



An  
Bord  
Pleanála

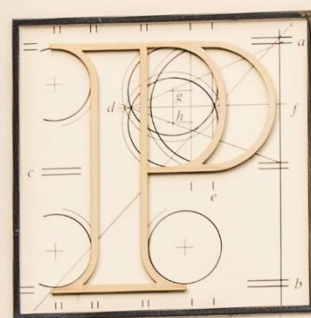
# Code of Conduct

For Board Members, Employees and  
Certain Other Persons

As adopted by An Bord Pleanála on the 29th of  
June, 2023

Date of Commencement: 1st of September,  
2023

An Bord Pleanála



An Bord Pleanála

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## **Document Control**

### **Location**

The latest version of the Code of Conduct will be published on [www.pleanala.ie](http://www.pleanala.ie).

### **Approvals**

The latest Code of Conduct was adopted by the Board at a meeting on the 29<sup>th</sup> of June, 2023.

### **Key Messages**

The Code sets out a number of requirements for persons working in An Bord Pleanála.

These requirements are to ensure that,

- the Board's work is carried out in a proper fashion, and
- we avoid the risk that people working on cases in the Board will have conflicts of interest, through ownership of property or through professional or personal relationships.

It is your personal responsibility to comply with this Code, which forms part of your contract of employment or office.

You must also ensure that you are familiar with the applicable statutory requirements in respect of conflicts of interests, that you comply with these and that any information you provide for entry into An Bord Pleanála's register of interests is accurate and up to date.

You should also note that failure to comply with disclosure obligations under relevant statutes is an offence.

# **1. Introduction**

## **1.1 Background to An Bord Pleanála**

An Bord Pleanála was established in 1977 under the Local Government (Planning and Development) Act, 1976 and is responsible for the determination of appeals and certain other matters under the Planning and Development Act 2000, as amended, and associated legislation, and determination of applications for strategic infrastructure development including major road and railway cases. It is also responsible for dealing with proposals for the compulsory acquisition of land by local authorities and others under various enactments. The Board also has functions to determine appeals under the Local Government (Water Pollution) Acts and the Building Control Acts.

An Bord Pleanála is also the Competent Authority for Project of Commons Interest under the European Regulation No. 347/2013 which deals with trans-European energy infrastructure.

## **1.2 Mission Statement of An Bord Pleanála**

To play our part as an independent body in an impartial, efficient and open manner, to ensure that physical development and major infrastructure projects in Ireland respect the principles of sustainable development, including the protection of the environment.

## **1.3 Values of An Bord Pleanála**

An Bord Pleanála shares common values with the wider Public Service:

- A strong public service ethos of integrity, independence, impartiality, equality, fairness and respect,
- A culture of transparency, accountability, efficiency and value for money, and
- A commitment to the highest standards of leadership, professionalism and rigour.

Specifically, in relation to performing and meeting its functions and responsibilities, An Bord Pleanála adopts the following overarching values:

***Independence and Impartiality***

An Bord Pleanála is committed to preserving and protecting its independence in its decision-making functions and ensuring that all decisions made are based solely on an impartial assessment of each case.

***Professionalism, and Integrity***

An Bord Pleanála places great value and reliance on the professional expertise, integrity, dedication and public service ethos of its Board members and staff.

***Participation and Transparency***

An Bord Pleanála is committed to providing the maximum degree of openness and accountability in its operations consistent with the quasi-judicial nature of its statutory functions and ensuring that its procedures facilitate effective participation by the public in the planning system.

***Respect, Dignity, Equality and Fairness***

An Bord Pleanála is committed to a culture of respect, dignity, equality and fairness in all dealings with the public and with and between its own members/staff.

***Excellent Customer Service and Innovation***

An Bord Pleanála is conscious of the need to ensure that its overall customer service is aligned to current expectations and best practice and is committed to being responsive to seeking new ways to improve service delivery.



## 1.4 Background to this Code of Conduct

Under Section 150 of the Planning and Development Act, 2000 as amended (the “**Planning Act**”), An Bord Pleanála is required to adopt a code of conduct for dealing with conflicts of interest and promoting public confidence in the integrity of the conduct of its business.

In line with this statutory requirement, this Code sets out a written statement of An Bord Pleanála’s policies in respect of:

- disclosures of interests and relationships where the interests and relationships are of relevance to the work of An Bord Pleanála;
- membership of other organisations, associations and bodies, professional or otherwise;
- membership of, or other financial interests in, companies, partnerships or other bodies;
- undertaking work, not being work on behalf of An Bord Pleanála, both during and after any period of employment with An Bord Pleanála, whether as a consultant, adviser or otherwise;
- acceptance of gifts, sponsorship, considerations or favours;
- disclosure of information concerning matters pertaining to the work of An Bord Pleanála; and
- proper procedures in relation to the functions of An Bord Pleanála, including the processing of planning applications and the disclosure by Board members and employees of any representations made to them, whether in writing or otherwise, in relation to those matters.

The policies set out in this Code in relation to disclosures of interests and relationships incorporate statutory requirements regarding disclosures of interests under the Planning Act and the Ethics in Public Office Acts 1995 and 2001 (“**EIPO**”).

In addition, this Code takes account of the principles and provisions of the Code of Practice for the Governance of State Bodies, published by the Department of Public Expenditure and Reform (August 2016) (the “**State Bodies’ Governance Code**”).

Having regard to the nature of the quasi-judicial functions carried out by An Bord Pleanála and in order to demonstrate the highest standards of integrity and impartiality in the carrying out of An Bord Pleanála’s functions, this Code of Conduct also contains significant additional policies and provisions beyond and in addition to the requirements under the Planning Act, EIPO and the State Bodies’ Governance Code.

**Each Board member and every member of staff of An Bord Pleanála is required to be familiar with the provisions of this Code and this Code should be read and understood as incorporating any additional policies, guidance and procedures as may be adopted by An Bord Pleanála from time to time.**

## 1.5 Persons Covered by the Code

This Code applies to members of the Board of An Bord Pleanála (the “**Board**”)<sup>1</sup> and generally to **all** staff and persons engaged by the Board in duties relating to its functions to determine planning cases, save that there are **annual** disclosure requirements under legislation in respect of interests which apply **only** to: (i) Board members and (ii) inspectorate staff and administrative staff at Executive Officer (EO) grade or higher. For ease of reference, these are collectively referred to as “prescribed employees” throughout this Code.

Under section 150(3) of the Planning Act, it is a **condition** of appointment/employment of Board members of An Bord Pleanála and prescribed employees of An Bord Pleanála and any other person whose services are availed of by An Bord Pleanála, that “they **shall** comply with the Code of Conduct”.

**It is therefore both a matter of personal responsibility for each individual to ensure that they comply with this Code, and a condition of their holding office or employment, breaches of which may lead to disciplinary action.**

## 1.6 Compliance with the Code

There is a personal duty on each Board/staff member of An Bord Pleanála:

- to be competent, honest, efficient, courteous and professional in the execution of their duties and their interaction with both external and internal personnel in the discharge of their work,
- to maintain proper standards of integrity, to perform all duties in a manner consistent with the common good, and to adhere to public service values, including loyalty to the values of An Bord Pleanála and,
- to ensure that their conduct does not bring the standing of An Bord Pleanála into disrepute or is not prejudicial to the effective performance by An Bord Pleanála of its functions.

All interests and relationships, professional or personal, where the interests and relationships are, or are likely to be perceived to be, of relevance to the work of An Bord Pleanála must be considered in accordance with this Code and disclosed when appropriate. The test to be applied should not just be what an individual Board or staff member might consider a relevant interest or relationship, but rather whether a reasonable person might *reasonably* think that the interest or relationship concerned could influence the individual in the performance of their functions. If so, then the

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<sup>1</sup> “Board member” means the Chairperson or an ordinary member of the Board unless otherwise specified.

interest or relationship should be disclosed in accordance with this Code so that appropriate procedures can be followed.<sup>2</sup>

## **1.7 Fiduciary Duty of Board Members**

All Board members have a fiduciary duty to the organisation in the first instance which is to act in good faith and in the best interests of the organisation.

The principle fiduciary duties of board members are:

- to act honestly and responsibly in relation to the conduct of the affairs of the organisation within an overarching strong public service ethos of integrity and impartiality;
- to act in accordance with the statutory provisions and other governing requirements relating to discharge of their role within the organisation;
- not to benefit from or use the organisation's property, information or opportunities for their own or anyone else's benefit;
- not to agree to restrict any Board member's power to exercise an independent judgement;
- to avoid any conflict between the Board member's duties to the organisation and the Board member's personal interest.

## **1.8 Circulation of Code of Conduct**

This Code of Conduct (and any updated version) will be circulated to all personnel and the Code will also be published on the website of An Bord Pleanála. All Board members and staff will be asked to acknowledge receipt and understanding of the Code.

## **1.9 Periodic Review of the Code**

The Board may review and update this Code from time-to-time (and any related policies, guidance or procedures), in which case the updated Code will be circulated to all personnel and published on the website of An Bord Pleanála. On-going review and updating of overall ethical requirements and associated governance procedures

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<sup>2</sup> If necessary, certain relationships may be disclosed on a strictly confidential/need to know basis to the Human Resources Section so that any necessary mitigations to prevent conflict of interest and/or perception of objective bias can be implemented in respect of operational business matters.



will be a focus of the organisation as a whole and this will be facilitated by the work of a dedicated governance and ethics unit within the organisation.

### 1.10 Point of Contact for Queries

If any Board or staff member or external person engaged by the Board has any queries, whether in relation to this Code generally or as to whether disclosure of an interest or relationship might be required in specific circumstances (in respect of their own interests or those of another Board member/employee), they should **without delay** seek advice as follows:

- In the case of Board members, from the Chairperson or Deputy Chairperson or Secretary;
- In the case of staff or external person from the Chief Officer or Director of Corporate Affairs or Secretary.

In relation to the specific obligations on Board members and designated employees under EIPO, it is open to anyone who comes under the provisions of EIPO to seek advice directly from the Standards in Public Office Commission in relation to their obligations.

## 2. Disclosure of Interests / Conflicts

### 2.1 Overview

There are a number of statutory requirements relating to the declaration of certain interests. Under the Planning Act and EIPO:

- (i) all Board members and prescribed employees<sup>3</sup>, are subject to requirements to make an annual declaration of interests; and
- (ii) all Board members and all staff and external persons engaged by it are required to make case-by-case disclosures of any interests which are material to any appeal, determination or other matter relating to a particular function of An Bord Pleanála.

In addition to the disclosure obligations under legislation, in order to maintain the highest level of public confidence and trust in An Bord Pleanála and to ensure the independence and impartiality of its operations, this Code also contains policies which seek to avoid the possibility of any “objective bias” (or indeed any perception of objective bias) in the decision-making processes of An Bord Pleanála. These policies are detailed in paragraph 2.3 below.

External personnel engaged by An Bord Pleanála on duties relating to planning cases will be requested to complete and document the outcome of a conflict check prior to confirmation of engagement.

### 2.2 Statutory Declarations and Disclosures under the Planning Act and Equivalent Provisions of the Ethics in Public Office Acts.

Compliance with the legislative requirements under the Planning Act and EIPO is a matter for **each individual** to manage as the obligation to comply rests on the individual. An Bord Pleanála facilitates this process by the circulation of relevant forms and issuing reminders/guidance in respect of these obligations. For ease of reference, the legislative requirements regarding disclosures under the Planning Act and EIPO are summarised below.

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<sup>3</sup> The requirement to make annual declarations applies to “designated” or “prescribed” employees. Planning legislation refers to “prescribed persons”, whereas EIPO refers to “designated persons”. However, in practical terms, in An Bord Pleanála’s case, these 2 definitions capture the same category of personnel - all inspectorate staff and all administrative staff of An Bord Pleanála at Executive Officer grade and higher.

### 2.2.1 Annual Disclosures under Planning Legislation

Section 147 of the Planning and Development Act 2000, as amended (“the **Planning Act**”) requires that Board members and prescribed employees<sup>4</sup> **shall** give an annual declaration of interests in land (other than private home), and any business or involvement in dealing in or developing land.

“interests” for the purposes of s.147 include any<sup>5</sup> interests of the person and of any nominee of the person or of any company or other body of which the person’s nominee is a member.

There is a **prescribed form** for s.147 annual declarations, which can be obtained from Secretariat at any time. This form is also circulated to each Board member and prescribed employee annually for completion.

An Bord Pleanála is obliged to maintain a register of interests declared, which is open for **public inspection**. Information entered on this register must be maintained for a period of up to 5 (five) years after the relevant person ceases to be a Board member/prescribed employee.

**Change in circumstances:** If your personal circumstances change during the year in such a way that it would alter a previously completed declaration under section 147 (i.e. any change in existing interest(s) or acquisition of a new interest(s), a revised declaration may be required. If in doubt, you should consult the nominated points of contact as set out in paragraph 1.9 of this Code.

S.147(4) of the Planning Act provides that a person shall be regarded as complying with the requirements to notify a change in circumstances if the person gives to the Board a declaration **on the day** on which the change occurs, or the other interest is acquired. Board members and staff should keep this in mind when progressing any transaction which may result in a change in circumstances that needs to be declared.

An Bord Pleanála also considers it prudent that where an interest declared in a declaration at a point in time ceases to be such an interest, the reason for its omission from subsequent declarations be explained in a memo to the organisation.

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<sup>4</sup> “prescribed persons” means employees of the Board and any other person whose services are availed of by the Board, and who has been prescribed for the purposes of s.147. In practice, this is all inspectorate staff and all administrative staff of ABP at EO grade and higher.

<sup>5</sup> There are some exceptions to this requirement – e.g. for remote or insignificant interests or a shareholding in a company/other body where the value is less than €13,000 or 1% of the issued share capital. Further information on these exceptions is set out in the notes accompanying the section 147 form.

An Bord Pleanála also requires all board members to submit a section 147 return form even where a member has no interests to declare and to indicate that fact on the form.

### **2.2.2 Ad-Hoc / Case-By-Case Disclosures under Planning Legislation**

Section 148 of the Planning Act requires Board members and employees, or certain other persons engaged by the Board to disclose the nature of any<sup>6</sup> pecuniary (i.e. financial) or other beneficial interest<sup>7</sup> any such person has in, or which is material to, any appeal, contribution, question, determination or dispute which falls to be decided or determined by the Board.

The person will then be excluded from any discussions or consideration of the matter and must not influence or seek to influence any decision of the Board relating to that matter and must comply with any directions the Board may give in relation to the matter.

Unlike s.147 there is no form prescribed under law for s.148 disclosures.

Information provided pursuant to s.148 is placed on an internal register maintained in Secretariat in respect of all such notifications.

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<sup>6</sup> There are some exceptions to the requirements in section 148 – e.g. for remote or insignificant interests or a shareholding in a company/other body where the value is less than €13,000 or 1% of the issued share capital. [Further information on these exceptions is set out in the notes accompanying the section 148 form.]

<sup>7</sup> A person is regarded as having a “beneficial interest” in a matter if he/she/they or their spouse/civil partner (or any nominee of him/her/their spouse or civil partner):

- is a member of a company or any other body which has a beneficial interest in, or which is material to, a resolution, motion, question or other matter to be determined or decided by the Board;
- is in partnership with or is in the employment of a person who has a beneficial interest in, or which is material to, such a resolution, motion, question or other matter;
- is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a resolution, motion, question or other matter relates; or
- he/she/they have a beneficial interest in, or which is material to, such a resolution, motion, question or other matter.

### 2.2.3 Ethics in Public Office Acts Provisions

In addition to the disclosure requirements under the Planning Act as summarised above, there are similar disclosure requirements under the Ethics Acts. Each member of the Board and each person holding a “designated position”<sup>8</sup> with An Bord Pleanála must also ensure compliance with the relevant provisions of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 (together, “the Ethics in Public Office Acts”).

As with the Planning Act, the disclosure obligations under EIPO rest on the individual in question, rather than the organisation. To assist with compliance, the Standards in Public Office Commission (the “Commission”) has published “Guidelines on Compliance with the provisions of the Ethics in Public Office Acts 1995 and 2001” which can be accessed on the Commission website.

#### (a) Annual Declaration of Interests under Ethics in Public Office

Under Section 17(1)(a) of the Ethics in Public Office Act 1995, Board members and, under s.18(1)(a) of the same Act, “designated persons”, are obliged to prepare an **annual** statement of their “interests”<sup>9</sup> which could materially influence the person in or in relation to the performance of the person’s functions because such performance could so affect those interests as to confer on or withhold from a substantial benefit to the person (or the person’s spouse/civil partner/child).

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<sup>8</sup> All inspectorate staff and all administrative staff at EO grade and higher come within this definition.

<sup>9</sup> “interests” for the purposes of EIPO means the categories of registrable interests as set out in the Second Schedule to EIPO, which includes (but is not limited to):

- a remunerated trade, profession, employment or other occupation, where the remuneration exceeds €2,600;
- a holding of shares, bonds, debentures or like investments in a company or other undertaking the value of which exceeds €13,000;
- a directorship or shadow directorship of any company;
- any interest in land (including contracts for purchase/sale or options over land but excluding the private home of the person and/or their spouse/civil partner) with a value in excess of €13,000;
- a gift given to the person/their spouse/civil partner (or children) unless purely for personal reasons or with a value less than €650;
- property supplied or lent or services provided to the person/their spouse/civil partner (or children) unless it was a gift purely for personal reasons or with a value less than €650;
- certain travel facilities, accommodation, meals or entertainment unless it was a gift purely for personal reasons or with a value less than €650;
- a remunerated position as a political or public affairs lobbyist, consultant or adviser; and
- any contract (with a value in excess of €6,500) to which the person is or was a party, or in any way directly or indirectly interested, for the supply of goods or services to a Minister or a public body.

“Interests” for these purposes includes any interests of which the person has **actual** knowledge of the person’s spouse/civil partner or of the person’s child(ren) or of the child(ren) of the person’s spouse/civil partner.

Forms for annual disclosures under EIPO must be completed each year and, in the case of Board members, furnished to An Bord Pleanála and to the Commission. Designated persons (i.e. those who are not Board members) are only required to return declarations to An Bord Pleanála. There is a prescribed form which is circulated by An Bord Pleanála for completion to relevant personnel annually and which can be obtained from the Secretary at any time. An Bord Pleanála can arrange any necessary transmission of declarations to the Commission.

While there is no statutory requirement to do so, the Commission recommends that relevant personnel should file a “**nil**” statement if there are no interests to declare for a particular year.

Where a change in interests arises, a revised statement may be furnished at any time.

**(b) Disclosures in Respect of Functions of the Board / Designated Persons – Section 17(1)(b) and Section 18(1)(b) of the Ethics in Public Office Act, 1995.**

In addition to the annual statement of interests referred to above, s.17 and s.18 of the Ethics in Public Office Act, 1995 also require Board members and designated persons to furnish a statement at the time when an official function falls to be performed by the person, and the person has actual knowledge that the person, or a “connected person”<sup>10</sup> of the person, has a “material interest”<sup>11</sup> in a matter to which the function relates.

Where a Board member/designated person has a material interest in a particular matter relating to a function to be performed by that person, the 1995 Act provides that:

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<sup>10</sup> “connected person” includes a relative (brother, sister, parent, spouse or child (or child of the spouse)), business partner, trustee of any trust for the benefit of the person (or their children), and companies controlled by the person (on his/her own or together with his/her connected parties).

<sup>11</sup> A person or a connected person has a “material interest” in a matter if the consequence or effect:

- (a) of the performance by the person of a function of his or her office/designated position, or
- (b) of any decision made in relation to or in the course or as a result of the performance of such a function by the person, concerning that matter, may be **to confer on or withhold from** the person or the connected person a significant benefit or impose on the person a significant loss, liability, penalty, forfeiture, punishment or other disadvantage without also conferring it on, withholding it from or imposing it on, persons in general or a class of persons which is of significant size having regard to all the circumstances and of which the person or the connected person is a member.



**Board members** must, as soon as possible, prepare and furnish to the other members of the Board a statement in writing of the relevant facts, and:

- (i) shall not perform the function unless there are compelling reasons requiring the member to do so, and
- (ii) shall, if it is proposed to perform the function, prepare and furnish to the other Board members and to the Commission, before or, if that is not reasonably practicable, as soon as may be after such performance, a statement in writing of the compelling reasons.

**Designated persons** must, as soon as possible, prepare and furnish a statement in writing of the relevant facts, and:

- (i) shall not perform the function unless there are compelling reasons requiring the person to do so, and
- (ii) shall, if the person proposes to perform the function, prepare and furnish to An Bord Pleanála, before or, if that is not reasonably practicable, as soon as may be after such performance, a statement in writing of the compelling reasons.

As is the case for annual statements under the Ethics in Public Office Acts, section 29(2) of the Ethics in Public Office Act, 1995 provide that, where a change in material interests arises, a revised statement may be furnished at any time.

## 2.3 Objective Bias

In addition to the disclosure obligations under legislation described above, this Code contains provisions which seek to avoid the possibility of, or of a *perception* of, “**objective bias**” in the decision-making processes of An Bord Pleanála.

The concept of “objective bias” is difficult to define and is very much case-specific and fact-specific. The general test that is applied is whether a *reasonable* person, who is *in possession of all the relevant facts*, would *reasonably* believe that there is a risk that the decision-making process will not be fair and impartial.

To assist all persons in An Bord Pleanála in undertaking their work duties, including dealing with cases as expeditiously as possible and in accordance with the principles of proper planning and sustainable development, whilst minimising the risks associated with ‘objective bias’ the following provisions are set out.

It would be generally expected that Board members, staff and external personnel engaged by An Bord Pleanála should not knowingly deal with or participate in any case which falls to be decided or determined by An Bord Pleanála:

- within a person's identified "immediate neighbourhood" (see (a) below);
- involving a person's family or other person(s) who is well known on a personal basis; (see(b) below);
- where they have previously had any involvement in the case, on a personal basis, or on behalf of a previous employer, or as a member of any other organisation or body;
- involving a case relating to a planning authority or any work organisation where the person was previously employed during the previous two-year period or any voluntary or professional organisation of which the person is or was a member during the previous two-year period; or
- where the case could have any implications for any land, business/financial or professional interests of the person, their family or other person(s) who is well known on a personal basis.

In approaching consideration of any of the above circumstances a **precautionary approach** should be adopted having regard to the particular circumstances of each case where questions of conflict or objective bias may arise. This can in circumstances be particularly relevant to assessment of the potential for objective bias beyond the previous employer two-year period as other factors, such as the nature and extent of the past association or work done or views expressed in a previous employment, can also be a relevant determinative factor in whether objective bias may be found to exist.

#### **(a) The Meaning of "Immediate Neighbourhood"**

The potential for conflict of interest/objective bias may arise if a Board member, inspector or other staff member, deals with or participates in any case relating to a proposed development which is close to a property interest of the person concerned.

In this context, there is a **general requirement** that a Board or staff member should not be involved in any case that is in close proximity to any property with which they have a personal or business interest. This includes the private home(s) of the person, and those property interests which are disclosable by reference to the relevant provisions of the Planning and Development Act and the Ethics in Public Office Act.

On appointment/engagement, each Board member and all staff must identify their full home address(es) and properties that they occupy (including Eircode) to the Human Resource Section. This information shall be held within An Bord Pleanála and shall remain fully confidential.

For the purposes of this Code of Conduct, the following meaning of ‘immediate neighbourhood’ applies:

- In an urban setting, within a 0.5 km radius of the private home or other property interest of that person,
- In a rural setting, within a 5km radius of the private home or other property interest of that person.

Within the above context, a proportionate approach should in all cases be taken on the facts of the particular case and in order to ensure that the business of the Board can be conducted effectively, but as a general rule, it would be expected that a Board member, inspector or other staff member should not normally be involved in any case within their identified immediate neighbourhood(s).

In the case of any queries/doubt on a particular case, a Board member should seek a ruling from the Chairperson, and an employee should seek a ruling from the Chief Officer to determine whether the person concerned should be excluded from any involvement in a particular case.

Where any such question arises, the matter must be documented in memo form including any ruling on the question and a copy forwarded to the Secretary for recording.

#### **(b) “Close Personal Relationship” and “Persons Well Known”**

An actual or perceived conflict/bias may also arise in circumstances where a family member of a Board/staff member (e.g. their spouse/partner, parents, siblings, children, spouse/partner’s parents or children and partners of adult children) or a person who is well known on a personal basis to a Board/staff member whom has a property or financial interest or an association with persons or organisations with close connections to the case in question.

In this context, there is a **general requirement** that a Board or staff member shall not deal with or participate in the decision-making process in any case where it is considered that such involvement could give rise to a perception of objective bias.

A proportionate approach as to whether the relationship or connection falls within this category should be taken on the facts of the particular case.

In the case of any doubt/queries on a particular case, a Board member should seek a ruling from the Chairperson, and an employee should seek a ruling from the Chief Officer.

Where any such question arises, the matter must be documented in memo form including any ruling on the question and a copy forwarded to the Secretary for recording.

### 3. Assignment of Files or Cases

- 3.1 The general approach of An Bord Pleanála is that Board members, inspectors and other staff should not be (and should not be asked to become) involved with cases in respect of which they have an “interest” which is disclosable under the Planning Act and/or the Ethics in Public Office Acts or in respect of which there is a risk of (or of a perception of) objective bias.

However, given the geography and population of Ireland, inevitably, there is a risk that staff and Board members could be assigned casefiles related to places with which they have some level of personal connection. An Bord Pleanála has therefore adopted internal administrative protocols regarding assignment of cases to minimise this risk.

- 3.2 For the purposes of this paragraph 3, “assign”/“assignment” means:

- the assignment of work including a file or other matter to an inspector, consultant, adviser or other person whose services are availed of by An Bord Pleanála for the preparation of a report/recommendation or other matter connected with a case; and/or
- the allocation of a file or other matter to a Board member for consideration or for presentation to the Board.

- 3.3 As part of ensuring adherence to avoidance of conflict of interest or any perception of objective bias, Board members are asked to nominate any areas or organisations/companies which they consider might trigger conflict of interest/objective bias concerns so that cases that fall within such listings may not be allocated to them in the first instance.

- 3.4 This list is consulted as part of the administrative process for case assignment and used as a guide to avoid the allocation of files in a manner which may potentially cause a conflict of interest or any perception of objective bias.

- 3.5 The entries in the list should be amended as required, and should be formally reviewed by each person involved, and approved by the Chairperson at least annually or as required.

- 3.6 Any Board member who is inadvertently assigned a file which may fall within the list or within any of the categories outlined in paragraph 3.3 above should immediately return it to the relevant administrative personnel for re-allocation, together with a memo of why it is being returned. The Secretary will maintain a record of all such memos.

- 3.7 In circumstances where board composition for a known upcoming case is being contemplated in advance of allocation then any matters involving consideration and decisions on potential exclusions of any members arising from concerns

relating to conflict of interest/objective bias should be recorded in memo form. The Secretary will maintain a record of all such memos.

- 3.8 Where it is considered that an employee, fee-per-case Inspector, consultant, adviser or other person whose services are availed of by the Board has a pecuniary or other beneficial interest in or relationship which is material to, any appeal, or other matter assigned to that person, this shall be recorded in memo form and the file shall be returned to the appropriate supervisor. The memo should be forwarded to the Secretary who will maintain a record of such memos.
- 3.9 Where any query/doubt arises in relation to assignment of files/cases, the matter shall be determined and documented by the Chairperson for Board members and the Chief Officer for staff/ consultants. The Secretary will maintain a record of all such memos.

## 4. Conflict of Interest

- 4.1.1 When a file is being presented at a Board meeting, every Board member present should disclose (if not already disclosed in advance of consideration of the case) any possible conflict of interest, including pecuniary or beneficial interests (within the meaning of s.148 of the Planning Act) and/or any relationships or other connections which may be relevant to the case. A record of no conflicts of interest must also be kept in respect of files presented at each Board Meeting.
- 4.1.2 Where a question arises as to whether or not there is a conflict of interest or objective bias, the chairperson of the meeting shall determine the matter. If considered appropriate, the chairperson of a board meeting may request the Chairperson of the Board or the Deputy Chairperson to determine and document the matter. In relation to matters relating to the interests of the Chairperson, the Deputy Chairperson shall determine and document the matter.
- 4.1.3 Where the chairperson of a meeting, Chairperson, or Deputy Chairperson, determines that a conflict exists, the Board member in question shall not thereafter participate in or attend any meeting (or part thereof) at which the case is discussed or determined. Board documents on any deliberations regarding any matter in which a member of the Board has a conflict or material interest should not be made available/accessible to the Board member concerned.
- 4.1.4 Where a possible conflict of interest is raised by a Board member at a Board meeting and the chairperson of the meeting, or the Chairperson, or Deputy Chairperson, as applicable, determines that a conflict of interest does or does not exist, the outcome of this determination shall be noted in the Board meeting record and a memo of the determination shall be sent to the Secretary.
- 4.1.5 Where a possible conflict of interest is raised by a Board member outside of a Board meeting, and a determination is made by the Chairperson or Deputy Chairperson, a memo of the outcome of this determination shall be sent to the Secretary.
- 4.1.6 In respect of 4.1.2., 4.1.4, and 4.1.5 above a brief explanation of the circumstances, determination and general rationale for the determination must be completed in writing by the determining person. The Secretary will maintain a record of all such determinations.



## 5. Improper Communications

- 5.1 Under section 114 of the Planning Act it is unlawful for a person to communicate (whether in writing or otherwise) with the Chairperson, an ordinary Board member, an employee, consultant or adviser or other person whose services are availed of by An Bord Pleanála, for the purpose of influencing improperly the consideration of matters with which An Bord Pleanála is concerned or a decision of An Bord Pleanála in regard to any such matter.
- 5.2 It is the duty of any such person, on receipt of such a communication, not to entertain it further and, in respect of Board members, to bring it to the attention of the chairperson. Staff members should bring it to the attention of an appropriate supervisor/manager.
- 5.3 Communication with external participants in relation to current live cases should not occur outside of the standard administrative or formal statutory channels and, in particular, under no circumstances should any personnel give any information in respect of the content or recommendation of an inspector's report prior to a board decision being made. Any breach of this requirement may be unlawful if breaching the statutory provisions set out at section 113 of the Planning Act and, in those circumstances, would also attract activation of disciplinary procedures.

Any disclosure of information post a board decision shall be completed in accordance with standing operational policies and procedures.

- 5.4 The exercise of independent professional judgement by planning inspectors in making reports and recommendations to the Board is fully acknowledged and endorsed as a fundamental cornerstone to the integrity of the decision making process of the organisation and must be respected and protected by all in the organisation. In relation to internal communications and, in particular, in respect of live cases the subject of inspectors reporting processes, there must be clear, transparent and documented lines of communication between board members and planning inspectors (including supervisory inspectorate managers) in relation to such planning cases where any such communication is necessary. All in-house policies and procedures in relation to such communications must be followed by all in the organisation.

## **6. Membership of Organisations, Associations and Other Bodies**

- 6.1 A Board member, the Chief Officer, a person at the salary level of Director or above and the Secretary may not be a member of a political party.
- 6.2 Where an employee, other than the holder of a position referred to in paragraph 6.1, is or becomes a member of a political party, they must make a written declaration to this effect to the Secretary. Furthermore, where such an employee is or becomes an office holder or holder of any other nominated or elected position in a political party or is elected to any public office, this must be declared in writing to the Secretary.
- 6.3 Board members and employees may be members of their professional bodies/institutes and/or of a trade union, and participate in the activities of these bodies, but should take care to ensure that those activities do not conflict with any other provisions of this Code.
- 6.4 A Board member or employee's involvement in outside organisations should generally be confined to membership of a professional body and/or trade union and membership of clubs, organisations or groups whose aims, objectives and regular activities and programmes are not aimed at influencing policies relating to planning or the environment and/or planning decisions. This restriction does not apply to membership of local residents' associations. Where a question arises as to whether any organisation falls within the scope of this paragraph, the question should be referred to the Chairperson for board members and the Chief Officer for staff members.
- 6.5 Notwithstanding the provisions of 6.2 to 6.4 above, Board members or employees shall not engage in the activities of any organisation which would result in a potential conflict of interest between their own interests and the interests of An Bord Pleanála. A member or employee shall not engage in the activities of any outside organisation in a manner which could reasonably be interpreted as compromising their potential to carry out their duties with An Bord Pleanála in an impartial manner or as compromising An Bord Pleanála in carrying out its functions in an impartial and objective manner.

## **7. Membership / Financial Interests in Companies, Partnerships or Other Bodies**

- 7.1 Ownership of any financial interest in companies, or membership in partnerships or other bodies must be declared where there could be, or could be perceived to be, a conflict of interest in respect of any particular case. Board members and designated employees should follow the procedures set out in paragraph 2 in respect of declaring their involvement/membership in accordance with the relevant statutory provisions.

## **8. Undertaking of Work During and After Membership / Employment**

- 8.1 A person who is a member of the Board is employed in a whole-time capacity. No member shall accept emolument for any outside employment, consultancy or advisory service.
- 8.2 No employee shall accept emolument for any outside employment which may in any way represent or may be reasonably interpreted as representing a conflict of interest on any matters pertaining to the functions undertaken by An Bord Pleanála. Where a question arises on any such proposal, the matter must be referred to the Chief Officer who shall make a decision in writing on the matter.
- 8.3 On leaving office or employment, no Board member or former prescribed employee should, accept employment connected with, act as a consultant or otherwise advise in relation to, any specific case which was with the Board during their period of office or employment or which could lead to a conflict of interest, or the perception of same.

## 9. Gifts

- 9.1 A Board member or employee should not accept or obtain, or agree to accept or attempt to obtain from any person or body for themselves or for any other person, any gift, invitation, sponsorship, consideration or favour, including any which may be interpreted as an inducement or reward for doing or forbearing to do any act or exert influence in relation to the functions or business of An Bord Pleanála<sup>12</sup>. A Board member or employee should not confer any such gift, invitation, sponsorship, consideration or favour where this may be perceived to be in any way connected to their role in An Bord Pleanála.

## 10. Financial Efficiency, Expenses Claims and Fraud Prevention

- 10.1 As part of their concern for the public interest, including the proper use of public funds, every Board and staff member should ensure that none of An Bord Pleanála's resources (including staff time) is used for personal gain or for activities unconnected with the organisation.
- 10.2 In carry out their duties, Board members and employees/staff shall endeavour to ensure that the best possible use is made of the organisation's financial, environmental and human resources.
- 10.3 Expenses claimed by and paid to Board members or staff must relate only to appropriate business needs of the organisation and should be in accordance with good practice and relevant circulars and guidelines in the public service generally.
- 10.4 An Bord Pleanála shall maintain controls to prevent fraud including adequate procedures to ensure compliance with prescribed procedures in relation to the claiming of expenses for business travel and all members and employees shall ensure compliance with such controls and procedures. Detailed anti-fraud procedures and safeguards are covered in An Bord Pleanála's Anti-Fraud Policy and Procedures.

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<sup>12</sup> Part 2 of the Criminal Justice (Corruption Offences) Act 2018 which covers An Bord Pleanála sets out specific offences relating to these and other matters.

## **11. Use / Disclosure of Information / Publication of Opinions / Views**

- 11.1 Section 113 of the Planning and Development Act, 2000 prohibits the disclosure of specified information by Board members or employees without the consent of the Board save for certain exceptions specified by law.<sup>13</sup> The restrictions on disclosure of information continue to apply after Board membership or employment has ceased.
- 11.2 Board members or staff shall not use legitimate internal access to information relating to inspectors' reports or board decisions for any improper use or for the purpose of any personal advantage and shall keep any such information fully confidential until publicly released.
- 11.3 Nothing concerning disclosure of information in this Code shall be interpreted as prohibiting, restricting or in any way preventing the disclosure of information in relation to possible fraud, malpractice or irregularities dealt with in the Board's Policy and Procedures on Anti-Fraud and Protected Disclosures in accordance with the provisions set out in those policies and procedures.
- 11.4 Board members and employees should not express an opinion to any member of the public relating to any matter which is before the Board, other than the giving of information in relation to procedures and the status of cases which it is proper to give.
- 11.5 Information in relation to the Board's business should not be given by any Board member or employee to any party, applicant, observer or other member of the public, in particular,
- the names of the Board member or the Inspector dealing with or likely to be dealing with particular cases,
  - specific information in relation to Board meetings,
  - attendance at future Board meetings,
  - future leave arrangements of Board members,
  - the contents of an Inspector's recommendation/report, or the terms of a Board direction, during the currency of a case until they are generally available in accordance with proper procedures.

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<sup>13</sup> The restrictions under section 113 does not apply to information disclosed by the Board:

- (a) to the Minister for Housing, Local Government and Heritage,
- (b) in accordance with the provisions of the Freedom of Information Act, 1997, and
- (c) in accordance with the European Communities Act 1972 (Access to Information on the Environment) Regulations 1998

- 11.6 Any enquiry from the media to a Board member or employee should be directed to the Communications Unit in the first instance.
- 11.7 Except with the written consent of the Chairperson, no Board member or employee may
- (i) make a statement or give an interview to the media about the performance of the functions of An Bord Pleanála,
  - (ii) prepare for publication, publish or otherwise cause or permit to be published or broadcast by radio or television or other media any matter relating to the performance of the functions of the An Bord Pleanála,
  - (iii) deliver a paper about the performance of the functions of An Bord Pleanála,

Subparagraphs (i) to (iii) above shall not apply to presidents (or equivalents) of professional bodies for the period of their offices.

- 11.8 Board members or employees shall not publish or publicly express personal views or opinions or participate in public meetings or discussions (including virtually) which could reasonably be interpreted as compromising their ability to carry out their official duties with An Bord Pleanála in an impartial manner or as compromising An Bord Pleanála in carrying out its functions in an impartial and objective manner.
- 11.9 Board members should not retain documentation obtained during their terms as members and should return all such documentation to the Secretary or otherwise indicate to the Secretary that all such documentation has been disposed of in an appropriate manner. In the event that former Board members require access to papers from their time on the Board this can be facilitated.



## 12. Board Members / Staff Observations and Submissions

- 12.1 From time to time, Board or staff members may wish to make submissions or observations on specific planning cases or development plans in a personal capacity or as a member of a residents' association.
- 12.2 In such situations, the Board member or employee in question should inform the Secretary of their intention to do so **in advance of** making the submission or observation. The matter will then be treated as a material interest/conflict of interest in relation to that case.

If a Board member or employee becomes aware or expects that a family member/other person with whom the member/employee has a close personal relationship/person(s) or is well known to them on a personal basis, has or intends to make an appeal, application or submission/observation in respect of a particular case, the member/employee should notify the Secretary or the Chief Officer as appropriate, and should not be involved in any consideration of that case. The Secretary will keep a record of all such notifications.

## 13. Public Procurement

- 13.1 All purchasing of goods/services shall be done in accordance with An Bord Pleanála Public Procurement Guidelines. Board members and employees must be conscious of their responsibilities in relation to commercially sensitive information obtained in relation to tenders and not release such information other than in accordance with established practices.

## 14. Accuracy of Information

- 14.1 Board members and staff shall take care to ensure that all accounts, reports or statistics relating to the business of An Bord Pleanála are accurate and are not misleading.

## **15. Work / External Environment – Respect for Others and for Community**

- 15.1 An Bord Pleanála is committed to maintaining a workplace environment that encourages and supports the right to dignity at work in accordance with its Dignity in the Workplace Charter. All who work here are required to respect the right of each individual to dignity in their working life and all personnel will be treated equally and respected for their individuality and diversity. Bullying or harassment in any form will not be tolerated as such behaviours breach the values of the organisation and this Code. All individuals, whether directly employed or contracted to the organisation have a duty and responsibility to uphold these workplace values.
- 15.2 As required under section 42 of the Irish Human Rights and Equality Commission Act, the Board shall, in the performance of its functions, have regard to the need to-
- (a) eliminate discrimination,
  - (b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and
  - (c) protect the human rights of its members, staff and the persons to whom it provides services.
- 15.3 An Bord Pleanála conducts its operations in such a manner so as to ensure that local community concerns in the area of where its offices are located are fully considered and that its practices are in accordance with the sustainability of the environment.

*Adopted by the board of An Bord Pleanála*

*29<sup>th</sup> of June 2023*



An  
Bord  
Pleanála

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