

## Policy Statement on Disclosure of Interests by members

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### Version History

Date	Revision level	Details of amendment	Approval signature
17 May 2018	001	Updated to refer to the Code of Practice 2019	
29 Feb 2024	002	LMETB updated to reference the current ETB Code of Governance for ETBs Circular letter 0002/2019 as per IAU recommendations	

**Section 5 of The Code of Practice for the Governance of ETBs Circular LETTER 002/2019** states: 'To ensure continued integrity and transparency, and to avoid public concern or loss of confidence, the Board should ensure that appropriate policies are in place so that members and staff take decisions objectively and steps are taken to avoid or deal with any potential conflicts of interest, whether actual or perceived. These policies should ensure that any potential or actual conflicts of interest arising in the case of decision making by board members and employees of the ETB are addressed. The Ethics in Public Office Acts 1995 to 2001 set out statutory obligations which apply to board members and employees separately from the provisions of this Code. The Protected Disclosures Act 2014 provides a statutory framework within which workers can raise concerns regarding potential wrongdoing that has come to their attention in the workplace.'

<https://circulars.gov.ie/pdf/circular/education/2019/02.pdf>

### **Ethics legislation**

The Ethics in Public Office Act 1995 provides for the disclosure of registerable interests by holders of designated directorships in public bodies prescribed for the purposes of the Ethics legislation.

Designated Directors must, in each year, during any part of which they hold or held a designated directorship of a public body, prescribed by regulations made by the Minister for Finance, designated directors are required to prepare and furnish, in a form determined by the Minister for Finance, a statement in writing of their registerable interests, and the interests, of which a person has actual knowledge, of his or her spouse or a child of the person or of his or her spouse, 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, or the spouse or child, a substantial benefit. The statement must be furnished to the Standards in Public Office Commission (the Standards Commission) and to such an officer of the body as determined by the Minister for Finance. Where no registerable interest or interests exist, a 'nil' statement should be made.

The holder of a designated directorship is required to furnish a statement of a material interest where a function falls to be performed, and where the director or a "connected person" (e.g., a relative or a business associate of the director) has a material interest in a matter to which the function relates. Such a statement must be furnished to the other directors of the ETB by a designated director. The Commission will provide advice and publish mandatory procedures concerning steps to be taken by designated directors (among others) to ensure compliance with the Act. Where a person who holds a designated directorship in a State body is advised by the Commission, or it appears from guidelines published by the Commission that his/her interest or the interest of a connected person should be disclosed, that person must make an appropriate statement to the relevant authority in the State body.

The Standards Commission publishes the "Guidelines on Compliance with the Provisions of the Ethics in Public Office Acts 1995 and 2001 - Public Servants" that provides information on the steps that public servants who are covered by the Ethics legislation need take in order to comply with the requirements of the legislation. The designated directorships in public bodies, as prescribed for the purposes of the Ethics legislation, the forms for preparing statements of registerable interests and 'nil' statements, and details of the officers of the body and the relevant authorities to whom such statements should be furnished are also provided in the Standards Commission's "Guidelines", available on its website: <https://www.sipo.ie/>

### **Education and Training Boards Act 2013**

The provisions of paragraph 10 of Schedule 3 of the Education and Training Boards Act 2013 apply where a member has a pecuniary interest or other beneficial interest in, or material to any of the following matters arising at a board meeting:

- (a) an arrangement to which the board is a party,
- (b) an arrangement to which the board proposes to become a party,
- (c) a contract or other agreement with the board, or
- (d) a proposed contract or other agreement with the board.

Any member of the board present at the meeting referred to in subparagraph (1) who has a pecuniary interest or other beneficial interest in, or material to, the matter shall:

- (a) Disclose to the board at the meeting if the fact of that interest and its nature,
- (b) Not influence (or seek to influence) a decision to be made in relation to the matter,
- (c) Absent himself or herself from the meeting or that part of the meeting during which the matter is being discussed,
- (d) Take no part in any deliberation of the board relation to the matter, and
- (e) Not vote on a decision relating to the matter.

<https://www.irishstatutebook.ie/eli/2013/act/11/enacted/en/html>

### **The Code of Practice for the Governance of ETBs**

This matter is further dealt with in Section 5 of The Code of Practice for the Governance of ETBs  
Circular letter 0002/2019

5.1 **Codes of Conduct:** All ETBs should have separate written codes of conduct for members and employees. The Codes should be prepared via a participative approach and should be approved by the Board. The Codes of Conduct for Board Members and members of staff should be made available on the ETB's website and all members made aware of its importance and availability.

5.2 **Scope of Application:** Codes of Conduct should contain a description of the nature, intent and scope of their application and a statement of the guiding principles and obligations.

5.3 **Compliance Requirements:** Codes of Conduct should refer to the need for members and staff to comply with any relevant legislative and regulatory requirements. It should set out procedures for addressing conflicts of interest and potential conflicts of interest.

5.4 **Ethics in Public Office:** Each member of the Board of an ETB and each person holding a designated position of employment within an ETB must comply with the relevant provisions of the Ethics in Public Office Act, 1995 and the Standards in Public Office Act, 2001. Appendix 5 contains an outline of the obligations under the above Acts)

5.5 **Conflicts of Interest:** The Code of conduct should set out procedures for addressing conflicts of interest. The Code should recommend that the acceptance of further employment where the potential for conflict of interest arises should be avoided during a reasonable period of time after the

exercise of a function in the ETB has ceased. This should be brought to the attention of Board Members on their appointments to the Boards.

5.6 **Non-disclosure of information:** The Code should make clear that certain ethical obligations to the ETB regarding, in particular, the non-disclosure of privileged or confidential information do not cease when Board membership or employment in the ETB has ended. This should be brought to the attention of employees and of Board members on their appointment to the Board. Former Board members should treat commercial information received while acting in that capacity as confidential.

5.7 **Document Retention:** Board members should not retain documentation obtained during their terms as board member and should return such documentation to the administrative support for the Board or otherwise indicate that all such documentation in their possession has been disposed of in an appropriate manner in line with relevant legislation including GDPR. In the event that former board members require access to board papers from the time of their term on the board, this can be facilitated by the administrative support.

5.8 The Board should regularly review the operation of the Code of Conduct for the Board Members and Staff.

5.9 Framework Codes of Conduct are provided in Appendices 9(a) and 9(b). 25 Additional Disclosure of Interests by Board Members Code Provisions

5.10 Disclosures of interests by board members:

**i) Periodic Disclosure of Interest:** On appointment and annually thereafter, each board member should furnish to the Chairperson a statement in writing of:

- 1) the interests of the board member;
- 2) interests of which the board member has actual knowledge; of his her spouse or civil partner, child or child of his/her spouse or civil partner; which could materially influence the board member in, or in relation to, the performance or 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 purpose 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.

**ii) Disclosure of interest relevant to a matter which arises:** In addition to the periodic statements of interest required under (i) above, Board members are required to furnish a written 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) Doubt:** If a Board member has a doubt as to whether an interest should be disclosed pursuant to this Code, he/she should consult with the Chairperson of the Board and/or the nominated person in the ETB for dealing with such queries.

**iv) Confidential Register:** Details of interests disclosed under this Code should be kept by the administrative support to the Board or other nominated person in a special confidential register. Access to the register should be restricted to the Chairperson and senior administrative support person to the Board and other members of the ETB executive and board members on a strictly need to know basis.

**v) Chairpersons' Interests:** Where a matter relating to the interests of the Chairperson arises, the other members attending the meeting shall choose one of the members present at the meeting to chair the meeting. The Chairperson should absent himself/herself when the Board is deliberating or deciding on a matter in which the Chairperson or his/her connected person has an interest.

**vi) Documents Withheld:** Board documents on any deliberations regarding any matter in which a member of the Board has disclosed a material interest should not be made available to the Board member concerned.

**vii) Early Return of Documents:** As it is recognised that the interests of a Board member and persons connected with him/her can change at short notice, a Board member should, in cases where he/she receives documents as part of the work of the Board relating to his/her interests or of those connected with him/her, return the documents to the senior administrative support person of the Board at the earliest opportunity.

**viii) Absent:** A 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 consideration should be given as to whether a separate record (to which the board member would not have access) should be maintained.

**ix) Uncertainty:** 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 provisions of this Code apply. Where a Board member is in doubt 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.

ENDS



