

Introduction

In order to comply with the Code of Practice for the Governance of State Bodies 2016 the Chairperson of the Irish Fiscal Advisory Council (the Fiscal Council) will be obliged to confirm to the Minister for Finance that a number of control functions are carried out by the Fiscal Council including the issuing of a Code of Conduct for council members and employees, and that they are being adhered to.

This Code of Conduct sets out in writing the agreed standards of principle and practice which inform the conduct of the Fiscal Council. It underscores the commitment of council members and employees to the highest standards of business conduct and has been prepared to assist council members and employees in understanding their duties, rights and obligations as persons connected with the Fiscal Council. The Code is binding and requires that each member of the council and staff are familiar with it.

The purpose of the Code of Conduct is to:

- Establish an agreed set of ethical principles;
- Promote and maintain confidence and trust;
- Prevent the development or acceptance of unethical practices; and
- To meet requirements under the Code of Practice for the Governance of State Bodies (2016).

All members of the council and staff should observe the following general principles and procedures:

Integrity

Council members and employees shall:

- Avoid giving or receiving of corporate gifts, hospitality, preferential treatment or benefits which might affect or appear to affect their own or the recipient's ability to make independent judgement on business transactions;
- Ensure that the conduct of purchasing activities of goods/services shall be in accordance with best business practice and satisfy current EU and national procurement rules;
- Ensure that claiming of expenses is strictly appropriate to business needs and in accordance with good practice in the public sector generally;
- Ensure that annual report and financial statements accurately reflect income, expenditure and transactions, and are not misleading or designed to be misleading;
- Ensure that the Fiscal Council resources or time are not used for personal gain, for the benefit of persons/organisations unconnected with the body or its activities;
- Not acquire information or business secrets by improper means.

Code of Conduct

Loyalty

Council members and employees shall acknowledge the responsibility to be loyal to the Fiscal Council and fully committed in all its activities while mindful that the organisation itself must at all times take into account the interests of its stakeholders.

Fairness

Council members shall ensure that the Fiscal Council:

- Complies with employment equality and equal status legislation;
- Is committed to fairness in all business dealings;
- Values clients/stakeholders and treats all clients/stakeholders equally.

Work/External Environment

The Council shall:

- Promote the development of a culture of 'speaking up' whereby employees can raise concerns regarding serious wrongdoing in the workplace without fear of reprisal.
- Place highest priority on promoting and preserving the health and safety of employees;
- Ensure that community concerns are fully considered;
- Minimise any detrimental impact of the operations on the environment.

Responsibility

- This Code of Conduct will be circulated to all council members and staff for their retention;
- Management will provide explanation, practical guidance and direction on such areas as gifts and entertainment and other ethical considerations which may arise;
- Each council member and staff member is requested to sign a Declaration of Understanding that they have read and noted the Code of Conduct. When signed, the Declaration of Understanding is to be returned to the Fiscal Council Administrator for record purposes.

Conflicts of Interest

- Council members shall comply with the obligations outlined in Section 5 of the Code of Practice for the Governance of State Bodies (Appendix A);
- Council members shall comply with the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 (Appendix B);
- On appointment to the Council, and at any time thereafter, each member should furnish to the Secretary details relating to his/her employment and all other business interests including shareholdings, professional relationships etc., which could involve a conflict of interest or could materially influence the member in relation to the performance of his/her functions as a member of the Council.
- Employees shall avoid outside business interests in conflict or potential conflict with the business of the Fiscal Council, and if such interests occur they must be disclosed.

Information

Council members and employees shall:

- Ensure that they maintain the confidentiality of all information obtained by virtue of their position;
- Comply with Section 8 of the Fiscal Responsibility Act on the Prohibition on the Disclosure of Confidential Information;
- Support the provision of access by the body to general information relating to the Fiscal Council's activities in a way that is open and enhances its accountability to the general public;
- Respect the confidentiality of sensitive information held by the Fiscal Council. This would constitute material such as:
 - Information received in confidence;
 - Commercially sensitive information;
 - Personal information.
- Observe appropriate prior consultation procedures with third parties where, exceptionally, it is proposed to release sensitive information in the public interest;
- Comply with relevant statutory provisions (e.g. data protection legislation, Freedom of Information legislation and Protected Disclosures legislation).

These obligations do not cease when council membership or employment has ended. Former council or staff members should dispose of any documentation they hold relating to the business of the Fiscal Council.

Obligations

Council members and employees shall:

- Fulfil all regulatory and statutory obligations imposed on the organisation;
- Ensure that the Fiscal Council is compliant with tendering and purchasing procedures, as well as complying with prescribed levels of authority for sanctioning any relevant expenditure;
- Introduce controls to prevent fraud including adequate controls to ensure compliance with prescribed procedures in relation to claiming of expenses for business travel;
- Conform with procedures laid down by the Council in relation to conflict of interest situations, including in regard to acceptance of positions following employment and/or engagement by a State body that may give rise to the potential for conflicts of interest and to confidentiality concerns;
- Acknowledge the duty of all to conform to highest standards of business ethics;
- Council members shall use all reasonable endeavours to attend all Council meetings.
- Co-operate with internal audit in the internal audit process.

Created, Reviewed and Approved

This Code will be reviewed annually by the Council.

Created, January 2014

Reviewed, January 2015

Reviewed, June 2016

Reviewed, March/April 2019

Appendix A: Disclosure of Interests by Board and Committee Members under the Code of Practice for the Governance of State Bodies

In addition to the legal requirements under the Ethics in Public Office Acts, the following procedures should be observed:

- i. On appointment and annually thereafter, each Board member should furnish to the Secretary of the Board or other nominated person a statement in writing of:
 - a) The interests of the Board member;
 - b) The interests, of which the Board member has actual knowledge, or his or her spouse or civil partner, child, or child of his/her spouse or civil partner.

Which could materially influence could materially influence the Board member in, or in relation to, the performance of his/her official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the Board member, or the spouse or civil partner or child, a substantial benefit.

For the purposes of this disclosure, interests has the same meaning as that contained in the Ethics in Public Office Act 1995. The statement of interests form used for annual statements under the 1995 Act could be utilised for this purpose on an administrative basis. Where the Board member is also a designated director for the purposes of the Ethics Acts, the annual statement of interests furnished in January each year under section 17 of the Ethics in Public Office Act 1995 will suffice for the purposes of the annual disclosure of interests under this Code

- ii. In addition to the periodic statements of interest required under (i) above, Board members are required to furnish a statement of interest at the time where an official function falls to be performed by the Board member and he/she has actual knowledge that he/she, or a connected person as defined in the Ethics Acts, has a material interest in a matter to which the function relates. For the purposes of this disclosure, material interests has the same meaning as that contained in the Ethics in Public Office Act 1995.
- iii. If a member has a doubt as to whether this Code requires the disclosure of an interest of his/her own or of a connected person, that member should consult the Chairperson.
- iv. Details of interests disclosed should be kept by the Secretary to the Board in a special confidential register and should be updated on an annual basis. Changes in the interim should be notified to the Secretary as soon as possible by members. Only the Chairperson, Secretary and Chief Executive of the body should have access to the register.
- v. Where a matter relating to the interests of the Chairperson arises, he/she should depute the Deputy Chairperson or another Board member to chair the Board meeting and should absent himself/herself when the Board is deliberating or deciding on a matter in which the Chairperson or a person or body connected with the Chairperson has an interest.
- vi. Board or State body documents on any deliberations regarding any matter in which a Board member has disclosed a material interest should not be made available to the member concerned.
- vii. As it is recognised that the interests of a Director and persons connected with him/her can change at short notice, a Director should, in cases where he/she receives documents relating

Code of Conduct

to his/her interests or of those connected with him/her, return the documents to the Secretary at the earliest opportunity.

- viii. A Board member should absent himself/herself when the Board is deliberating or deciding on matters in which that member (other than in his/her capacity as a member of the Board) has declared a material interest. In such cases a separate record (to which the Board member would not have access) should be maintained. (NB. Board Members who are designated directors should note the separate requirements under the Ethics in Public Office Acts 1995 and 2001 regarding a 'material interest').
- ix. Where a question arises as to whether or not an interest declared by a Board member is a material interest, the Chairperson of the Board should determine the question as to whether the provision of this Code apply. Where a Board member is in double as to whether he or she has an obligation under the Ethics in Public Office Acts 1995 and 2001, he or she should seek advice from the Standards in Public Office Commission under section 25 of the Ethics in Public Office Act 1995.
- x. Board members should not retain documentation obtained during their terms as a Board member and should return such documentation to the Secretary or otherwise indicate to the Secretary that all such documentation in their possession has been disposed of in an appropriate manner. In the event that former Directors require access to Board papers from the time of their term on the Board, this can be facilitated by the Board Secretary.

Appendix B: Ethics in Public Office

Obligations under the Ethics legislation

All those who hold designated directorships (Board Memberships) or occupy designated positions of employment in public bodies, prescribed by regulation for the purposes of the Ethics legislation (i.e. the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001), must comply with the relevant provisions of the legislation. Compliance with the Ethics Acts is deemed to be a condition of appointment or employment. While the summary below is provided for information, detailed guidelines on compliance with the Ethics Acts has been published by the Standards in Public Office Commission (the Standards Commission) on their website <http://www.sipo.gov.ie>.

All persons who have obligations under the Acts are obliged to act in accordance with the guideline and any advice given by the Standards Commission, unless by so doing they would be contravening other provision of the legislation.

Disclosure of Registrable Interests

The Ethics in Public Office Act 1995 provides for the disclosure of registrable interests by holders of designated Board memberships and occupiers of designated positions of employment in public bodies prescribed for the purposes of the Ethics legislation.

Briefly, the requirements are:

Designated Directors

Are required in each year, during any part of which they hold or held a designated Board membership of a public body, prescribed by regulations made by the Minister for Public Expenditure and Reform, to prepare and furnish, in a form determined by the Minister, a statement in writing of their registrable interests, and the interests, of which a person has actual knowledge, of his or her spouse or civil partner, a child of the person's spouse or civil partner, which could materially influence the person in, or in relation to, the performance of the person's official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the person, his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, a substantial benefit. The statement must be furnished to (the Standards Commission and to such an officer of the body as determined by the Public Expenditure and Reform. Where no registrable interest or interests exist, no statement is required.

Designated Positions of Employment

Are required in each year, during any part of which they occupy or occupied a designated position of employment in a public body, prescribed by regulations made by the Minister for Public Expenditure and Reform, to prepare and furnish, in a form determined by the Minister, a statement in writing of their registrable interests, and the interests, of which a person has actual knowledge, of his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, which could materially influence the person in, or in relation to, the performance of the person's official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the person, his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, a substantial benefit. The statement must be furnished to the relevant authority for the position as determined by the Minister for Public Expenditure and Reform. Where no registrable interest or interests exist, no statement is required.

Material Interests

The holder of a designated Board membership or the occupier of a designated position of employment is required to furnish a statement of a material interest where a function falls to be performed, and where the Board member or the employee or a “connected person” (e.g. a relative or a business associate of the Board member or employee) has a material interest in a matter to which the function relates. Such a statement must be furnished to the other Board members of the public body by a designated Board member or to the relevant authority by the occupier of a designated position of employment. The function must not be performed unless there are compelling reasons to do so. If a designated Board member or the occupier of a designated position of employment intends to perform the function, he or she must, either before doing so, or if that is not reasonably practical, as soon as possible afterwards, prepare and furnish a statement in writing of the compelling reasons to the other Board members and to the Standards in Public Office Commissions if a designated Board member, or to the relevant authority if an employee. This obligation applies whether or not the interest has already been disclosed in a statement of registrable interests.

Tax Clearance obligations of appointees to “senior office”

The tax clearance provisions of the Standards in Public Office Act 2001 apply to persons appointed to “senior office”, i.e. to a designated position of employment or to designated Board membership in a public body under the 1995 Ethics Act, in relation to which the remuneration is not less than the lowest remuneration of a Deputy Secretary General in the civil service. All persons appointed to designated Board membership “senior office” must provide to the Standards in Public Office Commission not more than nine months after the date on which he or she is appointed:

- a tax clearance certificate that is in force and was issued to the person not more than nine months before, and not more than nine months after, the appointment date; or
- an application statement that was issued to the person and was made not more than nine months before, and not more than nine months after, the appointment date; and
- a statutory declaration, made by the person not more than one month before, and not more than one month after, the date of appointment, that he or she, to the best of his or her knowledge and belief, is in compliance with the obligations imposed on him or her by the Tax Acts and is not aware of any impediment to the issue of a Tax Clearance Certificate.

Investigations

The Board and employees in public bodies can be subject to an investigation by the Standards Commission, either where it considers it appropriate to do so, or following a complaint, or where there is contravention of the tax clearance requirements, and there is nothing that precludes the Standards Commission from taking into account this Code of Practice in such an investigation.

Additional information and advice

This appendix is provided for information purposes only and does not constitute a legal interpretation of the Ethics Acts. Requests for advice on compliance should be referred to the Standards Commission’s guidelines. Requests for advice on compliance with the legislation should be referred to the Standards Commission.