed under the name PlatformACCT (Platform for the Cultural and Creative Labour Market to Come). PlatformACCT's role is to facilitate dialogue between employers, promoters, and institutions on the one hand, and employees and independent artists on the other in order to achieve understanding and agreement on how employment relationships within the cultural sector can be standardized in order to improve economic conditions for cultural workers.

In 2019, the Cultural Council was commissioned by the Minister to produce a report advising on cultural policy for 2021-2024. The advice given by the council was broad-reaching, but a key focus was the role of the government (in its grantmaking capacity) in improving the working conditions of cultural sector workers and promoting a healthier labour market.<sup>3</sup> In its advice to the Minister, the Cultural Council recommended that the Fair Practice Code be introduced as mandatory for organizations receiving public subsidies, with a transitional period during which organizations would be required to either comply with the code, or explain why they are unable to, in order to receive funding.

According to the Council's report, published in April, several regional arts councils, including Amsterdam and Rotterdam, had already announced intentions to incorporate the Fair Practice Code into their funding guidelines. In November, the Minister of Education, Culture and Science announced that institutions receiving funding from the Ministry would be required to comply with the Fair Practice Code.

## **Arts Council Wales**

In 2019, Arts Council Wales introduced minimum pay rates for artists into its National Lottery grants funding guidelines. The funding guidelines do not directly stipulate the rates, but refer applicants to relevant sectoral organizations (professional associations and unions) that set

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<sup>3</sup> The report from the Cultural Council outlines some of the measures already in place to address remuneration issues in specific sectors, including collective agreements and codes of practice. One that is worth noting is a pilot program of the Mondriaan Fund (a public grantmaking body in the visual arts), which subsidizes visual artists' exhibition fees when institutions comply with its fee schedule. Fees are subsidized on a sliding scale up to 50% (a lower percentage is applied when the fees paid are between 50% and 100% of the fees set out in the schedule). A full explanation of the program can be found online at <http://mondriaanfonds.nl/en/application/experimenteerreglement>

minimum rates for artists in their respective sectors.<sup>4</sup> The guidelines explicitly state that Arts Council Wales "won't fund applications where you aren't paying yourself or your co-workers at all, or are only paying a low/nominal fee." Industry minimums are taken as absolute minimum requirements for National Lottery funding. The guidelines further state that, in the absence of industry minimum rates, the National Living Wage should be taken as an absolute minimum. According to the guidelines, artist fees can be up to 100% of a project's expenditure.

The changes to the National Lottery funding guidelines came following a consultation on a new National Lottery funding strategy that was undertaken between November 2018 and February 2019. The consultation addressed numerous topics, among which was the impact of National Lottery grant funding policies on the livelihoods of individual artists, who were widely felt to be in a poor economic position overall. Among the commitments made by Arts Council Wales to improve the economic position of artists was to agree on industry standard rates and to make those rates a condition of funding.<sup>5</sup>

## Arts Council England

Arts Council England has taken a similar approach to Arts Council Wales in its funding guidelines, stipulating for both National Portfolio Organizations (which receive renewable operational grants) and National Lottery project grant recipients that artists' fees "should be in line with, or better than, recognised codes of practice and guidelines set by the relevant lead bodies."<sup>6</sup> On funding applications, organizations are asked whether or not they comply with the guidelines on fair pay, and if the answer is no, they are required to explain why not. The Arts Council may withhold funding on this basis, but it is not explicit about whether or not non-compliance will necessarily result in a rejected application.

Further, funding guidelines state that when employing individuals on a contract or freelance basis, organizations "should agree the number of hours necessary to complete the relevant activity, which should include research, development and planning as well as delivery." The guidelines on fair pay are not given in the form of funding conditions, as in the case of Arts Council Wales, but they do state that the Arts Council "will not support applications from organisations that use artists and practitioners' time donated as 'in-kind' support, unless you can show that this has been accounted for properly."

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<sup>4</sup> Initially, the funding guidelines did list minimum rates per sector, but they were later revised with a list of relevant sectoral organizations to which applicants are referred.

<sup>5</sup> Other commitments included creating a business development support service for artists, creating more networking opportunities for artists, exploring the viability of a time-defined living-wage allowance (as in Scandinavian "working grant" programs) for individual artists, exploring ways of developing a structured program of artist residencies through partnerships with other organizations, and exploring ways that existing workspaces and facilities could be made available to a greater number of artists.

<sup>6</sup> According to the guidelines, in cases where minimum fees have not been set for the sector, competition law prevents the Arts Council from stipulating minimum rates itself. This may explain why Arts Council Wales walked back on directly providing a list of rates in its funding guidelines.

Arts Council England has also played a role in supporting sectoral organizations to produce fee guidelines since at least 2004, when it provided funding to a-n The Artists Information Company, the largest visual arts membership organization in the UK, to produce sample day rates for visual artists, which it has published annually since with ongoing support from the Arts Council.

## **Creative Scotland**

Creative Scotland has published guidelines on fair pay and expressed its commitment to improving the financial context for artists and arts workers. According to the guidelines, all organizations receiving long-term operating funds from Creative Scotland are expected to pay all core workers a living wage as defined by the Living Wage Foundation. Grant applications “encourage” applicants to provide policies or clear statements on how they intend to ensure that workers they employ are paid fairly. Likewise, artists applying for individual funding are encouraged to pay themselves fairly. The guidelines refer applicants to relevant sectoral organizations which publish remuneration recommendations.

## **Supporting artists’ workspaces**

### **The Arts Council (Ireland)**

In 2007, The Arts Council, Ireland’s national arts grant-making body, commissioned a review of visual artists’ workspaces (including shared production facilities, residency workspaces, and studio spaces) in the country, which was delivered in 2009. Prior to the initiation of the review, the Arts Council was already acting as the principal source of external support for visual artists’ workspaces in Ireland, but did not have a specific funding stream for them.

The review noted shortfalls in the quantity as well as the quality of workspaces in Ireland, with workspaces frequently reporting problems including struggles to meet costs, inadequate staffing, and poor physical state of buildings. Nearly half reported that their existing revenue sources would be insufficient to maintain the workspace into the future. It also noted the positive contributions that artists’ workspaces make to the overall arts ecosystem, outside of providing space for artists to work: 90% of the workspaces covered by the study provided professional development opportunities, and 80% engaged in public outreach activities.

The review included a framework for a policy on workspace support, with recommendations for local authorities and the Arts Council of Ireland. In response to the review, the Arts Council created a policy on visual artists workspaces in 2010. It set out the objective of supporting workspace infrastructure so that supply meets demand, while ensuring that the infrastructure is safe, secure, accessible and sustainable.

To implement the policy, the Arts Council created a new Workspace Grant — a non-recurring grant awarded on an annual basis with a value of up to €30,000 (now €40,000). It also created

a minor capital grant program, which was ultimately incorporated into the Workspace Grant. As part of the policy, the Arts Council also pledged to act as an advocate for the needs of the sector and to work with partners toward promoting greater security of tenure for existing spaces (through e.g. ownership rather than lease models, local authority ownership) and establishing new purpose-built spaces. It also pledged to act as a source of advice for existing and new workspaces, and potential partners in workspace provision.

Funding from the program (now known as the Visual Artists Workspace Scheme) is principally intended to be used for “running costs such as light, heat, rent, artists’ development programmes, administration and/or appropriate salary costs.” Up to 20% of the value of the grant can be allocated toward minor capital investment, such as equipment and improvements. Organizations that provide programming in addition to workspace are eligible to apply for separate funding for those activities.



## Part 2: Case studies

### Cultural and Creative Sector Labour Market Agenda (Netherlands)

#### Summary

The Creative and Cultural Sector Labour Market Agenda is a comprehensive, participatory process of labour market reform within the Dutch cultural sector. The process began in 2016, and was initiated at the request of the government, based on advice received from the Cultural Council and the Socio-Economic Council (both independent policy advisory bodies). The councils had advised the government on the situation of workers in the cultural sector, characterized by low incomes, low employment security, poor negotiating position, lack of insurance, and low pension buildup. The goal of the agenda was to bring the sector—both workers and employers/clients—and government together to find solutions to these issues and to improve the position of cultural workers in the labour market.

The agenda document was released in 2017, and consist of 21 points, each with a designated “booster” (a representative from an organization in the sector who takes the initiative in organizing action). The agenda is highly ambitious and calls for a high degree of coordination between sector stakeholders. However, the agenda appears to have been successful, so far, in drawing the partners together, and progress has been made on many of the agenda points.

Many of the points are still in a preliminary research phase, but there has been concrete progress in some areas, particularly in the development of a Fair Practice Code for the sector, which has been adopted as a subsidy condition by the national government, as well as the largest municipal arts councils (including Amsterdam and Rotterdam). The role of the arts councils in the agenda has been largely limited to adopting the Code, and the agenda has not proposed structural changes to their funding programs. Another significant step has been to create a federation of labour unions and professional associations across the sector, and the creation of an organization called PACCT whose purpose will be to mediate negotiations between workers on the one hand and employers/clients on the other, which will ideally lead to agreements improving the labour market position of cultural workers.

There are significant costs associated with ensuring fair compensation, and who will bear them is still an issue of contention. The sector is lobbying the government to increase funding to offset at least the initial cost of implementing the Fair Practice Code, and is also advocating for other reforms, for example with respect to collective bargaining for self-employed cultural workers. The government has tried to place as much responsibility as possible onto the sector itself for coming up with solutions to labour market issues, and has contributed financially to the process, but it remains a partner that must be bargained with. The process of creating and

implementing the agenda has, however, helped the sector to make its demands with a unified voice.

## Background

The Dutch Cultural and Creative Sector Labour Market Agenda emerged somewhat organically out of the system of feedback between the national government (Ministry of Education, Culture and Science) and two of its independent advisory bodies: the Cultural Council (Raad voor Cultuur—RvC) and the Socio-Economic Council (Sociaal Economische Raad—SER). These councils provide advice to the government, both solicited and unsolicited, to inform policy decisions in their respective areas. But while the process was initiated by the government, the work of creating and implementing the Agenda, however, was largely taken on by the sector itself, with modest government funding support.

The idea for the creation of a labour market agenda, designed and implemented by sector stakeholders, came out of an economic context in which the position of workers in the cultural labour market had been significantly weakened, partly due to austerity measures in the wake of the 2008 financial crisis which included a €200 million cut to the national culture budget in 2011. The cuts had been controversial at the time, with the head of the Cultural Council resigning that year out of dissatisfaction with the government's decision.

The process leading up to the drafting of the Labour Market Agenda, which was published in November 2017, appears to have begun in April 2015, when the Cultural Council submitted a general advisory to the government on the main points of cultural policy ("Cultural agenda 2017–2020 and further"). The advice given in the cultural agenda was broad-ranging and included numerous proposals requiring a substantial budget commitment. One of the proposals made by the Cultural Council was to "continue and intensify measures to improve the position of artists in the labour market by stimulating further training, promoting entrepreneurship and supporting impresariats," with a suggested budget of €2.5 million.

In December, the House of Representatives responded by approving €2 million budget item with a more general mandate to "improve the labour market condition of artists." The government then requested the Cultural Council provide more specific advice on how to allocate the €2 million, and requested that the Socio-Economic Council and the Cultural Council collaborate on a survey of the labour market in the cultural sector.

The survey was released in January 2016. It noted several major issues in the cultural sector labour market, namely:

- Falling employment and high risk of unemployment
- Low and falling incomes
- Poor negotiating position of workers
- Lack of insurance for workers against loss of income

- Low pension buildup

It also noted some of the historical circumstances of the present state of the labour market, including the budget cuts, as well a significant increase in the number of self-employed and “flex” workers in the sector. The survey also noted, as a distinguishing characteristic of the sector, the high degree of “intrinsic motivation” among cultural workers, a factor which, according to analysis of the councils, influences the mechanism of price formation through supply and demand, (sometimes) leading to significant dysfunction in the labour market: Because cultural workers are motivated to work in that sector for non-economic reasons, workers will choose to join or remain in the sector even when their earning potential is significantly lower than it would be in other sectors. This view is repeated by government, the councils, and sector organizations in many of the documents we reviewed relating to the Labour Market Agenda.

In April 2016, the Cultural Council submitted its advice on the use of the €2 million budget item. The advisory included several recommendations, which were grouped into three areas:

#### 1. Pay and security

- Stakeholders should develop a code for good employership and commissioning practice, in line with the Culture Governance Code (Code Governance Cultuur).
- Fee guidelines should be established for sectors that do not have them (e.g. visual arts, whereas film has them already). This should be done in consultation with the Dutch competition authority.
- The sector should initiate a dialogue on principles of good commissioning and employership, which government can facilitate the application of with additional funds. Government can also play a role in facilitating the development of guidelines.
- A matching scheme should be created to encourage fair payment of interns (e.g. matching 10–25% of costs), on the model of the Mondriaan Fund.
- Options for illness and disability insurance for self-employed cultural workers should be investigated, in collaboration with the Ministry of Social Affairs. This could include supporting or scaling up e.g. bread funds or other cooperative provisions.
- Arrangements should be made to reduce the tax burden placed on freelancers in the cultural sector.

#### 2. Supporting and facilitating entrepreneurship

- A substantial part of the €2 million should be spent on measures promoting entrepreneurship, such as financial services that enable self-employed people/small entrepreneurs in the sector to invest in themselves and their professional practice.

- This could be integrated into an existing fund, without establishing a new institution, and could ultimately maintain itself fully or partially.
- New earning models for cultural professionals in different subsectors should be tested under the supervision of professionals from business and financial services sectors.

### 3. Improving labour market position of workers

- An inventory of collective initiatives, such as cooperatives and bread funds, should be created so that freelancers get a better view of the possibilities in their sector to organize themselves or join a collective.
- Early-career artists should be given financial support to be represented by an agent (to offset low contract amounts for early-career artists with agencies)
- The effectiveness of measures to promote career development in the cultural sector should be investigated.

The Cultural Council's advice included a budget showing how the €2 million should be divided to fund its recommendations.

#### *The idea of the agenda*

In May 2016, the Minister of Education, Culture and Science responded to both the advice given by the Cultural Council and the labour market survey conducted by the Cultural Council and the Socio-Economic Council.

In his response, the Minister agreed with councils' analysis regarding the intrinsic motivation of cultural workers and their willingness to work for less, or even nothing, but said "I don't think that is an excuse for insufficient remuneration and increased expectations of flexibility," asserting the need to balance flexibility and security. The Minister noted some recent labour market reforms designed with that intention.

The Minister also noted fragmentation in the sector due to significant differences between the business models within the various subsectors. This fragmentation, according to the Minister, contributes to the lack of power among workers over conditions in the sector as a whole.

The Minister particularly emphasized the responsibility that employers and employees, as well as businesses and freelancers, along with government, have over the health of the labour market in the sector, and therefore called for an approach "wherein the sector makes agreements both internally (working people and employers/clients with each other) as well as with the government)." Specifically, he called for the cultural sector to "draw up a labour market agenda, with sector-wide principles for the short and medium term," which would not be limited to initiatives financed by the €2 million budget item. This appears to be the origin of

the idea for the labour market agenda. The Minister allocated €400,000 from the €2 million for the implementation of that agenda, which he said should meet the following principles:

- The agenda should be cross-disciplinary and involve partners from the arts, heritage, and the media and creative industries
- Employees and self-employed persons should be widely involved in the social dialogue and the elaboration of the agenda
- There should be broad support among stakeholders, such as employers, trade unions, professional associations, training providers, Kunsten '92 (the national interest organization for the art, culture and heritage sector) and subsidy providers, such as the private and national cultural funds
- Expectations regarding the role of the authorities should be made explicit

The Minister requested that Kunsten '92 take the initiative in bringing together partners in the sector and facilitating the dialogue to inform the agenda. The Minister stated that the agenda should lead to:

- A code for good commissioning, good employership and good dealing with volunteers
- Measures for increasing the accessibility of training (including for the self-employed and life-long learning)
- The application and dissemination of knowledge of labour market laws and regulations.

### *Beginning the process*

Following the Minister's request, the sector began to organize itself and formalize the process of creating the agenda. A steering group for the agenda was formed, composed of representatives from:

- Culture Federation (Federatie Cultuur): Interest group for employers in the cultural sector
- Creative Industries Federation (Federatie Creatieve Industrie): Interest group for employers in the cultural industries
- Kunstenbond: Trade union for the cultural sector
- Kunsten '92: Interest group for the cultural sector (research, advocacy, dialogue)
- Academy of the Arts (Akademie van Kunsten)
- Ministry of Education, Culture and Science (OCW)
- Socio-Economic Council

- Cultural Council
- National cultural funds (Mondriaan Fund, Mondriaan Fund, Dutch Performing Arts Fund, Film Fund, Creative Industries Fund, Dutch Foundation for Literature and Cultural Participation Fund)

In June 2016, the Culture Federation and the Kunstenbond, on behalf of the steering group, requested that the Cultural Council and Socio-Economic Council advise them on concrete solutions to tackle the structural problems in the cultural sector labour market, to inform the drafting of the agenda. (This was an unusual request, since the councils typically provide advice only to the government.) The Minister requested that the councils, in their advice to the steering group, indicate what responsibilities should fall on the sector, government, subsidy providers (i.e. arts councils), and employers/clients.

In April 2016, the Cultural Council responded with the report "Passion rewarded: Strengthening the labour market in the cultural and creative sector." In their advice, the councils proposed possible solutions in four mutually-reinforcing areas:

#### 1. Increase earning capacity within the sector

- The sector should active seek to link up with other policy agendas, such as innovation, regional growth, participation and social cohesion, and international diplomacy and trade. Local and regional authorities should remove barriers between policy areas.
- The sector should develop a national platform for the purpose of collecting and making available knowledge about market stimulation. (Government could play a facilitating role.)
- Government should encourage investment in the sector through tax instruments and financing and incentive schemes, and promoting the reinvestment of economic value created in the sector.
- Copyright should be enforced.

#### 2. Improve the income security of workers

- The sector should develop a code of fair commissioning and employment practice and raise awareness of it. Fee guidelines should be developed where they do not exist yet. The government can support this process, and funders can refer to the code of fair practice and fee guidelines in their grant conditions.
- The government should investigate how collective bargaining for freelancers in the cultural sector can be reconciled with competition law. The government should give the sector freedom to experiment in order to investigate how this can work in practice, and what the effects are on prices and rates.

- If these measures do not sufficiently improve the position of self-employed workers in the sector, the government should investigate whether a minimum hourly rate for all self-employed workers without employees can be introduced and enforced.

### 3. Promote training and sustainable employability

- Agreements should be made between partners in the sector on the financing and scope of measures to promote training and sustainable employability. This can be done through collective agreements and employment contracts, as well as fee guidelines. It should also form a part of the code of fair employment and commissioning practice.
- Government should consider the idea of a "development account" for all workers: a personal budget for career development. The cultural sector could serve as a testing ground for this model.
- The sector should join together to create a platform that guarantees training provision, supports small organizations with human resources policy, and carries out labour market research in order to provide clear and reliable information about the labour market to the sector. (Government could provide financial support.)
- Intake in art educational programs should be regulated at the current level, and students should be provided with orientation during their studies in order to prepare themselves for the labour market, including the potential use of their skills in sectors other than the cultural sector.

### 4. Strengthen social dialogue

- Cooperation within the sector should be strengthened, so that the sector can speak with one voice. As much as possible, groups should join together following a federative model. The government (Ministry of Education, Culture and Science) could take the initiative to conduct a broad socio-economic dialogue with the sector once or twice a year.
- Sector partners should investigate the financing of an inclusive social dialogue, as well as the possibilities for a wider application of collective bargaining agreements in the sector.

The advice provided by the Council would heavily inform the drafting of the agenda.

## The agenda

In November 2017, the "Cultural and creative sector labour market agenda 2017–2023" was finally published. The stated mission of the agenda is to improve the labour market position of workers in order to contribute to "a sustainable, future-proof and flourishing cultural and creative sector in the Netherlands." The agenda is aimed at all workers in the sector, including

both subsidized and non-subsidized areas, and the agenda document emphasizes that subsidy policy alone cannot address the major issues within the sector. The agenda places the primary responsibility for its implementation on the sector itself, rather than on the government and its agencies.

The agenda consists of 21 points, grouped into three areas.

- (1) Structural social dialogue
- (2) Strengthening earning capacity
- (3) Improving working conditions

The agenda points were formulated through a series of dialogues among sector professionals, including representatives from various institutions, foundations and professional associations, government and government agency officials, artists, consultants and others. There were 70 participants in total.

Each point has a designated "booster," selected from among the participating organizations. The booster takes the initiative in "getting the ball rolling" on a specific agenda point, although several organizations are generally involved in and responsible for its implementation.

### *Structural social dialogue*

The concept of "social dialogue" is not widely familiar in North American contexts, but it is a common framework in Western European nations, and is promoted by the European Commission as well as the International Labour Organization as a procedure for the development of socio-economic policy. Social dialogue involves negotiation between "social partners" (employers, workers, and in some cases government), who come together to negotiate, consult or exchange information in areas of mutual concern.

A key part of the diagnosis made by the government and the councils was that the cultural sector lacks a structure for a strong social dialogue. The initiative of the labour market agenda itself addresses this issue by bringing partners together for a dialogue on issues facing the cultural labour market and strategies to overcome them, and it also includes several points specifically aimed at strengthening the social dialogue in the sector. The agenda points in this area include:

- 1.1 Start a structural social dialogue for the cultural and creative sector
- 1.2 Strengthen the social dialogue per subsector
- 1.3 Make a sector-wide Fair Practice Code
- 1.4 Increase unity among employers and clients
- 1.5 Increase unity among workers



- 1.6 Reduce the difference in risk-assumption between employees and the self-employed; treat both equally as ‘workers’

The agenda encourages workers on the one hand, and employers and clients on the other, to unite as much as possible “in a federative context,” so that each side can negotiate with a unified voice, and a consensus can be reached between the two sides, both on the sector-wide and subsector level.

### *Strengthening earning capacity*

The second focus of the agenda is on strengthening the earning capacity of the sector. This means, above all, increasing the income-generating capacity of workers, but also includes strengthening the capacity of institutions and commercial organizations to generate income, as some of the benefit of that is assumed to also go to workers. The agenda points in this area include:

- 2.1 Develop new investment models, earnings models and instruments
- 2.2 Remove bottlenecks in entrepreneurship laws and regulations
- 2.3 Strengthen the use of intellectual property rights
  - 2.3.1 Intensify the monitoring of compliance with copyright provisions
  - 2.3.2 Enforce copyright and facilitate legal use
  - 2.3.3 Develop strategies for exploitation of online intellectual property
  - 2.3.4 Follow up any improvement points from the planned evaluation of the Copyright Contract Law Act in 2020
- 2.4 Create a platform for market stimulation
- 2.5 Encourage commissioning with matching schemes from the government

In this area, government has a larger role to play, particularly in addressing bottlenecks in laws and regulations around entrepreneurship and providing incentives through matching schemes.

### *Improving working conditions*

The third focus is on improving the employment and contract conditions for workers, and includes initiatives to improve collective bargaining, social security, training and education, and contracting practices.

- 3.1 Explore collective labor agreements for all workers
- 3.2 Investigate financing options for social security, pension and education
- 3.3 Set up model rules for volunteer-, trainee- and internships

- 3.4 Set up a task force for Permanent Professional Development (i.e. lifelong learning)
- 3.5 Share knowledge and capacity in the area of human resources
- 3.6 Make good work and commissioning the norm and acknowledge the financial consequences
- 3.7 Think of an alternative to the unemployment benefit weeks requirement for the culture sector and speed up the chance of new work after dismissal
- 3.8 Explore the broad application of fee guidelines
- 3.9 Create space for making minimum rate agreements for freelancers
- 3.10 Support workers at specific points in their career

## Progress

In December 2017, following the publication of the labour market agenda, a foundation was set up to manage and distribute the funds for the implementation of the agenda. The foundation is called SMACC (Stichting Middel en Arbeidsmarktagenda Culturele en Creatieve Sector; or Resource Foundation for the Cultural and Creative Sector Labour Market Agenda). Kunsten '92, which had been given the responsibility for implementing the agenda, delegated that responsibility to SMACC, whose board consists of representatives from the Culture Federation, the Creative Industries Federation, the Kunstenbond and Kunsten '92.

Varying degrees of progress have been made on the agenda points—the official website of SMACC ([smacc.nl](http://smacc.nl)), which shares information on the implementation of the agenda, indicates that there is some progress on all of them, but none are considered complete. It is not possible here to take account of all of the actions that have been taken; instead, we will outline the most significant ones. Points that are skipped either have seen little progress or deal with issues specific to the Netherlands.

### *1.1 Start a structural social dialogue for the cultural and creative sector*

Between November 2018 and April 2019, a feasibility study was carried out for the creation of a “social secretariat” which would mediate and regulate dialogue between partners in the sector in order to facilitate agreements. This resulted in a proposed design with a timeline for implementation: The social secretariat is set to be established in early 2020. The responsibility for directing the implementation of the agenda (taken over from the steering group) will belong to the same organization, which has already been established under the name PACCT (Platform Arbeidsmarkt Culturele en Creatieve Toekomst; or Platform for the Future Cultural and Creative Labour Market).

### 1.3 Make a sector-wide Fair Practice Code

The Fair Practice Code was already under development before the labour market agenda was published. The first version of the Fair Practice Code was released in the fall of 2017, and a second version was released in January 2019, along with a website ([fairpracticecode.nl](http://fairpracticecode.nl)). At the first work conference for the labour market agenda in January 2019, the Fair Practice Code 2.0 was reportedly widely embraced, both by government and sector organizations. Several municipalities, along with the Minister of OCW, indicated that they wanted to make compliance with the code a future subsidy condition. It has since been adopted by the government as a condition for the receipt of Basic Infrastructure funding granted to major cultural institutions.

The Fair Practice Code is intended to complement the two existing codes of practice in the sector: the Culture Governance Code and the Cultural Diversity Code, adherence to both of which is prerequisite to receiving government subsidies. The code outlines responsibilities of both workers and employers/clients, including specific requirements (such as adherence to collective agreements and fee guidelines) and general principles. The points are organized under five principles or values, whose content can be summarized as follows:<sup>7</sup>

- Solidarity: Fair remuneration, adherence to collective agreements and fee guidelines, fair treatment of volunteers and interns, and a general principle of contributing to the promotion of collective interests
- Transparency: Transparent operational management, accountability with respect to applying the principle of the Code (“apply and explain”), and sharing of knowledge and expertise
- Sustainability: Responsibility of employers/clients to invest in the development of workers by employers/clients, offer evaluation, and prevent mental/physical overburdening
- Diversity: Responsibility of all parties to work towards greater inclusivity, including in audiences, programmes, personnel, and policy-making process, and including adapting employment conditions and organizational structure to accommodate if necessary
- Trust: Provisions on tailored approaches, quality, acknowledgement, and dispute resolution

In May 2019, the report “Towards the new normal” was published, outlining the projected costs of implementing the Fair Practice Code. The total cost was estimated at €25 million, with €20.1 million falling on government-subsidized institutions. Slightly less than half of these additional costs consist of compensation for unpaid structural overtime, and more than half consist of compensation for inadequate remuneration (compared to an existing collective labor

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<sup>7</sup> The full Code can be viewed here: [fairpracticecode.nl/en/fair-practice-code](http://fairpracticecode.nl/en/fair-practice-code)

agreement or fee guideline). The matter of who will bear these costs is currently being debated, with the Minister having suggested that the costs should be borne exclusively by the sector, and Kunsten '92, the “booster” for this agenda item, arguing that government support is needed, otherwise cultural institutions will have to significantly cut down the scope of their activities.

### *1.5 Increase unity among workers*

This agenda point has been addressed through the formation of the Creative Coalition, which was founded in September 2019. The “booster,” in this case, was the Kunstenbond, which is one of 22 workers’ associations and interest groups that make up the coalition. The purpose of the Coalition is to enable workers in the sector to come to consensus, negotiate collectively, and speak with one voice, whether with employers and clients or with government, and thereby strengthen their negotiating position. The coalition also serves as a platform for information exchange and knowledge sharing among various workers’ organizations.

### *2.1 Develop new investment models, earnings models and instruments*

The initiative on this agenda point is being taken by Cultuur+Ondernemen (C+O), an organization that provides business advice, mentoring, and training to cultural entrepreneurs and organizations, and has a financing fund. Prior to the publication of the agenda, C+O had been conducting research on business models in the cultural sector, which it published in November 2017 as “Entrepreneurship 2.0: Strategies of successful cultural organizations in focus.” C+O is currently carrying out further research on this point.

### *2.4 Create a platform for market stimulation*

The Youth Cultural Passport Foundation has taken the lead on exploring options for a platform for sector-wide market stimulation. The initial research phase began in fall of 2019, and results are to be announced by September 2020.

### *3.1 Explore collective labor agreements for all workers*

This agenda point is also in the research phase. An inventory of collective agreements in the cultural sector has been created, with the initiative taken by the Dutch Association for the Performing Arts.

### *3.3 Set up model rules for volunteer-, trainee- and internships*

Research is being carried out on the proportion of volunteers, trainees and interns in the sector, particularly to determine whether there was an increase since the 2011 funding cuts.

### *3.4 Set up a task force for Permanent Professional Development*

This agenda point was led by the director of the Utrecht School of the Arts, then taken over by a member of the sectoral advisory board on higher education in the arts. On this point, research was first conducted on the supply and demand for training in the sector. Design sessions were then held which identified needs and obstacles and proposed solutions, which were then presented at the work conference for the Labour Market Agenda in January 2019. Following this, various solutions were tested through pilot projects (this is currently ongoing). In June 2019, funding of €15 million from the Ministry of Culture, Education and Science was secured for the provision of permanent professional development in the sector.

### *3.8 Explore the broad application of fee guidelines*

The aim of this agenda point is to determine whether and how fee guidelines can be created and applied in sectors which do not already have them. Research on existing fee guidelines was carried out, which sought to answer the following questions:

- Where are there fee guidelines in place, and how did they arise?
- What are the similarities and differences between the guidelines between the processes by which they were developed?
- Is the application of the guidelines being monitored? How? What are the (provisional) results?
- What are the effects on the income of the target group?
- What do parties in the sector think of the fee guidelines?

The results were then shared at the first work conference, after which point a follow-up study was initiated, with another set of questions:

- In which sectors do fee guidelines work, and in which do they (probably) not?
- What are the weaknesses, strengths, opportunities, and threats of the introduction of fee guidelines in the various sectors, also in relation to existing employment conditions schemes?
- What are the most important points for attention when drawing up guidelines?
- How is the application and efficiency best monitored?

A final report is expected in 2020. The initiative was taken by the Performing Arts Fund.

### *3.9 Create space for making minimum rate agreements for freelancers*

The Kunstenbond has taken the initiative on exploring the possibility of making minimum rate agreements as part of collective agreements between self-employed cultural workers and their clients. The Dutch competition authority had previously taken the position that stipulating minimum rates in a collective agreement between self-employed workers and clients is against

European regulations on competition. The Social-Economic Council and the Cultural Council had argued that the cultural sector did not exhibit “normal” market behavior and should be excepted from the general application of competition law. This argument was accepted by the government through a motion adopted in the House of Representatives in November 2017. The Ministry of Culture, Education and Science then requested that the Kunstenbond carry out a study into the views of the sector with respect to collective bargaining and what would need to change to accommodate the needs of cultural workers.

In mid-2019, the competition authority reversed its position and indicated that an exception could be approved for the sector. The Kunstenbond, in collaboration with other organizations involved in the Labour Market Agenda, responded with a proposal that flexibility be provided to allow for experimentation with collective agreements in order to test their effectiveness. The Kunstenbond proposed that, if collective agreements do not succeed in improving self-employed cultural workers’ incomes, the Ministry of Culture, Education and Science should be empowered to set minimum rates. A draft bill was put forward for consultation in October 2019 which proposed a uniform minimum rate of €16/hour for self-employed persons in all sectors, as well as measures to prevent bogus self-employment. The Kunstenbond responded to the proposed bill with several criticisms, particularly that it did not allow for collective agreements on minimum rates.

## Visual Artists' Workspace Scheme (Ireland)

### Summary

The Irish Arts Council created the Visual Artists' Workspace Scheme in 2010, following the recommendations of a review of visual artists' workspaces in Ireland. The review recommended that the Arts Council increase its support for visual artists' workspaces, and offer minor capital funding, in addition to several other recommendations. In response, the Arts Council created the scheme, which, in its current version, awards grants of up to €40,000 to established workspaces that accommodate at least four artists. 20% of this amount may go toward minor capital costs such as maintenance and improvements. In 2020, the Arts Council provided a total of €260,000 to 18 different workspaces. In publicly available documents, there is no indication of a review of the program or of an ongoing monitoring process.<sup>8</sup>

### Background

In 2007, The Arts Council, Ireland's national independent arts grant-making body, commissioned a review of visual artists' workspaces (including shared production facilities, residency workspaces, and studio spaces) in the country, which was delivered in 2009.

The review limited its scope to facilities that provided space to at least three individual artists, residencies and retreats that accommodate one or more artists at a time, and local authority venues that include one or more studios or provide production space for visual artists (e.g. a print studio). Thus, the focus of the review (and of the funding program that resulted from it) was on facilities that served the specific function of providing space for artists to work in, and that accommodated multiple artists either simultaneously or serially, rather than individual, isolated artist studios or home workspaces.

#### *Benefits of supporting artists' workspaces*

The review noted the several needs of artists for which workspaces provide, beyond simply space to create work, including:

- Career development
- Networking
- Research and development
- Access to shared resources

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<sup>8</sup> Regrettably, the Arts Council did not respond to requests for further information on the scheme.

- Reflection
- Self-study

It was also noted that workspaces provide numerous public benefits, including:

- Enhancing national and local identity as a cultural and creative place
- Community engagement
- Urban regeneration
- Promotion of diversity and integration
- Generation of employment and economic activity
- Contribution to the development of the cultural and creative industries

The review also noted the positive contributions that artists' workspaces make to the overall arts ecosystem, outside of providing space for artists to work: 90% of the workspaces covered by the study provided professional development opportunities, and 80% engaged in public outreach activities.

#### *Findings on the state of artists' workspaces and current support*

The review noted that recent investments in cultural infrastructure had focused on venues for performance and exhibition at the expense of workspace, and that an urban development boom had resulted in a reduction in the number of dedicated artists' workspaces. It also noted shortfalls in the quality of workspaces in Ireland, with workspaces frequently reporting problems including struggles to meet costs, inadequate staffing, and poor physical state of buildings. Financial sustainability was also a major issue: Nearly half reported that their existing revenue sources would be insufficient to maintain the workspace into the future.

At the time the review was conducted, the Arts Council was already acting as the principal source of external support for visual artists' workspaces in Ireland (local authorities also provided crucial support), but did not have a specific funding stream for them. In 2008, the Arts Council allocated €1.8 million to 22 organizations that specifically provided workspace for visual artists (this figure may include funding for activities other than workspace provision). However, the Arts Council did not have a specific funding program for artists workspaces, and did not provide any capital funding, restricting its ability to provide direct support for improvement of the physical quality and facilities of workspaces.

#### *Jurisdictional comparison*

The review also included case studies of comparator jurisdictions (England, Scotland, Northern Ireland, and the Netherlands). Key findings from these case studies included:



- The benefit of having large-scale workspace providers with greater funding and capacity, who can act as both landlords and developers (such as ACME in England and WASPS in Scotland)
- The importance of protecting and promoting artist-run models of workspace provision
- The benefit of coordination between central, regional and city governments and councils in enabling sustainable, long-term workspace provision

The review also found that important efforts were being made in other jurisdictions to establish organizations to lobby on behalf of the sector for better policy to support workspace provision, as well as share information and expertise among providers.

### *Recommendations*

The review included a framework for a policy on workspace support, with recommendations for local authorities and the Arts Council of Ireland. Measures suggested to the Arts Council included:

#### 1. Maintaining and improving existing space

- Continuing annual funding
- Providing ‘seed’ funding for new and recently established workspaces
- Introducing a minor capital funding scheme

#### 2. Advocacy

- Acting as an advocate to stimulate, coordinate, and advise on investment by potential partners
- Producing information/advice products to provide to both artist groups running or planning to start a workspace, and to local authorities and private owners who wish to become providers
- Studying the feasibility of offering assistance in purchasing real estate for artists’ workspace

#### 3. Partnership development

- Promoting and supporting development of partnerships between the Arts Council, local authorities, local development agencies, artists’ groups, and property owners and developers, through advocacy, dissemination of information, research, and capacity building among artist groups

Additional recommendations were made to local authorities, sector organizations and other actors.

### *Creation of the scheme*

In response to the review, the Arts Council drafted a policy on visual artists workspaces, which was published in June 2010. It set out the objective of supporting workspace infrastructure so that supply meets demand, while ensuring that the infrastructure is safe, secure, accessible and sustainable.

The policy lays out six strategies to achieve these objectives:

1. Fund visual artists' workspaces in a way that is sensitive to the dynamics and diversity of the sector.
2. Work towards improving the standards of visual artists' workspaces.
3. Work towards improved security of tenure for visual artists' workspaces.
4. Pursue opportunities to establish new purpose-built workspaces.
5. Ensure that there is an advocate/champion for visual artists' workspaces.
6. Provide skills and advice to those establishing visual artists' workspaces.

The Arts Council made a commitment to creating a new Workspace Grant — a non-recurring grant awarded on an annual basis with a value of up to €30,000 (now €40,000). It also created a minor capital grant program, which was ultimately incorporated into the Workspace Grant.

The Arts Council also pledged to act as an advocate for the needs of the sector and to work with partners toward promoting greater security of tenure for existing spaces (through e.g. ownership rather than lease models, local authority ownership) and establishing new purpose-built spaces. It also pledged to act as a source of advice for existing and new workspaces, and potential partners in workspace provision.

## **The scheme**

The scheme offers grants up to a maximum value of €40,000 to workspace providers. Grants are annual, meaning providers must re-apply each year to continue receiving funding. Funding from the program is principally intended to be used for running costs such as light, heat, rent, artists' development programmes, administration and/or appropriate salary costs. Up to 20% of the value of the grant can be put toward minor capital investment, such as equipment and physical improvements to the space.

Organizations that provide programming in addition to workspace are eligible to apply for separate funding for those activities. Workspaces must support at least four professional

artists working on site. Therefore, the program does not support single-artist residencies, but may support shared production facilities). Applicants must already have an established workspace, therefore the program does not provide start-up funding.

Applicants must submit:

- A copy of their tenancy agreement for the workspace
- Images of the space
- Highlights of the activities of member artists
- CVs of those who oversee or manage the space
- A list of the facilities available to members
- A description of shared resources or developmental services available to members
- A detailed budget
- Documentation of any financial assistance
- A mission statement
- A detailed written proposal and summary
- Information on occupancy management
- Explanation of why the workspace is needed in its particular locality

In 2020, the total amount of funding awarded through the program was €260,000, which was distributed between 18 workspaces. Grant amounts ranged from €2,000 to €32,000. In 2011, by comparison, the total funding awarded was €349,000, with 19 recipients, and in 2016, the total was €185,000, with 14 recipients.

There is no publicly available documentation of a review of the program, or information on how its effectiveness is monitored.