

CODE OF BUSINESS CONDUCT FOR BOARD MEMBERS OF THE DIGITAL HUB DEVELOPMENT AGENCY

1. Introduction

All State Bodies are required to have a published Code of Conduct for their Board members under the Code of Practice for the Governance of State Bodies (2016) (“COPGSB”).

The Board Members of the Digital Hub Development Agency (“DHDA”) have agreed to be and are bound by this Code of Conduct which incorporates the requirements from the COPGSB, the Ethics in Public Office Acts 1995 and 2001 and the Digital Hub Development Agency Act 2003.

This Code will be circulated to all Board members for their retention and all Board members will acknowledge their receipt and understanding of this Code by signing the space provided at the end of this Code and returning same to the person appointed for maintaining the confidential register of interests in the state body.

2. Scope

This Code applies to Board Members of the DHDA. The Digital Hub Development Agency Act 2003 refers to the Board of DHDA as simply the “Agency” (or the Digital Hub Development Agency) and refers to the members of the Board of DHDA as members of the Agency but for ease, Board members/Board will be the terms used throughout this document.

For the purposes of this Code, “Board Members” is defined as members of the main Board of Digital Hub Development Agency and those members appointed by the Board to board committees to which the main Board has delegated powers.

In addition to complying with this Code the Board Members will at all times act in accordance with the law and all relevant statutory and regulatory obligations including (but not limited to):-

- Ethics in Public Office Acts 1995 and 2001
- The Digital Hub Development Agency Act 2003
- Data Protection Act 2018 and General Data Protection Regulation
- Protected Disclosures Act
- All statutory and regulatory obligations imposed by EU and National authorities in respect of purchasing procedures

This Code is intended to be a living document and to evolve with best practice and as the activities and nature of the work of the Board of the DHDA evolve and change. This Code will be reviewed and amended as required and at least once per year.

3. Objectives of this Code of Conduct

This Code of Conduct evidences an agreed set of ethical principles by which the Board Members of the DHDA will abide. It also serves to promote and maintain confidence and trust in the DHDA and serves to prevent the development or acceptance of unethical practices.

The underlying principle of the code is that Board Members will strive to perform their duties in accordance with the highest ethical standards of honesty, integrity, fairness, confidentiality and independence, and will actively seek to prevent the development or acceptance of unethical practices. This Code cannot and does not purport to cover every eventuality and if the Board members consider there to be an ethical issue not covered by the Code they should seek the advice of the Chairperson of the Board.

4. Duties and obligations of Board Members

General duty to act with honesty, loyalty and integrity

- Board members will commit to compete vigorously and energetically but also ethically and honestly.
- The purchasing activities of goods/services will be in accordance with best business practice.
- There is a culture of claiming expenses only as appropriate to business needs and in accordance with good practice in the public sector generally and Board Members will adhere to this culture.
- Board Members will not acquire information or business secrets by improper means.
- Board members acknowledge the duty of all to conform to highest standards of business ethics.
- Board members acknowledge the responsibility to be loyal to the State body and fully committed in all its business activities while mindful that the organisation itself must at all times take into account the interests of the shareholder.
- Board Members will not use the State body's resources or time for personal gain, for the benefit of persons/organisations unconnected with the body or its activities or for the benefit of competitors.

General duty to act with fairness

- Board members will ensure that the State Body complies with employment equality and equal status legislation.
- The Board of the DHDA and Board members commit to fairness in all business dealings.
- The Board of the DHDA and Board members commit to valuing customers and treating all customers equally.

Transparency

- Board members will ensure that the State body's annual report and financial statements accurately reflect their business performance and are not misleading or designed to be misleading.

- Board members will support the provision of access by the body to general information relating to the body's activities in a way that is open and enhances its accountability to the general public.

Statutory Obligations

- Board members will be responsible for ensuring that the State Body fulfils all regulatory and statutory obligations imposed on the State body and that individually they comply with any and all statutory obligations relevant.
- Board members will comply with and ensure that the State Body complies with detailed tendering and purchasing procedures, as well as complying with prescribed levels of authority for sanctioning any relevant expenditure.
- Board members will ensure that there are controls to prevent fraud including adequate controls to ensure compliance with prescribed procedures in relation to claiming of expenses for business travel.
- All Board members and employees are required to co-operate with internal audit in the internal audit process.

Attendance at Board meetings

- Board members are appointed as they bring specific knowledge, skills, experiences and expertise to the deliberations of the Board and its committees and this is only possible if members attend all Board meetings and contribute as appropriate. The Board of DHDA has an expectation of 100% attendance at all Board meetings and as part of the assignment of a new Board member evaluates attendance when the member is due to be re-appointed.

Culture & Work Place Environment

- The Board of the DHDA and Board members will promote the development of a culture of 'speaking up' whereby workers can raise concerns regarding serious wrongdoing in the workplace without fear of reprisal.
- The Board of the DHDA and Board members will place highest priority on promoting and preserving the health and safety of employees.

Obligations on retiring/resigning from the Board

The acceptance of further employment where the potential of conflict of interest arises should be restricted during a reasonable period of time after the exercise of a function in the State body has ceased.

Obligations of the Board and employees regarding the non-disclosure of privileged or confidential information do not cease when Board membership or employment in the State body has ended. This should be brought to the attention of employees and of Board members on their appointment to the Board. Former Board members should treat commercial information received while acting in that capacity as confidential.

Board members should not retain documentation obtained during their terms as a Board member and should return such documentation to the Secretary of the Board or otherwise indicate to the Secretary of the Board that all such documentation in their possession has been disposed of in an

appropriate manner. In the event that former Board members require access to Board papers from the time of their term on the Board, this can be facilitated by the Secretary of the Board.

Confidentiality

General

- Board Members will respect the confidentiality of sensitive information held by the State body. This would constitute material such as:
 - commercially sensitive information (including, but not limited to, future plans or details of major organisational or other changes such as restructuring);
 - personal information; and
 - information received in confidence by the public body.
- Board members will observe appropriate prior consultation procedures with third parties where, exceptionally, it is proposed to release sensitive information in the public interest.
- Board Members will comply with relevant statutory provisions (e.g. Data protection and Freedom of Information legislation).

Obligations of the Board and employees regarding the non-disclosure of privileged or confidential information do not cease when Board membership or employment in the State body has ended. This should be brought to the attention of employees and of Board members on their appointment to the Board. Former Board members should treat commercial information received while acting in that capacity as confidential.

Digital Hub Development Agency Act 2003 provisions on confidentiality

As per Section 27 (and subject to the provisos therein and the definition therein of “confidential information”), unless otherwise provided by law, Board members shall not, without the consent of the Agency, disclose confidential information obtained by them while performing, or as a result of having performed, duties as Board members or committee members unless he or she is duly authorised to do so. If the Board member contravenes this then the penalties are as set out under Section 27.

Gifts

General

Board Members undertake not to give or receive corporate gifts, hospitality, preferential treatment or other benefits that might affect, or appear to affect the ability of the donor or the recipient to make independent judgments on business transactions involving DHDA.

Digital Hub Development Agency Act 2003 provisions

As set out in Section 28 of the DHDA Act, the Agency may accept gifts of money, land or other property upon such trusts, terms or conditions, if any, as may be specified by the donor but not if the trusts, terms or conditions attached to it would be inconsistent with or prejudice the effective performance of the functions of the Agency. Particulars (as defined in Section 28) of any gifts shall be included in the Annual Report under Section 34 of the Act in line with the provisions of Section 28 generally and Section 28(5) specifically.

Conflicts of interest & Procedures for disclosure

Board members are required to avoid and disclose interests in accordance with (a) good practice and the COPGSB, (b) the Ethics Acts and the (c) Digital Hub Development Agency Act 2003 (“the DHDA Act”).

Periodic Disclosure of Interests

Board members, on appointment and annually are required to furnish to the Finance Director/Chief Financial Officer and the Standards Commission a statement of their registerable interests in accordance with and as defined by the Ethics Acts.

Board members, on appointment (and to be amended and updated as interests change, as required by Section 24(3) DHDA Act 2003), are also required to make a declaration in writing of their interests in accordance with and as defined by the DHDA Act as required by Section 24 of that Act and these are to be recorded as required by Section 24.

These interests should be kept by the Secretary of the Board in a special confidential register. Access to the register should be restricted to the Chairperson and Secretary of the Board and other members of the State body on a strictly need to know basis.

Tax clearance

Board members also have tax clearance obligations under the Ethics Acts as referred to in more detail in Appendices A & B.

Disclosure of interests as and when they arise

In addition to the periodic disclosure of interests as referred to above, Board members are required to disclose interests as when they arise.

Section 17 of the Ethics Acts requires Board members to furnish to the other Board members a statement of interest at the time where an official function falls to be performed by the Board member and he/she has actual knowledge that he/she, or a connected person as defined in the Ethics Acts, has a material interest in a matter to which the function relates. That Section provides that the Board member should not perform the function unless there are compelling reasons requiring him/her to do so and if the Board member proposes to perform the function they should, before doing so or, if that is not reasonably practicable, as soon as possible afterwards, prepare and furnish a statement in writing of the compelling reasons to the other directors and to the Standards Commission.

The requirements set out in Section 17, apply whether or not an interest has been disclosed in the Annual Declaration of Interests and the terms under which a Board member holds their position will be deemed to include a term that they will comply with the foregoing requirements.

Board members are also required under the DHDA Act (section 25) to disclose interests as and when they arise in accordance with the procedure outlined in that section. By way of summary (and see Section 25 for full details) the procedure requires that:

If at a meeting of the Digital Hub a Board member has an interest (otherwise than in his/her capacity as such a member) in an arrangement to which the Agency is a party or a proposed such arrangement, or a contract or other agreement with the Agency or a proposed such contract or other agreement then the Board member must:

- (i) at the meeting disclose to the Agency the fact of such interest and the nature thereof,
- (ii) neither influence nor seek to influence a decision to be made in relation to the matter,
- (iii) absent himself or herself from the meeting or that part of the meeting during which the matter is discussed,
- (iv) take no part in any deliberation of the Agency relating to the matter, and
- (v) not vote on a decision relating to the matter.

Where an interest is disclosed pursuant to this section the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being considered or discussed by the meeting, the member by whom the disclosure is made shall not be counted in the quorum for the meeting.

Where at a meeting of the Agency a question arises as to whether or not a course of conduct, if pursued by a member of the Agency, would constitute a failure by him or her to comply with the requirements of subsection (1), the question may be determined by the Agency, whose decision shall be final and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

Good practice and the COPGSB requires these interests to be kept by the Secretary of the Board in a special confidential register. Access to the register should be restricted to the Chairperson and Secretary of the Board and other members of the State body on a strictly need to know basis. Board Members will notify the Secretary of changes in the interim as soon as possible. Except as required by law, or as agreed otherwise by the Board, only the Chair and Secretary will have access to the register.

Where a Board member has any other interests, not requiring disclosure further to the above, but are in conflict or in potential conflict with the DHDA the Board member should disclose those interests to the Board members (and the Secretary of the Board to be kept in the special confidential register) and should follow the general procedures outlined in this code in relation to the deliberation of the matter and receipt of papers etc.

[Additional best practice/COPGSB requirements in the area of Disclosure/Conflicts of Interest](#)

Chairperson's Interests

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

Documents withheld

Board or State body documents on any deliberations regarding any matter in which a member of the Board has disclosed a material interest should not be made available to the Board member concerned.

Early return of documents

As it is recognised that the interests of a Board member and persons connected with him/her can change at short notice, a Board member should, in cases where he/she receives documents relating to his/her interests or of those connected with him/her, return the documents to the Secretary of the Board at the earliest opportunity.

Absent

A Board member should absent himself/herself when the Board is deliberating or deciding on matters in which that Board member (other than in his/her capacity as a member of the Board) has declared a material interest. In such cases consideration should be given as to whether a separate record (to which the Board member would not have access) should be maintained.

Uncertainty

Where a question arises as to whether or not an interest declared by a Board member is a material interest, the Chairperson of the Board should determine the question. Where a Board member is in doubt as to whether he or she has an obligation under the Ethics in Public Office Acts 1995 and 2001, he or she should seek advice from the Standards in Public Office Commission under section 25 of the Ethics in Public Office Act 1995.

5. Procedures for the provision of professional advice to Members

The Code of Practice for the Governance of State Bodies states that “The board should, in a board resolution, lay down formal procedures whereby Board Members, in the furtherance of their duties, may take independent professional advice, if necessary, at the expense of the state body. Such procedures should also be set out in the Code of Conduct for Board Members.”

The following arrangements are proposed in this context

1. Where a Member of the Board believes that, in order to carry out her or his functions, (s)he needs independent legal or other professional advice, the Member may for stated reasons request the Secretary to arrange for that advice at the expense of the DHDA.
2. If the Secretary, following consultation with the Chief Executive, is of the view that independent professional advice as requested is warranted then (s)he will arrange for that advice to be made available as soon as practicable.
3. If the Secretary, following consultation with the Chief Executive, is of the opinion that independent professional advice is not warranted (s)he will inform the Member and state the reasons for that opinion. In that event, if the Member so requests, the Secretary will refer the request to the Chairman, whose decision thereon, following consultation with the Chief Executive, will be final.

4. The following will be taken into account in considering a request for independent professional advice;

- The reasons put forward by the Member in seeking the advice.
- The ability of the Board to make a decision which fulfils its statutory and regulatory obligations
- The ability of the Board to make a decision which enhances its accountability to the general public and minimises reputational risk facing the DHDA
- The extent to which independent professional advice has already been provided to Members of the Board
- The cost of procuring such advice and the necessity of the DHDA to operate within the approved budget.
- A request for independent professional advice should arise only in exceptional circumstances.

Approved by the Board: 13 December 2018

Acknowledgement

I have received and read the Code of Conduct for Board Members and by this signature agree to be bound by same.

Signed:

Dated:

Appendix A – Outline of Obligations under Ethics in Public Office Acts (as per COPGSB)

Appendix B

Ethics in Public Office

Obligations under the Ethics Legislation

All those who hold designated directorships (Board memberships) or occupy designated positions of employment in public bodies, prescribed by regulation for the purposes of the Ethics legislation (i.e. the Ethics in Public Office Acts 1995 and 2001), must comply with the relevant provisions of the legislation. Compliance with the Ethics Acts is deemed to be a condition of appointment or employment. While the summary below is provided for information, detailed guidelines on compliance with the Ethics Acts has been published by the Standards in Public Office Commission (the Standards Commission) on their [website](#).

All persons who have obligations under the Acts are obliged to act in accordance with the guidelines and any advice given by the Standards Commission, unless by so doing they would be contravening another provision of the legislation.

Disclosure of Registrable Interests

The Ethics in Public Office Act 1995 provides for the disclosure of registrable interests by holders of designated Board memberships and occupiers of designated positions of employment in public bodies prescribed for the purposes of the Ethics legislation. Briefly, the requirements are:

Designated Board Members: Are required in each year, during any part of which they hold or held a designated Board membership of a public body prescribed by regulations made by the Minister for Public Expenditure and Reform, to prepare and furnish, in a form determined by that Minister, a statement in writing of their registrable interests, and the interests, of which a person has actual knowledge, of his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, which could materially influence the person in, or in relation to, the performance of the person's official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the person, his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, a substantial benefit. The statement must be furnished to the Standards Commission and to such an officer of the body as determined by the Minister for Public Expenditure and Reform.

Designated Positions of Employment: Are required in each year, during any part of which they occupy or occupied a designated position of employment in a public body, prescribed by regulations made by the Minister for Public Expenditure and Reform, to prepare and furnish, in a form determined by that Minister, a statement in writing of their registrable interests, and the interests, of which a person has actual knowledge, of his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, which could materially influence the person in, or in relation to, the performance of the person's official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the person, his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, a substantial benefit. The statement must be furnished to the relevant authority for the position as determined by the Minister for Public Expenditure and Reform.

Material Interests: The holder of a designated Board membership or the occupier of a designated position of employment is required to furnish a statement of a material interest where a function falls to be performed, and where the Board member or the employee or a "connected person" (e.g. a relative or a business associate of the Board member or employee) has a material interest in a matter to which the function relates. Such a statement must be furnished to the other Board members of the public body by a designated Board member or to the relevant authority by the occupier of a designated position of employment. The function must not be performed unless there are compelling reasons to do so. If a designated Board member or the occupier of a

designated position of employment intends to perform the function, he or she must, either before doing so, or if that is not reasonably practical, as soon as possible afterwards, prepare and furnish a statement in writing of the compelling reasons to the other Board members and to the Standards in Public Office Commission if a designated Board member, or to the relevant authority if an employee. This obligation applies whether or not the interest has already been disclosed in a statement of registrable interests.

Tax Clearance Obligations of Appointees to "Senior Office"

The tax clearance provisions of the Standards in Public Office Act 2001 apply to persons appointed to "senior office", i.e. to a designated position of employment or to a designated Board membership in a public body under the 1995 Ethics Act, in relation to which the remuneration is not less than the lowest remuneration of a Deputy Secretary General in the civil service. All persons appointed to a designated Board membership "senior office" must provide to the Standards in Public Office Commission not more than nine months after the date on which he or she is appointed:

- a tax clearance certificate that is in force and was issued to the person not more than nine months before, and not more than nine months after, the appointment date; or
- an application statement that was issued to the person and was made not more than nine months before, and not more than nine months after, the appointment date; and
- a statutory declaration, made by the person not more than one month before, and not more than one month after, the date of appointment, that he or she, to the best of his or her knowledge and belief, is in compliance with the obligations imposed on him or her by the Tax Acts and is not aware of any impediment to the issue of a Tax Clearance Certificate.

Investigations

The Board and employees of public bodies can be subject to investigation by the Standards Commission, either where it considers it appropriate to do so, or following a complaint, or where there is contravention of the tax clearance requirements, and there is nothing that precludes the Standards Commission from taking into account this Code in such an investigation.

Additional Information and Advice

This appendix is provided for information purposes only and does not constitute a legal interpretation of the Ethics Acts. Regard should be had in the first instance to the Standards Commission's guidelines. Requests for advice on compliance with the legislation should be referred to the Standards Commission.

Appendix B - Further reading on the obligations for Board members under the Ethics in Public Office Acts 1995 and 2001

Guidelines on Compliance with the Provisions of the Ethics in Public Office Acts 1995 and 2001 for Public Servants, published March 2017, by the Standards in Public Office Commission
<https://www.sipo.ie/en/Guidelines/Guidelines-for-Public-Servants/>

Standards in Public Office Commission Website www.sipo.ie

Ethics and Standards in Public Office Acts 1995 and 2001 – Irish Statute Book

Appendix C - Relevant provisions of the Digital Hub Development Act

Declaration of Interests

24.—(1) *On his or her appointment, the chief executive and each member of the Agency and a committee and a director of a subsidiary, shall make a declaration in writing of his or her interests to the Minister [for Communications, Marine and Natural Resources], in such form as the Minister [for Communications], following consultation with the Minister [for Public Expenditure and Reform], may specify.*

(2) *On his or her appointment, each consultant or adviser and each member of the staff of the Agency at a grade or level specified before the appointment by the Agency, following consultation with the Minister [for Communications], shall declare his or her interests in writing to the chairperson of the Agency and the chairperson shall inform the Agency at its next meeting of the interests declared and the names of those making the declarations.*

(3) *A person to whom subsection (1) or (2) applies shall, throughout the tenure of his or her appointment, amend and update his or her declarations of interests as required by the Minister [for Communications] or the Agency, as the case may be, of any changes in the interests held by the person.*

(4) (a) *A statement of the interests declared under subsection (1) shall be included in the next report prepared in accordance with section 34 following the making of the declaration and any subsequent changes in a declaration shall also be included in a statement in the next available report.*

(b) *The form and content of the statement to be included in such report shall be agreed between the chairperson of the Agency, the Minister [for Communications] and the Minister for [Public Expenditure and Reform].*

(c) *Notwithstanding the provisions of paragraph (a), it shall not be necessary to specify in a statement in such report the amount or monetary value of any interest, or the remuneration of any trade, profession, or employment included in the statement.*

(5) *In this section—*

“employment” includes—

(a) *full-time employment,*

(b) *part-time paid employment, where such employment is ongoing in the year of appointment or which arises in subsequent years,*

(c) *temporary paid employment, being for a period of 16 weeks or more in the year of appointment or in subsequent years, or*

(d) *being retained under contract, directly or indirectly, in any capacity as an adviser, consultant or lobbyist, or for the provision of services,*

by or in any business related to the functions of the Agency;

“interests” includes—

(a) *employment by or on behalf of—*

(i) *any business related to the functions of the Agency,*

(ii) any organisation representative of any business related to the functions of the Agency,

(b) ownership of any business related to the functions of the Agency,

(c) shares in, bonds or debentures of, or other like investments in any business related to the functions of the Agency, where the aggregate of such holdings exceeds €13,000,

(d) a directorship or shadow directorship (within the meaning of the Companies Acts 1963 to 2001) in any business related to the functions of the Agency, held currently or during the previous two years, or

(e) gifts of travel, holidays, transport or other benefits (in excess of €650), including benefits from any beneficial interest in or connected with any business related to the functions of the Agency, during the previous two years which were received by the person being appointed or by his or her spouse [or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010];

“ownership” includes any proprietary interest in any business related to the functions of the Agency, whether that interest is freehold, leasehold or beneficial, and applies where the interest—

(a) is held solely by the person being appointed or shared with one or more persons, and

(b) at the time of his or her appointment, has a value of €5,000 or more.

(6) The Agency shall, for the purposes of this section, keep a register (which is in this section referred to as the “register of interests”) and shall enter therein the particulars contained in declarations given to the Minister [for Communications] or the Agency under this section.

(7) The register of interests shall be available for inspection by any person at the Agency's headquarters during office hours and a copy of the register or any entry in the register may be obtained by any person on the payment to the Agency of such fee (if any) as the Agency shall fix not exceeding the reasonable cost of making a copy.

(8) Where a person to whom subsection (1) applies fails to make a declaration in accordance with that subsection or to update such declaration in accordance with subsection (3), the Minister [for Communications] shall decide the appropriate course of action (including removal from office) to be taken.

(9) Where a person to whom subsection (2) applies fails to make a declaration in accordance with that subsection or to update such declaration in accordance with subsection (3), the Agency shall decide the appropriate course of action (including removal from office or termination of contract) to be taken.

Disclosure by members of Agency of certain interests

25.—(1) Where at a meeting of the Agency any of the following matters arise, namely—

(a) an arrangement to which the Agency is a party or a proposed such arrangement, or

(b) a contract or other agreement with the Agency or a proposed such contract or other agreement, then, any member of the Agency present at the meeting who otherwise than in his or her capacity as such a member has an interest in the matter shall—

- (i) at the meeting disclose to the Agency the fact of such interest and the nature thereof,*
- (ii) neither influence nor seek to influence a decision to be made in relation to the matter,*
- (iii) absent himself or herself from the meeting or that part of the meeting during which the matter is discussed,*
- (iv) take no part in any deliberation of the Agency relating to the matter, and*
- (v) not vote on a decision relating to the matter.*

(2) Where an interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being considered or discussed by the meeting, the member by whom the disclosure is made shall not be counted in the quorum for the meeting.

(3) Where at a meeting of the Agency a question arises as to whether or not a course of conduct, if pursued by a member of the Agency, would constitute a failure by him or her to comply with the requirements of subsection (1), the question may be determined by the Agency, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

(4) Where the Minister [for Communications] is satisfied that a member of the Agency has failed to comply with subsection (1), the Minister [for Communications] may if he or she thinks fit, remove that member from office or take such other action as he or she considers appropriate and, in case a person is removed from office pursuant to this subsection, he or she shall thereafter be disqualified from membership of the Agency.

(5) For the purposes of this section and section 26 a person shall not be regarded as having an interest in any matter by reason only of an interest of that person, or of any company in which he or she has an interest, which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question relating to the matter, or in performing any function in relation to that matter.

Disclosure by staff of Agency, etc., of certain interests

26.—(1) Where a member of the staff of the Agency, or a committee or a consultant or adviser engaged under section 35 has an interest, otherwise than in his or her capacity as such in any, or any proposed contract, agreement or arrangement, to which the Agency is or is proposed to be a party, that person—

- (a) shall disclose to the Agency his or her interest and the nature thereof,*
- (b) shall take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by members of the Agency or members of the staff of the Agency in relation thereto,*
- (c) shall not influence or seek to influence a decision to be made in the matter, and*
- (d) shall not make any recommendation in relation to the contract, agreement or arrangement.*

(2) Subsection (1) does not apply to a person as regards a contract or proposed contract of employment of that person as a member of the staff of the Agency.

(3) In this section “member of staff” includes the chief executive.

(4) Where a person to whom subsection (1) applies fails to comply with a requirement of this section, the Agency shall decide the appropriate action (including removal from office or termination of contract) to be taken.

Prohibition on unauthorised disclosure of confidential information

27.—(1) *Save as otherwise provided by law, a person shall not, without the consent of the Agency, disclose confidential information obtained by him or her while performing, or as a result of having performed, duties as—*

- (a) the chairperson of the Agency,*
- (b) the chief executive,*
- (c) an ordinary member of the Agency,*
- (d) a member of a committee,*
- (e) a member of the staff of the Agency, or*
- (f) a consultant or adviser or an employee of such person engaged by the Agency under section 35,*

unless he or she is duly authorised to do so.

(2) A person who contravenes subsection (1) is guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000.

(3) Nothing in subsection (1) shall prohibit the disclosure of information by means of a report made—

- (a) to the Agency, or*
- (b) by or on behalf of the Agency to the Minister [for Communications].*

(4) In this section “confidential information” includes—

- (a) information that is expressed by the Agency to be confidential either as regards particular information or as regards information of a particular class or description,*
- (b) commercial information in relation to contractors, consultants, providers of finance, or any other person, and*
- (c) proposals of a commercial nature or tenders submitted to the Agency by contractors, consultants, or any other person.*

(5) The Third Schedule to the Freedom of Information Act 1997 is amended by the insertion in Part 1 at the end thereof:

- (a) in column (2) of “Digital Hub Development Agency Act 2003”, and*
- (b) in column (3) of “section 27”.*

[Please see further amendments to Section 27 as per the Freedom of Information Act 2014, sections 1(2), (3), 41, sch. 3]

Gifts

28.—(1) *The Agency may accept gifts of money, land or other property upon such trusts, terms or conditions, if any, as may be specified by the donor.*

(2) The Agency shall not accept a gift if the trusts, terms or conditions attached to it would be inconsistent with or prejudice the effective performance of the functions of the Agency.

(3) Particulars in relation to any gift accepted under this section shall be included in the annual report under section 34.

(4) In subsection (3) "particulars" includes—

- (a) the name of the donor of the gift,*
- (b) a description of the gift, and*
- (c) particulars of any condition attached to a gift.*

(5) The Agency shall include details of any gift that exceeds, in its opinion, such amount as may be directed by the Minister [for Communications], with the consent of the Minister for Public Expenditure and Reform, in the report under section 34 for the year in which the gift is accepted.