



**PROBATION BOARD FOR NORTHERN IRELAND**

**CODE OF CONDUCT AND PRACTICE FOR MEMBERS**

**SEPTEMBER 2014**

# CODE OF CONDUCT AND PRACTICE FOR MEMBERS OF THE PROBATION BOARD FOR NORTHERN IRELAND

## 1. Introduction

1.1 This Code of Conduct and Practice for Members of the Probation Board for Northern Ireland governs the behaviour and actions of the Board. It is the responsibility of Members to ensure that they are familiar with, and comply with, all the relevant provisions of the Code. The Board, which is a Non-Departmental Public Body, was established by the Probation Board (Northern Ireland) Order 1982 (hereafter called "the 1982 Order").

## 2. Key Principles of Public Life

2.1 The key principles on which this Code is based are the Seven Principles of Public Life. These are:

- Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- Openness – Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public.
- Leadership – Holders of public office should promote and support these principles by leadership and example.
- Selflessness – Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain

financial or other material benefits for themselves, their family, or their friends.

- Integrity – Holder of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- Objectivity – In carrying out public business, including making public appointments, awarding contracts , or recommending individuals for rewards and benefits, holders of public office should make choices on merits.

### 3. **General Conduct**

3.1 The Board has corporate responsibility for ensuring that the public body fulfils the aims and objectives set by the sponsor department and approved by the Minister, and for promoting the efficient, economic and effective use of staff and other resources by the body.

3.2 To this end, and in pursuit of its wider corporate responsibilities, the Board and its Members shall:

- establish the overall strategic direction of the body within the policy and resources framework determined by the sponsor Minister, the Minister of Justice and department, the Department of Justice (DOJ)
- constructively challenge the body's executive team in their planning, target setting and delivery of performance
- ensure that the sponsor department is kept informed of any changes which are likely to impact on the strategic direction of the body or on the attainability of its targets, and determine the steps needed to deal with such changes
- ensure that any statutory or administrative requirements for the use of public funds are complied with; that the Board operates within the limits of its statutory authority and any delegated authority agreed with the sponsor department, and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the

Board takes into account all relevant guidance issued by the Department of Finance and Personnel and the sponsor department

- ensure that the Board receives and reviews regular financial information concerning the management of the body; is informed in a timely manner of any concerns about the activities of the body; and provides positive assurance to the sponsor department that appropriate action has been taken on such concerns
- demonstrate high standards of corporate governance at all times, including using the Audit and to help the Board to address the key financial and other risks facing the body
- where applicable, appoint [with the Minister's approval] [with the sponsor department's approval] a Chief Executive to the body and, in consultation with the sponsor department, set performance objectives and remuneration terms linked to these objectives for the Chief Executive, which give due weight to the proper management and use of public monies.

### Use of Public Funds

- 3.3 Board Members have a duty to ensure the safeguarding of public funds<sup>1</sup> and the proper custody of assets which have been publicly funded.
- 3.4 Board Members must carry out their fiduciary obligations responsibly – that is, take appropriate measures to ensure that the body uses resources efficiently, economically and effectively, avoiding waste and extravagance. It will always be an improper use of public funds for public bodies to employ consultants or other companies to lobby the Assembly, Ministers or political parties.
- 3.5 Board Members must comply with the rules set by the Board and the public body regarding remuneration, allowances and expenses. Payment and taxation of these should be in line with relevant HM Revenue and Customs and DFP guidance. Ultimately, however, it is Member's responsibility to

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<sup>1</sup> This should be taken to include all forms of receipts from fees, charges and other sources

ensure compliance with all relevant HM Revenue and Customs' requirements concerning payments, including expenses.

### Gifts and Hospitality

- 3.6 Board Members must not accept any gifts or hospitality which might, or might reasonably appear to, compromise their personal judgement or integrity or place them under an improper obligation.
- 3.7 Board Members must never canvass or seek gifts or hospitality.
- 3.8 Board Members must comply with the rules set by the Board on the acceptance of gifts and hospitality which are in line with current DFP guidance. You should inform the Chairman and Chief Executive of any offer of gifts or hospitality and ensure that, where a gift or hospitality is accepted, this is recorded in a public register in line with the rules set by the Board.
- 3.9 Board Members are responsible for their decisions on the acceptance of gifts or hospitality and for ensuring that any gifts or hospitality accepted can stand up to public scrutiny and do not bring the Board into disrepute.

### Use of Official Resources

- 3.10 Board Members must not misuse official resources<sup>2</sup> for personal gain or for political purposes. Use of such resources must be in line with the Board's rules on their usage.

### Use of Official Information

- 3.11 Board Members must not misuse information gained in the course of their public service for personal gain or for political purpose<sup>3</sup>.
- 3.12 You must not disclose any information which is confidential in nature or which is provided in confidence without authority. This duty continues to apply after they have left the Board.

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<sup>2</sup> This includes facilities, equipment, stationery, telephony and other services.

<sup>3</sup> Board Members who misuse information gained by virtue of their position may be liable for breach of confidence under common law or may commit a criminal offence under insider trading legislation.

#### **4. Relationship with the Department of Justice**

4.1 The Minister of Justice for Northern Ireland is answerable to the Northern Ireland Assembly for the policies and performance of the Probation Board, including its use of resources and policy framework within which it operates. The respective roles of the Minister of Justice, the Department of Justice and the Probation Board, and how these roles are addressed, are set out in a Management Statement/Financial Memorandum specifying the terms on which the Board receives and spends its funds.

#### **5. The Role of the Chairman**

5.1. The Chairman has particular responsibility for providing effective strategic leadership on matters such as:

- formulating the Board's strategy for discharging its statutory duties
- encouraging high standards of propriety, and promoting the efficient and effective use of staff and other resources throughout the organisation
- ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the Minister of Justice and the DoJ
- representing the views of the Board to the general public; and
- providing an assessment of performance of individual Board Members, on request, when they are being considered for re-appointment to the Board.

5.2. The Chairman should ensure that the Board meets at regular intervals throughout the year and that the minutes of meetings accurately record the decisions taken and, where appropriate, the views of individual Board Members.

5.3. Communications between the Board and the Minister of Justice will normally be through the Chairman except where the Board has agreed that an individual Member should act on its behalf. Nevertheless, an individual Member has the right of access to the Minister on any matter which he or

she believes raises important issues relating to his or her duties as a Member of the Board. In such cases, the agreement of the rest of the Board should normally be sought. The main point of contact between the Board and the Department of Justice on day-to-day matters will normally be the Director of Probation or another member of staff who is authorised to act on behalf of the Board.

- 5.4. The Chairman should ensure that all Members of the Board, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities. The Chairman and other Members of the Board should each have a copy of this Code of Conduct and Practice; other relevant background material such as the Board's Management Statement/ Financial Memorandum, its latest corporate plan, business plan, annual report, statement of accounts, Chapter 3 of "Managing Public Money", the Treasury's handbook "Regularity, Propriety and Value for Money"; and the Board's Standing Orders. The Chairman should encourage new Board Members to attend the Board's internal induction training. The DoJ will also recommend induction training on the duties of Board Members.

## **6. Corporate Responsibilities of Board Members**

6.1 Members of the Board have corporate responsibility for ensuring that it complies with any statutory or administrative requirements for the use of public funds. Other important responsibilities of Board members include:

- ensuring that high standards of corporate governance are observed at all times
- establishing the overall strategic direction of the organisation within the policy and resources framework agreed with the Minister of Justice
- overseeing the delivery of planned results by monitoring performance against agreed strategic objectives and targets
- ensuring that the Board operates within the limits of its statutory authority and any delegated authority agreed with the DoJ, and in accordance with any other conditions relating to the use of public funds

- ensuring that, in reaching decisions, the Board has taken into account any guidance issued by the DoJ
- ensuring that the Board's responsibilities under section 75 of the Northern Ireland Act 1998 are implemented
- formulating a strategy for implementing its obligations with regard to Freedom of Information, including prompt responses to public requests for information, and meeting other requirements for openness and responsiveness as set out in part J of Non-Departmental Public Bodies: A Guide for Departments
- ensure that the Organisation has in place appropriate policies to meet governance requirements of an Non-Departmental Public Bodies
- ensuring that the Board has specific responsibility for sustainable development and operates within the framework of the Sustainable Development Strategy
- ensuring that the Board manages its estate sustainably in line with the Government's Framework for Sustainable Development on the Government Estate.

## **7. Strategic Planning and Control**

- 7.1. One of the main tasks of the Board is oversight of the production of a corporate plan. The process of preparing such a document provides an opportunity for agreeing, with the Minister of Justice, or officials on his or her behalf, the policy and resources framework within which the Board will discharge its duties; and for determining its key strategic objectives and targets. Such targets should normally cover areas such as the organisation's financial performance; the efficiency and effectiveness of its operations; and the quality of the services it provides. The Board's performance will be measured by the key indicators defined in the Management Statement.

## **8. Delegation**

- 8.1. Board Members serve on a part-time basis. To the extent permitted by the 1982 Order, responsibility for day-to-day management matters is delegated to staff within a clearly understood framework of strategic control. Those

matters reserved for decision by the Board, subject where appropriate to the approval of the Minister of Justice, include issues of corporate strategy; key strategic objectives and targets; major decisions involving the use of financial and other resources; and personnel issues involving key appointments and standards of conduct.

- 8.2. The Board may decide to delegate responsibility for specified matters, where it has power to do so, to individual Members or committees. Decisions taken by individual Members or committees of the Board under delegated powers should be recorded in written minutes available to the Board as a whole.

## **9. Responsibilities of individual Board Members**

9.1. Individual Board Members should be aware of their wider responsibilities as members of the Board. Like others who serve the public, they should follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life. The principles are set out in paragraph 2.1. Board Members must:

- undertake as a condition of appointment to comply at all times with this Code of Conduct and Practice and with rules relating to the use of public funds;
- act in good faith and in the best interests of the Board;
- not misuse information gained in the course of their public service for personal gain or for political purposes, nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations; and to declare publicly any private interests which may be perceived to conflict with their public duties
- ensure that they comply with the Organisation's policy and procedures which apply to Board Members; and
- ensure that they comply with any rules on the acceptance of gifts and hospitality which may be issued by the Board.

9.2. Members are free to engage in political activities but must exercise a proper discretion with regard to the work of the Board, recognising their corporate responsibilities as Board Members.

9.3. Individual Board members may be removed from office by the Minister of Justice under Schedule 1 of the 1982 Order. Reasons include failing to perform their duties to the standards expected of persons who hold public office.

## **10. Handling conflicts of interest**

10.1. Handling conflicts of interest is governed by the 1982 Order Schedule 1 paragraph 9; the Local Government Act (Northern Ireland) 1972 sections 28-33 and 146; this Code of Practice; and the Board's Standing Orders.

10.2. Under these provisions the Chairman and other Board Members should declare any personal or business interests which may conflict with their responsibilities as Board members. The Board should maintain a register of interests of its Members appropriate to the Board's activities. The register should list the direct and indirect pecuniary interests of Members which the public might reasonably think could influence their judgement. Members are strongly encouraged to register non-pecuniary interests which relate closely to the Board's activities and interests of close family members and persons living in the same household as the Member. The existence of the register and its availability for public scrutiny will be reported in the Annual Report. Members are required to update the Register of Interests as changes occur.

10.3. Indirect pecuniary interests arise from connections with bodies in which Members have a direct pecuniary interest or from being a business partner of, or being employed by, a person with such an interest. Non-pecuniary interests include those arising from membership of clubs and other organisations. Close family members include personal partners, parents, children (adult and minor), brothers, sisters and the personal partners of any of these.

10.4. Where, in accordance with the above, members do not participate in the discussion or determination of a matter, they should normally withdraw from the meeting. This is because the continued presence of someone who had

- declared an interest might be thought likely to influence the judgement of the other members present.
- 10.5. Whether or not Board Members are able in the light of the considerations above to participate in the discussion or determination of the matter, they should declare as soon as practicable after a meeting begins if they have an interest, pecuniary or other, in a matter being considered. They should also disclose any interests in it of which they are aware on the part of close family members and persons living in the same household as the Board Member. In addition, Members should consider whether they need to disclose relevant interests of other persons or organisations which members of the public might reasonably think could influence the Member's judgement.
- 10.6. Because the Board is required to follow generally accepted accounting practice, Board Members must facilitate compliance with the need under Financial Reporting Standard 8 for material transactions with related parties to be disclosed in financial statements. "Related parties" in FRS8 include, in addition to business contacts, close members of the family of an individual, who are defined for the purposes of the Standard as those family members, or members of the same household, who may be expected to influence or be influenced by, that person in their dealings with the Board.
- 10.7. A Board Member who accepts a new appointment will notify the Board Secretary who will consult the Chairman if it appears that a conflict of interest may arise. Any potential conflict of interest will be dealt with under the Board's Standing Orders.

## **11. Personal liability of Board Members**

- 11.1 Although any legal proceedings initiated by a third party are likely to be brought against the Board, in exceptional cases proceedings (civil or, in certain cases, criminal) may be brought against the Chairman or other individual Board members. For example, a Board Member may be personally liable if he or she makes a fraudulent or negligent statement which results in loss to a third party. Board Members who misuse information gained by virtue of their position may be liable for breach of

confidence under common law or may commit a criminal offence under insider dealing legislation.

11.2 Individual Board Members who have acted honestly, and in good faith will not have to meet out of their own personal resources any personal civil liability which is incurred in the execution or purported execution of their Board functions, save where the person has acted recklessly.

11.3 Board Members who need further advice can consult the Board's legal advisers.

## **12 Openness and Responsiveness**

12.1 Board Members and their staff should conduct all their dealings with the public in an open and responsible way and ensure full compliance with requirements under the Freedom of Information Act 2000, e.g. its Publication Scheme. They should take account as far as possible of the Standard of Best Practice for Openness in executive NDPBs and NHS bodies in the First Report of the Committee on Standards in Public Life (Cm 2850-1). The Board will make publicly available its annual report and, where practical and appropriate, hold open meetings and invite evidence from members of the public on matters of public concern. The Board will seek to follow best practice in making available information to the public, particularly through the world wide web, and co-operate with other bodies to place relevant information in the public domain. The Board will aim to consult on a wide range of issues by means of questionnaires, public meetings or other forms of consultation, proportionate to its size and resources. The Board will adhere to the nine principles of public service delivery (Appendix 2).

12.2 The Board recognises that it must be able to demonstrate that it is using resources to good effect, with propriety, and without grounds for criticism that public funds are being used for private, partisan or party political purposes. It needs to act consistently with the nature of its business and the possible need for confidentiality on commercial or other grounds, always

subject to the rights of Parliament and the Comptroller and Auditor General to obtain information. The Board has instituted procedures to deal with complaints, including those on both maladministration and failure to provide access to information.

### **13 Accountability for Public Funds**

- 13.1 Board Members have a duty to ensure the safeguarding of public funds – which for this purpose should be taken to include all forms of receipts from fees, charges and other sources - and the proper custody of assets which have been publicly funded. They must take appropriate measures to ensure that the Board at all times conducts its operations as economically, efficiently and effectively as possible, with full regard to the relevant statutory provisions and to relevant guidance in Government Accounting.
- 13.2 Members of the Board are responsible for ensuring that it does not exceed its statutory powers or functions. They are normally advised on these matters by the Director and the Board's legal advisers.

### **14 Annual report and accounts**

- 14.1 As part of its responsibilities for the stewardship of public funds, the Board must ensure that a full statement of resources is provided in its Annual Report and Accounts. The annual accounts will be prepared in accordance with any accounts direction given by the DoJ and other Government policies and guidance on the preparation and publication of annual reports and accounts.
- 14.2 The Comptroller and Auditor General will lay the annual accounts before the Northern Ireland Assembly. The Board will publish its annual report which will include the audited accounts. The DoJ will lay the Board's annual report before the Northern Ireland Assembly.
- 14.3 The Annual Report and Accounts will provide a full description of the Board's activities; state the extent to which key strategic objectives and agreed financial and other performance targets have been met; list the names of the current Members of the Board and senior staff; and provide

details of remuneration of Board Members and senior staff in accordance with Treasury guidance. It will contain information on access to registers of interest in accordance with paragraph 10.2 above.

## **15 The Role of the Director**

- 15.1 The Director has responsibility, under the Board, for the overall organisation, management, and staffing of the Board and for its procedures in financial and other matters, including conduct and discipline. This involves the promotion by leadership and example of the values embodied in the Seven Principles of Public Life (Appendix 3; Annex 2 of “Managing Public Money”). Board members should support the Director in undertaking this responsibility. The Director of Probation is designated as the accounting officer for the Board and is responsible to the Northern Ireland Assembly and the Accounting Officer of the DoJ for the resources under his/her control. The essence of the role is a personal responsibility for the propriety and regularity of the public finances for which he/she is answerable; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance; for the efficient and effective use of all the resources in his/her charge; and a responsibility to see that appropriate advice is tendered to the Board on all these matters. Satisfactory performance of these responsibilities is fundamental to the role of the Director.
- 15.2 More detailed guidance on the role of the accounting officer is set out in Chapter 3 of “Managing Public Money”, which covers appearances before the Committee of Public Accounts of the House of Commons. The Secretary shall ensure that all Board Members have a copy of this document. The Treasury's Handbook, "Regularity, Propriety and Value for Money", describes what these concepts mean in a financial context. Although the Handbook is intended primarily for accounting officers, Board Members also should familiarise themselves with it.

## **16 Audit Committee**

- 16.1 The Board has established an Audit Committee in line with Government guidance set out in the Audit Committee Handbook. The Committee consists of Board Members and is chaired by a Member, other than the Chairman, who has experience of financial matters.
- 16.2 The Audit Committee's areas of responsibility will overlap with those of the Accounting Officer. The role of the Audit Committee is to hold the Director to account in his role or her as Accounting Officer. It is envisaged that he or she will normally attend all meetings of the Audit Committee, unless, exceptionally, his or her own performance is being discussed.

## **17 The Board as Employer**

- 17.1 The Board should ensure:
- that it complies with all relevant legislation and that it employs suitably qualified staff who will discharge their responsibilities in accordance with the high standards expected of staff employed by such bodies. All staff should be familiar with the Board's main aims and objectives;
  - that the organisation adopts management practices which use resources in the most economical, efficient and effective manner;
  - that the Board's rules for the recruitment and management of staff provide for appointment and advancement on merit on the basis of equal opportunity for all applicants and staff. In filling senior staff appointments, the Board should satisfy itself that an adequate field of qualified candidates is considered, and should always arrange for full open competition.
  - that its staff, and the Board's own members, have appropriate access to

expert advice and training opportunities in order to enable them to exercise their responsibilities effectively (in line with wider Government commitments on training strategies).

- 17.2 The Board has approved a Code of Conduct for staff based on the model code at Annex 5A of Public Bodies: A Guide for NI Departments. The Code covers arrangements enabling members of staff to raise concerns about propriety with a nominated official or Board Member in the first instance and subsequently, if necessary, with a nominated official in the Department of Justice. The Board has also approved its own Whistleblowing Policy. In addition, the Board has approved an Employers Code of Practice based on the requirement for an Employers Code issued by the Northern Ireland Social Care Council.
- 17.3 The Board has a responsibility to monitor the performance of the Director and other senior staff. The terms and conditions of employment of the Director and other senior staff include an entitlement to be considered for performance-related pay and Board Members should ensure that they have access to the information and advice required to make the necessary judgements.