

# **CODE OF CONDUCT FOR EMPLOYEES OF THE OFFICE OF THE PLANNING REGULATOR**

## **INTRODUCTION**

This document is a Code of Conduct in respect of employees of the Office of The Planning Regulator.

Further to section 31AC of the Planning and Development (Amendment) Act 2018, members of staff of the Office of the Planning Regulator are employed as civil servants within the meaning of the Civil Service Regulation Act 1956. Consequently, staff of the Office must also comply with the provisions of the Civil Service Codes and circulars applicable to all civil servants.

## **BACKGROUND**

The Office of the Planning Regulator (OPR) is a new independent public body that has been established by Government to oversee the functioning and policy consistency of Ireland's planning process to ensure quality outcomes in relation to proper planning and sustainable development.

The Planning and Development (Amendment) Act 2018 established the legal basis for the OPR and outlines its role and functions.

## **FUNCTIONS OF THE OFFICE**

The Office the Planning Regulator's core functions are:

- Evaluation and assessment of statutory planning policy documents, including local authority development plans and local area plans and regional spatial and economic strategies prepared by regional assemblies;
- Reviews of the organisation, systems and procedures of local authorities and An Bord Pleanála in relation to the performance of their functions under the Planning Acts;
- Research, training, education and public awareness in relation to the planning process.

## **STATUTORY REQUIREMENT OF THE CODE OF CONDUCT**

Section 31AL of Planning and Development (Amendment) Act 2018, provides that the Office of the Planning Regulator must 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 the statutory requirements above, this code of conduct sets out a written statement concerning the policy of the Office on the following matters:

- a) *Disclosure of interests and relationships where the interests and relationships are of relevance to the work of the Office, as appropriate;*

- b) *Membership of other organisations, associations and bodies, professional or otherwise;*
- c) *Membership of, or other financial interests in, companies, partnerships or other bodies;*
- d) *Undertaking work, not being work on behalf of the Office both during and after any period of employment with the Office, whether as a consultant, adviser or otherwise;*
- e) *Acceptance of gifts, sponsorship, considerations or favours;*
- f) *Disclosure of information concerning matters pertaining to the work of the Office, as appropriate;*
- g) *Following of best practice to be adopted in relation to the functions of the Office including the procedures for the provision of observations, submissions or recommendations in accordance with this Act in relation to—*
  - (i) *The review, making and variation of development plans,*
  - (ii) *The review, making and amendment of local area plans,*
  - (iii) *The review, making and amendment of regional spatial and economic strategies, and*
  - (iv) *The disclosure by the Planning Regulator, staff of the Office or persons to whom section 31AJ relate of any representations relating to the work or functions of the Office made to the Planning Regulator, to any such staff member or person, whether in writing or otherwise in relation to those matters.*

#### **PERSONS COVERED BY THE CODE OF CONDUCT**

This code covers employees, consultants, advisors or any other person engaged by the Office of the Planning Regulator to carry out any of its functions under the Planning and Development (Amendment) Act 2018.

In this document, an **employee**, where used without qualification means the Planning Regulator or a person employed by the Office of the Planning Regulator under a contract of service whether on a full time or part time basis. The term **employee** also includes persons who are engaged by the Office of the Planning Regulator on a secondment and other temporary arrangement.

In this document, **consultant** or **advisor**, means a person engaged by the Office of the Planning Regulator as per Section 31AJ of the Planning and Development (Amendment) Act 2018.

Employees, consultants, advisors and any other person whose services are availed of by the Office of the Planning Regulator, must adhere both to the letter and the spirit of this Code, to maintain the highest level of public confidence and trust in the Office of the Planning Regulator in the performance of its functions.

The Office of the Planning Regulator may at any time review a Code of Conduct adopted under this section and may amend the Code of Conduct, or adopt a new Code of Conduct, subject to approval by the Minister of Housing, Planning & Local Government.

## 1. DISCLOSURE OF INTERESTS AND RELATIONSHIPS

On commencement of employment, employees of the Office of the Planning Regulator are required to complete a statutory declaration under the Ethics in Public Office Act 1995 (as amended) containing particulars of every interest to which this section applies and in relation to:

- 1.1. Any estate or interest in any land held by an employee but excluding any interest consisting of any private home, within the meaning of paragraph 1(4) of the Second Schedule to the Ethics in Public Office Act, 1995 (as amended) ; ***(see below)***
- 1.2. Any business of dealing in or developing land in which he/she is engaged or employed and any such business carried on by a company or other body of which he or she, or any nominee of his or hers, is a member;
- 1.3. Any profession, business or occupation in which he/she is engaged whether on his/her own behalf or otherwise, and which relates to dealing in or developing land;
- 1.4. A person to whom this section applies shall be regarded as having an estate or interest in land if he or she, or any nominee of his or hers, is a member of a company or other body which has an estate or interest in the land;
- 1.5. The register of interests shall be kept at the offices of Office of the Planning Regulator and shall be available for public inspection during office hours. A declaration shall be given at least once a year or where there is a change regarding interest particulars. The statutory declaration form shall be used for this purpose;
- 1.6. Persons shall not be regarded as having an interest if the interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence them in carrying out any of the functions of the Office of the Planning Regulator under the Planning and Development (Amendment) Act 2018;
- 1.7. Where a person has a pecuniary or other beneficial interest as referred to in 1.1, 1.2 or 1.3 above, by reason only of the beneficial ownership of shares in a company or other body by him/her or by his/her nominee and the total value of those shares does not exceed the lesser of:
  - €12,697.38, or
  - one-hundredth part of the total nominal value of either the issued share capital of the company or body or, where that capital is issued in shares of more than one class, the issued share capital of the class or classes of shares in which he or she has an interest,

The statutory requirements concerning declarations and disclosures do not apply in relation to that interest.

- 1.8. A person shall be regarded as having a beneficial interest if:

- He or she or his or her spouse or civil partner, or any nominee of his or her or of his or her 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 matter being considered by the Office of the Planning Regulator under the Planning and Development (Amendment) Act 2018;
- He or she or his or her spouse or civil partner is in partnership with or is in the employment of a person who has a beneficial interest in, or which is material to, such matter,
- He or she or his or her spouse or civil partner is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such matter relates, or
- His or her spouse or civil partner has a beneficial interest in, or which is material to, such matter.

## **2. MEMBERSHIP OF ORGANISATIONS, ASSOCIATIONS AND OTHER BODIES**

Section 31AB of the Planning and Development (Amendment) Act 2018 deals with membership of either the House of Oireachtas, European Parliament or Local Authority.

Where the Planning Regulator or member of the staff of the Office:

- (a) Accepts a nomination as a member of Seanad Eireann;
- (b) Is elected to be a member of either House of the Oireachtas or to be a member of the European Parliament;
- (c) Is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament or;
- (d) Is elected or co-opted as a member of a local authority.

He or she shall

- (i) in the case of the Regulator, cease to be the Regulator, and
- (ii) in the case of any member of the staff of the Office, stand seconded from employment by the Office and not be paid by, or be entitled to receive from, the Office any remuneration or allowances for expenses in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected or on such election or co-option, and ending when he or she ceases to be a member of either such House, a member of such Parliament or a member of the local authority.

2.2. Employees may be members of their professional bodies/ institutes and/ or of trades union, and participate in the activities of these bodies.

2.3. Employees involvement in outside organisations should generally be confined to membership of his/ her professional body and membership of clubs, organisations or groups whose aims and objectives and regular activities and programmes are not aimed at influencing planning policy and/or planning decisions. This restriction does not apply to membership of local residents' associations where such associations and their activities are not aimed at influencing planning policy and/or planning decisions.

Where a question arises as to whether any organisation falls within the scope of this sub-paragraph, the question should be referred to the Planning Regulator.

### **3. MEMBERSHIP/ FINANCIAL INTERESTS IN COMPANIES, PARTNERSHIPS OR OTHER BODIES**

Any membership of a pecuniary nature, and any financial interest in companies, partnerships or other bodies shall be declared by the employee, consultant, advisor or other person by the Office of the Planning Regulator. Employees shall follow the procedures set out in section 1 in respect of their involvement/ membership where there could be, or could be seen to be, a conflict of interest in respect of any particular function of the Office of the Planning Regulator under the Planning and Development (Amendment) Act 2018.

### **4. UNDERTAKING OF WORK DURING AND AFTER EMPLOYMENT**

4.1. No employee (other than external contractors / consultants) shall engage in any outside employment, consultancy or advisory capacity that relates to any planning matter other than with the written consent of the Planning Regulator or Deputy Planning Regulator.

4.2. 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 the Office of the Planning Regulator.

### **5. ACCEPTANCE OF GIFTS**

An employee shall not accept or obtain, or agree to accept or attempt to obtain from any person or body for himself/herself or for any other person, any gift, invitation, sponsorship, consideration or favour 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 the Office of the Planning Regulator under the Planning and Development (Amendment) Act 2018.

### **6. DISCLOSURE OF INFORMATION**

For the purposes of this section, "employee" does not include the Planning Regulator, Deputy Planning Regulator, designated Communications Officer(s) or any Directors of the Office of the Planning Regulator.

6.1. Section 31AD of the Planning & Development (Amendment) Act 2018, prohibits the disclosure of information relating to the functions of the Office of the Planning Regulator. This section does not apply to information disclosed:

- In a report made to the Office or in a report made by or on behalf of the Office to the Minister of Housing, Planning and Local Government;
- By any person in the course of and in accordance with the functions of his or her office;
- In accordance with the provisions of the Freedom of Information Act, 2014;
- In accordance with the European Communities Act, 1972 (Access to Information on the Environment) Regulations, 1998 and any regulations amending or replacing those regulations.

- 6.2. Any enquiry from the media to an employee should be directed to the designated Communications Officer(s) or, in his/ her absence, any of the Directors of the Office of the Planning Regulator, in the first instance.
- 6.3. Except with the written consent of the Planning Regulator, Deputy Planning Regulator or a Director of the Planning Regulator, no employee may:
- (i) Make a statement or give an interview to the media about the performance of the functions of the Office of the Planning Regulator;
  - (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 Office of the Planning Regulator;
  - (iii) Deliver a paper about the performance of the functions of the Office of the Planning Regulator
  - (iv) Place or assist in placing in the public domain any view or views relating to general planning matters where such views could reasonably be interpreted as, in any way, prejudicing or hindering the impartial carrying out of that person's duties within the Office of the Planning Regulator or could reasonably be interpreted as affecting the impartiality and objectivity of the Office of the Planning Regulator.

None of the restrictions above shall apply where an employee is required to provide information, evidence or a document by any enactment compelling the employee to do so.

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

## **7. PROPER PROCEDURE**

- 7.1. It is essential that best practice is adopted in relation to the functions of the Office of the Planning Regulator. In particular, the procedures as set out in the following sections of the Planning and Development (Amendment) Act 2018 Act will be followed by all staff performing these duties:
- Section 31AM - Evaluation and assessment by Office of matters relating to development plans;
  - Section 31AO - Evaluation and assessment by Office of matters relating to local area plans;
  - Section 31AQ - Evaluation and assessment by Office of matters relating to regional spatial and economic strategies.
- 7.2. The Office of the Planning Regulator undertakes to ensure that evaluations and assessments carried out under Sections 31AM, 31AO and 31AQ of the Act, are completed within 4 weeks.

7.3. Further to Section 31U of the Planning and Development (Amendment) Act 2018, the Office of the Planning Regulator undertakes to conduct a review of its organisation and of the systems and procedures used by it in the performance of its functions every 3 years.

7.4. It is the duty of each employee –

- Not to engage in conduct which is dishonest or which may otherwise bring the standing the Office of the Planning Regulator into disrepute or which is prejudicial to the effective performance by the Office of its functions, and;
- To be competent, courteous and professional in the execution of his/her duties.

## **8. IMPROPER COMMUNICATIONS**

An employee who receives any form of communication from a person, intended for the purpose of influencing improperly the consideration of matters with which the Office is concerned or a recommendation of the Office in regard to any such matter, shall:

- On receipt of such a communication, not to entertain it further and;
- Bring it to the attention of the Deputy Planning Regulator without delay in writing. If the Deputy Planning Regulator is unavailable the matter should be brought to the attention of the Planning Regulator without delay in writing. Furthermore, where the relevant employee is the Deputy Planning Regulator, they must notify the Planning Regulator without delay in writing.

## **9. ACTING IN GOOD FAITH**

Employees should act in good faith in the performance of any functions of the Office of the Planning Regulator in accordance with Section 31AE of the Planning and Development (Amendment) Act 2018.

## **10. WORK/ EXTERNAL ENVIRONMENT**

The Office of the Planning Regulator places the highest priority on promoting and protecting the health and safety of its employees. The Office of the Planning Regulator will as far as is practicable operate its business in such a manner so as to integrate into the local community in the area of where its offices are located and that its practices are in accordance with the sustainability of the environment and the provisions of the Civil Service Codes and circulars.

## **11. PROCEDURES FOR EMPLOYEES, CONSULTANTS OR ADVISORS DEALING WITH A FILE ASSIGNED TO THEM**

11.1. Assignment of a file means:

- An evaluation and assessment carried out under sections 31AM, 31AO or 31AQ of the Planning and Development (Amendment) Act 2018 or;
- An examination or review carried out under section 31AU of the Planning and Development (Amendment) Act 2018;

by an employee for the preparation of a report, recommendation or other matter connected with a statutory function of the Office of the Planning Regulator.

- 11.2. An employee shall not knowingly deal with a file to which section 31AU of the Planning and Development (Amendment) Act 2018 relates, concerning their own immediate neighbourhood or to persons well known on a personal basis to them.
- 11.3. An employee shall not knowingly deal with a file relating to a Local Authority or a private practice where he/she was previously employed during the previous twelve months or any voluntary or professional organisation of which the person is or was a member during the previous twelve months.
- 11.4. An employee shall not knowingly deal with a file which relates to any land, business or professional interests which are contained in his/her declaration of interests.
- 11.5. Where a doubt exists in relation to any question arising under 11.2, 11.3 or 11.4, the matter shall be resolved by the Deputy Planning Regulator or the Planning Regulator having regard to the provisions of the Civil Service Codes and circulars.
- 11.6. No consultant or adviser shall request that a particular file be assigned to him/her.
- 11.7. Where an employee has a pecuniary or other beneficial interest in, or which is material to any consideration of a file, they shall comply with the following requirements:
  - They shall neither influence nor seek to influence the consideration/ processing of the file or any recommendation(s) made by the Office of the Planning Regulator as regards the subject matter;
  - They shall disclose in writing to the Deputy Planning Regulator or Planning Regulator the nature of their interest and comply with any directions the Deputy Planning Regulator or Planning Regulator may give in relation to the matter.
- 11.8. Where a file is assigned to an employee which falls into any of the categories outlined in paragraphs 11.2, 11.3, 11.4 or 11.7, this should be recorded in memo form and the file shall be returned to the Deputy Planning Regulator or, in his/ her absence, another Director for reassignment. In all such cases, the memo should be forwarded by the person to the Deputy Planning Regulator who will maintain a register of such matters.

**END**

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***Ethics in Public Office Act, 1995 (as amended)***

***SECOND SCHEDULE***

***Registrable Interests***

*“ 1. Each of the following interests shall be a registrable interest for the purposes of this Act:.....*

*(4) any interest in land of the person concerned, being an interest the value of which exceeded €13,000 at any time during the appropriate period aforesaid, including—*

*(a) the interest of the person in any contract entered into by him or her for the purchase of land, whether or not a deposit or part payment has been made under the contract, and*

*(b) the interest of the person in—*

*(i) any option held by him or her to purchase land, whether or not any consideration has been paid in respect thereof, or*

*(ii) land in respect of which such an option has been exercised by the person but which has not yet been conveyed to the person, but excluding any interest in land consisting of any private home of the person or of his or her spouse or civil partner, that is to say, a building or part of a building that is occupied by the person or his or her spouse or a child of the person or of the spouse as a separate dwelling and any garden or other land usually occupied with the dwelling, being land that is subsidiary or ancillary to it, is required for its amenity or convenience and is not being used or developed primarily for commercial purposes,”*