



CABINET OFFICE

**GUIDANCE ON CODES OF PRACTICE FOR
BOARD MEMBERS OF PUBLIC BODIES**

MODEL

OCTOBER 2004

FOREWORD

Following discussion with other Government departments, the Treasury published a *Code of Best Practice for Board Members of Public Bodies* in June 1994. Because of the great diversity of public bodies it was not practicable to draw up a code that could be applied uniformly to all such bodies. The document was therefore intended as a basis on which executive non-departmental public bodies (NDPBs) and similar organisations could construct their own codes. (There are separate codes for National Health Service bodies.) In adopting such codes, bodies have had, in agreement with their sponsor department, to take account of their own particular characteristics and circumstances.

2. The original model code was prepared against a background of criticism by the Committee of Public Accounts of the lack of general guidance on the responsibility of board members of executive NDPBs and similar bodies, and recognition that the accountability of public bodies should be improved. The Code was revised and Guidance produced in 1997 to take account of subsequent developments, including the recommendations in the *First Report of the Committee on Standards in Public Life* (Cm 2850-I); the Government's response to that report (Cm 2931); and the consultation paper published subsequently by the Government (*Spending Money: Governance and Audit Issues*, Cm 3179) and the responses to that paper. The Code was revised further in 2000 to take account of the publication of the Government's commitments in *Quangos: Opening the Doors*, published in June 1998, and the review of policy on indemnities for board members against personal liability (Dear Accounting Officer letter DAO(GEN)2/99 of 19 January 1999). This current revision takes account of the publication of the Government's response to the fifth report (session 2003-2004) of the House of Commons Select Committee on Standards and Privileges. The report described the treatment of a witness who had given evidence to a Select Committee Inquiry. The new guidance for board members giving evidence to Select Committees is at Appendix 2. This guidance applies to non-devolved bodies.

3. This guidance does not itself have legal force. Most executive public bodies are covered by specific legislation which sets out the powers and duties of the body concerned. Some public bodies are set up by other means, e.g. by Royal Charter or by incorporation under the Companies Act. It will be necessary to ensure that the code applying to a particular body is consistent with the legislation or other provisions under which it is established e.g. the code for a public body which is a charity must be consistent with the requirements of charity law.

4. Subject to paragraph 3 above, departments should ensure that all existing and new executive NDPBs have codes in place, taking account of the attached guidance. Departments will wish to amend existing codes in line with this revised guidance at a suitable opportunity (for example at the time of landscape or end-to-end reviews). Departments should also ensure that advisory NDPBs have similar codes in place. These should generally be based on the *Model Code of Practice for Board Members of Advisory Non-Departmental Public Bodies*. However, in the case of some statutory advisory NDPBs with their own staff or spending powers, it may be more appropriate to follow this guidance.

5. Publications mentioned are listed at Appendix 5 with details of how to obtain them. Equivalent Northern Ireland publications are noted, where appropriate.

6. Cabinet Office, in consultation with other Government departments, will review progress from time to time and update this guidance as necessary. Any queries on this guidance should be addressed to:

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GUIDANCE ON CODES OF PRACTICE FOR BOARD MEMBERS OF PUBLIC BODIES

1. This guidance describes a model code of practice for board members of executive non-departmental public bodies (NDPBs) and similar organisations. It is intended to provide a framework which the public bodies concerned should use with any modifications that may be necessary - and that are agreed with their sponsor department - to take account of their own characteristics and circumstances. The material is arranged as follows:

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Public service values

2. Public bodies and their boards must at all times:
 - observe the highest standards of propriety involving **impartiality, integrity and objectivity** in relation to the stewardship of public funds and the management of the bodies concerned;
 - maximise **value for money** through ensuring that services are delivered in the most economical, efficient and effective way, within available resources, and with independent validation of performance achieved wherever practicable. Value for money is not the lowest price: it is the optimum combination of whole life costs and quality to meet the user's requirement;
 - be **accountable** to Parliament, users of services, individual citizens and staff for the activities of the bodies concerned, their stewardship of public funds and the extent to which key performance targets and objectives have been met;
 - in accordance with Government policy on **openness and responsiveness**, comply fully with the *Code of Practice on Access to Government Information*.

Relationship with the sponsor department

3. The Minister of the relevant department is answerable to Parliament for the policies and performance of all public bodies sponsored by the department, including their use of resources and the policy framework within which they operate. The respective roles of the sponsor department and the public body should be set out in a Framework Document, Management Statement or agreed Memorandum of Understanding. In the case of grant-aided bodies, this information should be supplemented by a Financial Memorandum specifying the terms on which the body receives and spends its funds.

The role of the chair

4. The chair 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 responsible Minister or sponsor department;
- representing the views of the board to the general public; and
- providing an assessment of the performance of individual board members, on request, when they are being considered for re-appointment to the board or for appointment to the board of some other public body.

5. The chair 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.

6. Communications between the board and the Minister of the sponsor department will normally be through the chair 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 Ministers 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 body and the sponsor department on day-to-day matters will normally be the chief executive or another member of staff who is authorised to act on behalf of the body.

7. The chair 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 chair and other members of the board should each have a copy of the Code of Practice for the body concerned; other relevant background material such as the body's Management Statement and Financial Memorandum; its latest Corporate Plan and Annual Reports and Accounts; the Treasury's memorandum *The Responsibilities of a NDPB Accounting Officer*; the Treasury's handbook *Regularity and Propriety*; notes describing the body's organisational structure and statutory basis of operation; and the rules and procedures of the board. The chair should encourage new board members to attend an induction course on the duties of board members of public bodies or some other suitable form of induction programme.

Corporate responsibilities of board members

8. Members of a board have corporate responsibility for ensuring that the public body 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 responsible Minister;
- ensuring that the board operates within the limits of its statutory authority and any delegated authority agreed with its sponsor department, and in accordance with any other conditions relating to the use of public funds;
- ensuring that, in reaching decisions, the board had taken into account any guidance issued by the sponsor department;
- formulating a strategy for implementing the *Code of Practice on Access to Government 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*
- ensuring that the board has specific responsibility for sustainable development and operates within the framework of the Sustainable Development Strategy, following the priorities set by the Green Minister of the sponsoring Department;
- ensuring that the board manages its estate sustainably in line with the Government's Framework for Sustainable Development on the Government Estate.

Strategic planning and control

9. One of the main tasks of the board is likely to be oversight of the production of a corporate plan. The process of preparing such a document provides an opportunity for agreeing, with the responsible Minister, or officials on his or her behalf, the policy and resources framework within which the body 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. Some public bodies cannot easily

measure final outputs. Where this makes it difficult to set suitable performance targets, the board should aim to agree carefully formulated strategic objectives and milestones.

Delegation

10. Board members normally serve on a part-time basis. To the extent permitted by the originating legislation or other provisions under which the public body is established, responsibility for day-to-day management matters should be delegated to staff so far as is practicable, within a clearly understood framework of strategic control. Boards will want to consider internal guidance covering those matters delegated to staff and those reserved for decision by the board. The latter are likely to include issues of corporate strategy; key strategic objectives and targets; major decisions involving the use of financial and other resources; and personnel issues including key appointments and standards of conduct.

11. The board may decide to delegate responsibility for specified matters, where it has power to do so, to individual members or committees of the board. 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.

Responsibilities of individual board members

12. 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 printed at Appendix 1. Board members must:

- undertake on appointment to comply at all times with the Code of Practice that is adopted by the public body concerned and with rules relating to the use of public funds;
- act in good faith and in the best interests of the public body;
- not misuse information gained in the course of their public service for personal gain or for political purpose, 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; and
- ensure that they comply with the board's rules on the acceptance of gifts and hospitality.

13. Board members, whether full or part-time, are expected not to occupy paid party political posts or hold particularly sensitive or high-profile unpaid roles in a political party. Subject to that, part-time members are free to engage in political activities, provided that they are conscious of their general public responsibilities and exercise a proper discretion, particularly in regard to the work of the boards of which they are members. On matters directly affecting that work, they should not make political speeches or engage in other political activities. Full-time members of boards should abstain from all controversial political activities.

14. The restrictions in paragraph 13 do not apply to board members who are MPs (in those cases where MPs are eligible to be appointed), to local councillors or to Peers in relation to their conduct in the House of Lords. The position of Peers in this regard is covered by a statement made by Lord Addison in 1951 in relation to Peers who are members of public bodies. See Appendix 4.

15. The arrangements for appointing individual board members normally make it possible to remove them from office if they fail to perform the duties required of board members to the standards expected of persons who hold public office.

Handling conflicts of interests

16. The chair and other board members should declare any personal or business interests which may conflict with their responsibilities as board members. The board, in consultation with the sponsor department, should draw up rules of conduct for board members which ensure that such conflicts are identified at an early stage and that appropriate action can be taken to resolve them.

17. The rules should include the keeping of a register of interests appropriate to the body's activities. The register should, as a minimum, list direct or indirect pecuniary interests which members of the public might reasonably think could influence board members' judgement. Board members are strongly encouraged to register non-pecuniary interests which relate closely to the body's activities, and interests of close family members and persons living in the same household as the board member¹.

18. Public bodies should make registers of interests open to the public. They should ensure that details of how access can be obtained are available widely and include such details in annual reports. It will often be appropriate to publish registers of interests annually. Board members should in any case be required to update them as changes occur.

19. In the absence of specific statutory provisions, the common law requires:

- that members of public bodies should not participate in the discussion or determination of matters in which they have a direct pecuniary interest; and
- that when an interest is not of a direct pecuniary kind, members should consider whether participation in the discussion or determination of a matter would suggest a real danger of bias. This should be interpreted in the sense that members might either unwittingly or otherwise unfairly regard with favour or disfavour, the case of a party to the matter under consideration. In considering whether a real danger of bias exists in relation to a particular decision, members should assess whether they, a close family member, a person living in the same household as the board

¹ Indirect pecuniary interests arise from connections with bodies which 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.

member, or a firm, business or organisation with which the board member is connected are likely to be affected more than the generality of those affected by the decision in question. This would cover, for example, a decision to invite tenders for a contract where a firm with which a member was connected was significantly better placed than others to win it.

For the avoidance of doubt, this paragraph does not preclude the board of an NDPB from deciding to issue an indemnity in the terms of paragraph 27 below.

20. 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, even if it is held in public. 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.

21. Boards should obtain legal advice on the effect of any specific statutory provisions applying to them. In cases where members are authorised by law to represent a group likely to be affected by a body's decisions, the relevant statutory framework may permit members to be involved, notwithstanding any direct pecuniary interest that they may have in the decision. However, boards should not overlook the possibility that specific statutory provisions may impose restrictions that are stricter than those described in paragraph 19 for interests that are not of a direct pecuniary kind.

22. Whether or not board members are able in the light of the considerations above to participate in the discussion or determination of a 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 households as the board member. In addition, board 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.

23. Because executive NDPBs are required, other than exceptionally, 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 FRS 8 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 reporting entity.

24. Boards should adopt safeguards to prevent conflicts of interests arising from the acceptance of outside appointments during or after tenure as a board member, taking account of guidance from their sponsor teams.

Personal liability of board members

25. 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 chair 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.

26. In the case of a board which is incorporated under the Companies Act or the Companies (Northern Ireland) Order, an individual board member will be subject to the duties of directors under company law.

27. However, the Government has indicated that 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 execution or purported execution of their board functions, save where the person has acted recklessly. Subject to their own specific statutory powers, NDPBs should issue to their board members suitable indemnities consistent with this paragraph.

28. Board members who need further advice should consult the board's legal advisers.

Openness and responsiveness

29. Board members and their staff should conduct all their dealings with the public in an open and responsible way and ensure full compliance with the *Code of Practice on Access to Government Information*. 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-I). They must make publicly available annual reports, and,

where practical and appropriate, should hold open meetings, release summary reports of meetings, and invite evidence from members of the public on matters of public concern. NDPBs should seek to follow best practice in making available information to the public, particularly through the world wide web, and co-operate with other bodies, such as local authorities, to place relevant information in the public domain. NDPBs should aim to consult their users on a wide range of issues by means of questionnaires, public meetings, or other forms of consultation, proportionate to the size and resources of the body concerned. NDPBs should adhere to the nine principles of public service delivery.

30. Boards should ensure they can demonstrate that they are 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. They will need to act consistently with the nature of the body's 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. There should be well publicised and easy-to-use complaints procedures which cover both maladministration and failure to provide access to information.

Accountability for public funds

31. 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 body 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.

32. Members of the board are responsible for ensuring that the body does not exceed its powers or functions, whether defined in statute or otherwise, or through any limitations on its authority to incur expenditure. They are normally advised on these matters by the body's chief executive and its legal advisers.

Annual Report and Accounts

33. As part of its responsibilities for the stewardship of public funds, the board of a public body must ensure that it includes a full statement of the use of such resources in its Annual Report and Accounts. Such accounts should be prepared in accordance with the Accounts Direction

issued by the responsible Minister and such other guidance as may be issued, from time to time, by the sponsor department and the Treasury², including *Executive Non-Departmental Public Bodies: Annual Reports and Accounts Guidance*.

34. Subject to any existing statutory requirements, all self-accounting executive NDPBs should aim to produce an Annual Report and Accounts as a single document and should give it appropriate publicity. If the Annual Report is published separately, it should normally contain at least a summary of the Annual Accounts and in any case give details of how to obtain the full accounts. A statement by the auditors should be included in the summary to confirm that it is consistent with the Annual Accounts. It should also state whether the report on the Annual Accounts was qualified and provide details if this was the case.

35. The Annual Report and Accounts should 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. The Annual Report should contain information on access to registers of interests in accordance with paragraph 18 above.

The role of the chief executive

36. The chief executive has responsibility, under the board, for the overall organisation, management, and staffing of an executive NDPB 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. Board members should support the chief executive in undertaking this responsibility.

37. The chief executive of most NDPBs will be designated as the accounting officer for the body. NDPB accounting officers are responsible to Parliament and the accounting officer of the responsible department for the resources under their control. The essence of the role is a personal responsibility for the propriety and regularity of the public finances for which they are answerable; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance; and for the efficient and effective use of all the resources in their charge. The accounting officer has a responsibility to see that appropriate advice is tendered to the board on

² In Northern Ireland, guidance is issued by the Department of Finance and Personnel.

all these matters. Satisfactory performance of these responsibilities is fundamental to the role of the chief executive.

38. More detailed guidance on the role of an accounting officer is set out in *The Responsibilities of a NDPB Accounting Officer*, which covers appearances before the Committee of Public Accounts of the House of Commons. All board members should ensure that they have a copy of this document. The contents of the memorandum apply to the senior full-time official of an NDPB in cases where there is no formally designated accounting officer. The Treasury's handbook, *Regularity and Propriety*, describes what these concepts mean in a financial context. Although the handbook is intended primarily for accounting officers, board members should also familiarise themselves with it.

Audit committees

39. Unless agreed otherwise with the sponsor department, all public bodies should establish an audit committee as a committee of the board. The committee should consist of non-executive board members and should be chaired by a non-executive board member, other than the chair, who has experience of financial matters. The responsibilities of the audit committee will overlap with those of the 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. More detailed guidance on the role of the audit committee and specimen terms of reference are at Appendix 3.

The board as employer

40. 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 body's main aims and objectives;
- that the organisation adopts management practices which use resources in the most economical, efficient and effective manner;
- that the body'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 consider the merits of full and open competition. In recruiting external candidates, this should normally be used; and

- 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).

41. The board should adopt a code of conduct for its staff using the model issued for executive NDPBs by Cabinet Office in August 1996, subject to any modifications that may be necessary – and that are agreed with the sponsor department – to take account of their own particular characteristics and circumstances. The model code covers arrangements enabling members of staff to raise concerns about propriety with a nominated official or board member of the NDPB in the first instance and subsequently, if necessary, with a nominated official in the sponsor department. There should be safeguards to prevent conflicts of interests when staff leave.

42. The board has a responsibility to monitor the performance of the chief executive and other senior staff. Where the terms and conditions of employment of the chief executive and other senior staff include an entitlement to be considered for performance-related pay, and where such payments are assessed by board members, the board should ensure that they have access to the information and advice required to make the necessary judgements.

THE SEVEN PRINCIPLES OF PUBLIC LIFE

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

Holders 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.

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 interests.

Leadership

Holders of public office should promote and support these principles by leadership and example.

EVIDENCE TO SELECT COMMITTEES

1. Departmental Select Committees have an important role in examining the expenditure, administration and policies of NDPBs. The Government fully supports this role. Lords Committees and other Committees may also seek evidence from NDPBs from time to time.
2. NDPB Board members may, on occasion, be invited to give evidence to Select Committees. When they do so, they should be as helpful as possible in providing accurate, truthful and full information refusing to provide information only when disclosure would not be in the public interest. This should be decided in accordance with the relevant statutes and the Government's Code of Practice on Access to Government Information (which will be superseded by Freedom of Information legislation from January 2005). Board members should bear in mind in this context the need to respect legitimate Board confidences.
3. Before giving evidence, Board members may find it helpful to see *Departmental Evidence and Response to Select Committees* (also known as the *Osmotherly Rules*). This gives general advice on dealing with Select Committees including their powers to summon witnesses and papers and responses to Select Committee reports. Copies are available from the Propriety and Ethics team in the Cabinet Office on 020-7276- 2474 or it can be accessed at [www.cabinetoffice.gov.uk/propriety and ethics/select committees/index.asp](http://www.cabinetoffice.gov.uk/propriety_and_ethics/select_committees/index.asp).
4. Similarly, the Chief Executive of an NDPB may be called, as an Accounting Officer, to give evidence to the Public Accounts Committee (PAC). Guidance on giving evidence to the PAC is set out in the *Accounting Officer Memorandum* which can be obtained from the Treasury Officer of Accounts.
5. Board members wishing to give evidence should, as a matter of courtesy, advise their Chairman and colleagues on the NDPB Board and its sponsoring department of their intention. They should discuss with them the handling of any oral or written evidence they want to submit and whether they expect to be giving evidence on behalf of the NDPB or in a personal capacity. The Select Committee should be advised of the status of the witness.
6. Subject only to a Committee's power to decide to require the attendance of a witness, the decision on whether to give evidence is

solely for the individual concerned. There must be no pressure placed on individuals to deter them, or action taken against them as a consequence of giving evidence to a Select Committee. Any such actions might be regarded as a contempt of the House, with potentially serious consequences for those involved.

MODEL

AUDIT COMMITTEES

The Guidance on Codes of Practice recommends that all public bodies, unless otherwise agreed with their sponsor department, should set up an Audit Committee as a committee of the board. This note provides further guidance.

2. The Audit Committee is an advisory body with no executive powers. Its main functions should be:

- to help promote the highest standards of propriety in the use of public funds and encourage proper accountability for the use of those funds;
- to improve the quality of financial reporting by reviewing internal and external financial statements on behalf of the board;
- to promote a climate of financial discipline and control which will help to reduce the opportunity for financial mismanagement; and
- to promote the development of internal controls systems which will help satisfy the board that the body concerned will achieve its objectives and targets and is operating:
 - (i) in accordance with any statutory requirements for the use of public funds;
 - (ii) within delegated authorities laid down by the sponsor department and the public body's own rules on what matters should be referred to the board;
 - (iii) in a manner which will make most economic and effective use of resources available.

3. The Audit Committee should be chaired by a non-executive board member, other than the chair, who has relevant experience and expertise. Other members of the Committee should be non-executive board members.

4. The Treasury has issued *The Audit Committee Handbook* for Accounting Officers in departments and Executive Agencies. The Dear Accounting Officer letter DAO(GEN) 17/03 www.hm-treasury.gov.uk/media/1B6/40/dao1703.pdf which advises Accounting Officers about the publication of the Handbook points out that the

handbook has been developed based on the accountability structure of a department or Executive Agency and that NDPBs may need to translate the guidance to suit their own particular circumstances.

5. Specimen terms of reference are shown below. They are for guidance only and will need to be tailored to the particular circumstances of the body concerned. A checklist for evaluating audit committee arrangements is available from the National Audit Office: www.nao.org.uk/guidance/checklists/auditcommittee_checklist.pdf.

Specimen Terms of Reference

Constitution

(1) The board hereby resolves to establish a committee of the board to be known as the Audit Committee.

Membership and attendance

(2) The chair, members and secretary of the Audit Committee shall be non-executive Board members and shall be appointed by the Board. The chair shall be a non-executive member of the Board other than its chair.

(3) Board members who are not members of the Audit Committee should have the right of attendance. The secretary will circulate minutes of meetings of the Audit Committee to all members of the Board.

(4) The Chief Executive in his or her role as accounting officer, the Finance Director and the Head of Internal Audit will normally attend meetings of the Committee.

Frequency of meetings

(5) The Board shall determine how often the Committee shall meet. The external auditor may request a meeting if he considers one necessary.

Authority

(6) The Audit Committee is an advisory body with no executive powers. However, it is authorised by the board to investigate any activity within its terms of reference, and to seek any information it requires from staff, who are requested to co-operate with the Committee in the conduct of its inquiries. Requests for work, and reports received, from internal

audit will be channelled through the accounting officer, to whom the Head of Internal Audit reports.

(7) The Audit Committee is authorised to obtain independent professional advice if it considers this necessary.

Duties

(8) The specific duties of the Committee shall be:

- (a) to review the body's internal and external financial statements and reports to ensure that they reflect best practice;
- (b) to discuss with the external auditor the nature and scope of each forthcoming audit and to ensure that the external auditor has the fullest co-operation of staff;
- (c) to consider all relevant reports by the Comptroller and Auditor General or the appointed external auditor, including reports on the body's accounts, achievement of value for money and the response to any management letters;
- (d) to review the effectiveness of the body's internal control system established to ensure that the aims, objectives and key performance targets of the organisation are achieved in the most economic, effective and environmentally preferable manner;
- (e) to ensure that the body's internal audit service meets, or exceeds, the standards specified in the Government Internal Audit Manual, complies in all other respects with these guidelines and meets agreed levels of service;
- (f) to consider and advise the board on the body's annual and long-term audit programme;
- (g) to consider internal audit reports, including value-for-money reports and the arrangements for their implementation;
- (h) to review the operation of the body's code of practice for board members and code of conduct for staff;
- (i) to consider any other matters where requested to do so by the board; and
- (j) to report at least once a year to the board on the discharge of the above duties.

Addison Rules

1. A peer who is a member of a public board, whether commercial or non-commercial in character, is not by reason of such membership debarred from exercising his or her right to speak in the House of Lords, even on matters affecting the Board of which he or she is a member; and it is recognised that, in the last resort, only the Peer concerned can decide whether he or she can properly speak on a particular occasion.

2. The following guidance (based upon that given by the then Leader of the House Viscount Addison, after consultation and agreement between the parties) may be helpful to Peers, who are considering whether or not to take part in a particular debate.

- i. When questions affecting a particular board or public board in general arise in Parliament the present Minister and the Government of the day generally are alone responsible to Parliament. The duty of reply rests with Ministers only, and cannot devolve upon members of public boards who may also be members of the House of Lords. There can be no question of Board members replacing, or usurping the functions of, Ministers and dealing with matters of Ministerial responsibility. In the Commons, of course, the possibility could not arise, because a Member of the House must resign his seat on accepting an appointment of this nature.
- ii. It is important that, as contemplated in the Statutes and, in the case of the BBC, by the Charter, the Boards shall be free to conduct their day to day administration without the intervention of Parliament or Ministers, except where otherwise provided. If Board members who happen also to be peers were to give the House information about the day to day operations of the Board or to answer criticisms respecting it, the House would in fact be exercising a measure of Parliamentary supervision over matters of management. It would also be difficult for the responsible Minister not to give similar information to the House of Commons.
- iii. There is no duty upon the board member to answer questions put to him in debate, and that no criticism should attach to any Board member who refrains

from speaking in a debate. Nor should the fact that a member spoke in a particular debate be regarded in any way as precedent for him or any other member speaking in any other debate.

- iv. The above applies only to debates relating to public boards. Experience acquired as a member of a public board will often be relevant to general debates in which the same contributions do not arise, and the contributions of board members who are peers may be all the more valuable because of that experience.

3. The statement below, taken from the memoranda, best sums up the intentions behind Lord Addison's Rules.

"The House of Lords is a sensible body; and the latitude to speak or refrain from speaking, inherent in a peer, is not likely to cause embarrassment. Indeed, any attempt to lay down a hard and fast rule would be more likely to cause embarrassment".

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www.sustainable-development.gov.uk/ar2003/index.htm

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*Equivalent Northern Ireland guidance is available from Accountability and Accountancy Services Branch, Department of Finance and Personnel, 01245 858 208



CABINET OFFICE

**MODEL CODE OF PRACTICE FOR BOARD MEMBERS OF
ADVISORY NON-DEPARTMENTAL PUBLIC BODIES**

MODEL

MODEL CODE OF PRACTICE FOR BOARD MEMBERS OF ADVISORY NON-DEPARTMENTAL PUBLIC BODIES

Attached is a model code of practice for board members of advisory non-departmental public bodies (NDPBs). All advisory NDPBs are expected to have codes for board members, including provisions for publicly available registers of interests, in place.

The attached code is intended to be used either directly, in its current format, or as the basis for bodies to draw up their own codes – in agreement with their sponsor department – to take account of their own characteristics and circumstances. Codes for advisory NDPBs which employ their own staff, have responsibility for their own budget, or significant dealings with the public should be amended to include relevant provisions on financial accountability, duties as employer and service standards in their codes, or should be based on *Guidance on Codes of Practice for Board Members of Public Bodies*. The attached model does not have any legal force, and any code adopted must be in line with any statutory provisions. Departments should ensure that all new board members undertake, on appointment, to follow the provisions of the code for their particular body.

In addition, departments may wish to provide more detailed guidance on particular issues (for example those included in the section on Openness and Accountability in the Agencies and Public Bodies Team publication of *Non Departmental Public Bodies: A Guide for Departments*). Additional guidance may particularly help board members identify what may constitute conflicts of interests, and what action would be appropriate to resolve them. Such guidance might cover whether registers of interests should include non-pecuniary interests of members which relate closely to the body's activities, for example membership or office held in a pressure group. Members of advisory bodies are often appointed specifically for expertise gained through their membership of, or employment by, other organisations, and in that case, such interests need not normally debar them from participating in decisions on particular issues. Nevertheless, registration of such interests may be helpful in ensuring transparency and public confidence. Departments will wish to agree with bodies where registers of interest should be held.

Cabinet Office, in consultation with other Government departments, will review progress from time to time and update this guidance as necessary. Any queries should be directed to the Public Appointments Unit at the address below.

Public Appointments Unit

Cabinet Office

Admiralty Arch

London SW1A 2WH

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E-mail: public.appointments.unit@cabinetoffice.x.gsi.gov.uk

MODEL

MODEL CODE OF PRACTICE FOR BOARD MEMBERS OF ADVISORY NON-DEPARTMENTAL PUBLIC BODIES

Public service values

The board of this advisory non-departmental public body must at all times.

- observe the highest standards of **impartiality, integrity and objectivity** in relation to the advice they provide and the management of this public body;
- be **accountable** to Parliament and the public more generally for its activities and for the standard of advice it provides; and
- in accordance with Government policy on **openness**, comply fully with the Code of Practice on Access to Government Information.

The minister of the sponsoring department is answerable to Parliament for the policies and performance of this body, including the policy framework within which it operates.

Standards in Public Life

All board members must

- follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life (annexed);
- comply with this Code, and ensure they understand their duties, rights and responsibilities, and that they are familiar with the function and role of this body and any relevant statements of Government policy. New board members should consider attending relevant training or induction courses.
- not misuse information gained in the course of their public service for personal gain or for political purpose, 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
- not hold any paid or high-profile unpaid posts in a political party, and not engage in specific political activities on matters directly affecting the work of this body. When engaging in other political activities, board members should be conscious of their public role and

exercise proper discretion. These restrictions do not apply to MPs (in those cases where MPs are eligible to be appointed), to local councillors, or to Peers in relation to their conduct in the House of Lords.

Role of board members

Members of the board have collective responsibility for the operation of this body. They must:

- engage fully in collective consideration of the issues, taking account of the full range of relevant factors, including any guidance issued by the sponsor department or the responsible minister;
- ensure that the code of Practice on Access to Government Information (including prompt responses to public requests for information) is adhered to; agree an Annual Report; and, where practicable and appropriate, hold at least one meeting a year in public;
- respond appropriately to complaints, if necessary with reference to the sponsor department; and
- ensure that the board does not exceed its powers or functions.

Communications between the board and the minister will generally be through the chair except where the board has agreed that an individual member should act on its behalf. Nevertheless, any board member has the right of access to ministers on any matter which he or she believes raises important issues relating to his or her duties as a board member. In such cases the agreement of the rest of the board should normally be sought.

Individual board members can normally be removed from office by the minister if they fail to perform the duties required of them in line with the standards expected in public office.

The role of the chair

The chair has particular responsibility for providing effective leadership on the issues above. In addition, the chair is responsible for

- ensuring that the board meets at appropriate intervals, and that the minutes of meeting and any reports to the Secretary of State accurately record the decisions taken and, where appropriate, the views of individual board members;

- representing the views of the board to the general public; and
- ensuring that new board members are briefed on appointment (and their training needs considered), and providing an assessment of their performance, on request, when members are considered for re-appointment to the board or for appointment to the board of some other public body.

Handling conflicts of interests

The purpose of these provisions is to avoid any danger of board members being influenced, or appearing to be influenced, by their private interests in the exercise of their public duties. All board members should therefore declare any personal or business interest which may, or may be *perceived* (by a reasonable member of the public) to, influence their judgement. This should include, as a minimum, personal direct and indirect pecuniary interests, and should normally also include, such interests of close family members and of people living in the same household³. The register of interests should be kept up-to-date and be open to the public. A declaration of any interest should also be made at any board meeting if it relates specifically to a particular issue under consideration, for recording in the minutes (whether or not a board member also withdraws from the meeting).

Board members should not participate in the discussion or determination of matters in which they have an interest, and should normally withdraw from the meeting (even if held in public) if:

- their interest is direct and pecuniary; or
- their interest is covered in specific guidance issued by this body or the sponsor department which requires them not to participate and/or to withdraw from the meeting.

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³ Indirect pecuniary interests arise from connections with bodies which 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.

Personal liability of board members

Legal proceedings by a third party against individual board members of advisory bodies are very exceptional. A board member may be personally liable if he or she makes a fraudulent or negligent statement which results in a loss to a third party; or may commit a breach of confidence under common law or a criminal offence under insider dealing legislation, if he or she misuses information gained through their position. However, the Government has indicated that individual board members who have acted honestly, reasonably, in good faith and without negligence will not have to meet out of their own personal resources any personal civil liability which is incurred in execution or purported execution of their board functions. Board members who need further advice should consult the sponsor department.

MODEL

THE SEVEN PRINCIPLES OF PUBLIC LIFE

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

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisation 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 merit.

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 interests.

Leadership

Holders of public office should promote and support these principles by leadership and example.