

# Léargas Code of Best Practice

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## Introduction

The Code of Practice for the Governance of State Bodies 2016 requires that all public bodies develop and publish a Code of Best Practice for Board members. The purpose of this Code of Best Practice is to provide Board Members with clear guidelines as to their standard of behaviour, responsibilities and best practice in fulfilling their obligations to Léargas.

This Code complements the [Code of Practice for the Governance of State Bodies 2016](#), the Ethics in Public Office Acts 1995 and 2001, equality and human rights obligations and other relevant policy and legislation. It is a living document that will be reviewed bi-annually.

The Léargas Board adheres to the Seven Principles of Public Life as defined by the Committee for Standards in Public Life<sup>1</sup>:

### 1. Selflessness

Holders of public office should act solely in terms of the public interest.

### 2. Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### 3. Honesty

Holders of public office should be truthful.

### 4. Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### 5. Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### 6. Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### 7. Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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<sup>1</sup> [https://en.wikipedia.org/wiki/Committee\\_on\\_Standards\\_in\\_Public\\_Life#The\\_Seven\\_Principles\\_of\\_Public\\_life](https://en.wikipedia.org/wiki/Committee_on_Standards_in_Public_Life#The_Seven_Principles_of_Public_life) (accessed 31/08/2017)

## **The Léargas Board**

The function of the Léargas Board is to monitor executive management and performance and retain full and effective control of the organisation.

### **The collective role of the Board**

The Léargas Board has a duty to safeguard the collective responsibility and authority of the Board.

To ensure this, the Board must:

- avoid excessive influence on decision making by individual members
- allow all Board members to contribute fully to Board deliberations.

### **Meetings of the Board**

The Léargas Board will meet not fewer than five times a year.

## Duties of Board members

The Board members must review annually the effectiveness of the body's system of internal controls, including financial, operational and compliance controls and risk management.

The Board members must ensure that the Chairperson keeps the relevant Minister advised of matters arising in respect of Léargas.

Léargas Board members have duties under the Companies Acts: it is the responsibility of each Board member to act in conformity with the applicable provisions of those Acts.

Note: Former members should treat any commercial information received while acting in their capacity as a Léargas Board member as confidential.

## Fiduciary Duties

Board members will:

- act in good faith and in the best interests of Léargas
- ensure that they are loyal to the organisation's aims, strategies and policies as agreed by the Board; that their interests and those of Léargas are not in conflict and that they conform to the highest standards of ethics
- uphold the Board member's power to exercise an independent judgement
- avoid conflict between the board member's duties to the company and the Board member's other interests unless the Board member is released from his/her duty to the company in relation to the matter concerned
- exercise the skill, care and diligence which would reasonably be expected of a person in the same position with similar knowledge and experience as a Board member
- have regard to interests of the organisation's members.

Board members will ensure that Léargas complies with the requirements of the Code of Practice for the Governance of State Bodies (2016) and all relevant policy and legislation.

Board members are expected to exercise their skills and abilities in the execution of their duties. A Board member should not, however, be held responsible for errors of judgement provided they genuinely believed that the decision was in the best interests of Léargas.

Board members are expected to attend to their duties with reasonable regularity. Board members must give adequate consideration to the work of the Board, in particular: the approval of budgets and corporate plans; the production of annual accounts; major investment and capital projects; delegated authority levels, treasury and risk management; appointment, remuneration and performance of the Executive Director; and significant amendments to the pension benefits of the Executive Director and staff.

## Reporting

All Board members are required to accept responsibility for:

- ensuring that accounts are prepared
- the annual review of the effectiveness of internal controls, including financial, operational and compliance control and risk management
- ensuring the Chairperson keeps the relevant Minister advised of matters in Léargas
- reporting that the organisation is a going concern with supporting assumptions or qualifications as necessary.

## Duties of the Secretary

The Secretary of the Léargas Board is responsible for ensuring that Board procedures are followed and that applicable rules and regulations are complied with.

The Secretary will ensure that the Board has all the information it needs, in a form and at a time which will enable it to discharge its duties satisfactorily.

The Secretary will ensure that Board members have access to the Secretary's advice and services whenever necessary.

## Removing the Secretary

Any question of the removal of the Secretary is a matter for the Board as a whole.

## Documentation for new Board members

The Board will give new members the following:

- a copy of the Memorandum and Articles of Association
- a schedule detailing the composition of all committees with their terms of reference
- a formal schedule of matters reserved to the Board for decision
- procedures for obtaining information on relevant new laws and regulations
- procedures to follow when, exceptionally, decisions are required between Board meetings
- a statement of responsibilities in relation to
  - the preparation of accounts
  - the internal control and audit system
  - reporting on Léargas business, with supporting assumptions or qualifications if required
- a formal statement of access to the advice and services of the Secretary
- a code of conduct, including disclosure of interests (see below)
- a copy of the most recent version of the [Code of Practice for the Governance of State Bodies](#)<sup>2</sup> with any relevant circulars and/or guidance notes
- any other information specific to the operation of Léargas as may be deemed necessary.

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<sup>2</sup> Available on [www.per.gov.ie](http://www.per.gov.ie)

## The annual report

The Board members must:

- ensure that a balanced and understandable assessment of Léargas's position is made in the annual report and accounts
- state in the annual report that they are responsible for having the accounts prepared
- report that the business is a going concern with supporting assumptions or qualifications, as necessary.

The external auditors must make a statement in the annual report about their reporting responsibilities.

## Taking independent advice

Non-executive Board members will bring independent judgement to bear on issues of strategy, performance, resources, key appointments and standards of conduct.

Board members may, if necessary, take independent professional advice at the reasonable expense of Léargas.

In relation to obtaining independent advice, a Board member must:

- notify the Chairperson that they intend securing independent advice or, in the event that the issue on which advice has been sought relates to the Chairperson, the Chairperson of the Finance, Audit and Risk Committee shall be notified
- secure the most competitively priced advice, and shall not exceed a maximum expenditure of €5,000.

## The Board schedule

In order to maintain full and effective control the Léargas Board will have a formal schedule of matters specifically reserved to it for decision. This will include the following:

- \*significant acquisitions, disposals and retirement of assets
- clear quantitative thresholds for purchasing contracts above which Board approval is required
- \*major investments and capital projects
- delegated authority levels
- treasury policy
- risk management policy
- litigation
- approval of
  - terms of major contracts
  - annual budgets and corporate plans
- production of annual reports and accounts
- policies on
  - determination of senior management remuneration
  - appointment, remuneration and assessment of the performance of the Executive Director
- \*significant amendments to the pension benefits of the Executive Director and staff

Note: The asterisked items will require Ministerial approval.

## Disclosure of interest

### The role of the Board member

In addition to the legal requirements under the Companies Acts and requirements under the *Ethics in Public Office Acts*, 1995 and 2001, the following procedures will be observed.

A member appointed to the Léargas Board will give the Secretary details relating to:

- his/her employment and all other business interests, including shareholdings and professional relationships
- any interests of their family of which s/he could be expected to be reasonably aware
- any interests of a person or body connected with them
- any interests listed above where such information is relevant to any matter which:
  - arises during the course of Board membership
  - could involve a conflict of interest
  - could materially influence the member in relation to the performance of his/her functions as a member of the Board.

The Board member will also inform the Secretary of any changes in the details of interest as soon as these arise and will provide the relevant documentation as soon as possible.

For this purpose, persons and bodies connected with a member include:

- a) a spouse, parent, sibling, child or step-child
- b) a body corporate with which the member is associated
- c) a person acting as the trustee of any trust, the beneficiaries of which include the member or the persons or the body corporate mentioned in a) and b) above
- d) a person acting as a partner of the member or of any person or body who, by virtue of a) to c) above, is connected with the member.

Note: If a Board member is not sure whether a disclosure of interest is required, s/he should consult the Chairperson.

The Secretary of the Board will keep any details of interest in a confidential register which will be updated annually.

Only the Chairperson, Secretary and Executive Director will have access to the register.

The Board can exercise discretion regarding the disclosure of minor shareholdings.

Note: As a guideline, shareholdings valued at more than €15,000 or at more than 5 *per cent* of the issued capital of a company should be disclosed.

### **Matters arising from disclosure of interest**

The Chairperson of the Board will determine whether or not a case relates to the interests of a Board member or a person or body connected with that member.

The Board member will absent him/herself when the Board is deliberating matters in which that member (other than in his/her capacity as a member of the Board) or a person or body connected with them has an interest.

The Board will maintain a separate record, to which the Board member will not have access.

If a matter relating to the interests of the Chairperson arises, s/he will:

- deputise the Deputy Chairperson or another member to chair the Board meeting
- absent himself/herself while the Board is deliberating.

Note: Prior to a decision being taken, any company documents which relate to any dealings with the interests under discussion or to competitors to the relevant interests will not be made available to the member concerned.

Once the Board has reached a decision, it will notify the member.

Gifts, hospitality or preferential treatment should neither be given nor accepted where such action could be perceived as affecting the ability of the donor or the recipient to make an independent judgement on business transactions.

Board members must not profit financially or in commercial terms from their involvement with Léargas. If such a situation was to arise in respect of disposal of assets to a member of the Board, such a disposal can only be permitted within the guidelines set out in Section 8.40 of the Code of Practice for the Governance of State Bodies (2016) and at full market value.

## **Guardians of Léargas' reputation**

Board members will not speak in their Board capacity about the business of Léargas in any public forum without the prior knowledge of the Chairperson and the Executive Director. Board members who are asked to represent Léargas will reflect current policy positions as agreed by the Board.

### **Confidentiality**

All Board members must treat the information presented to them, in their role as a Board member, as being confidential, unless the Board has authorised its release or its release is required by law. This duty is indefinite and applies even after a Board member has ceased to be a Board member.

Board members are required, upon ceasing to be a member of the Board, to arrange to return all documentation relating to the organisation to the Secretary of the Board or to certify to the Secretary that such documentation has been destroyed. Board members are also required to maintain the confidentiality of matters relating to Léargas following the completion of their service on the Board.

## **The Board Finance, Audit and Risk Committee**

The Léargas Board will establish a Finance Audit and Risk Committee with at least three independent non-executive members and will provide this with written terms of reference which deal clearly with its authority and duties.

The Léargas Board will review and update the constitution and terms of reference of the Board Finance Audit and Risk Committee as appropriate.

### **Remit of the Board Finance, Audit and Risk Committee**

The Board Finance, Audit and Risk Committee will have the authority to investigate any matters within its terms of reference, the necessary resources to do so, and full access to information.

The Board Finance Audit and Risk Committee can, if required, obtain outside professional advice and invite outsiders with relevant experience to attend meetings.

### **Board Finance, Audit and Risk Committee meetings**

The Board Finance, Audit and Risk Committee will meet at least four times a year.

The Board Finance, Audit and Risk Committee will meet external auditors at least once a year without the executive members of the Léargas Board, to ensure that there are no unresolved issues of concern.

### **Internal audit function**

The Board Finance, Audit and Risk Committee will have responsibility for internal audit and will have access to outside professional advice and skills to carry out this function as necessary.

### **Scope and authority of the internal audit function**

The Board will provide the internal audit function with the authority to carry out internal audits on its behalf.

Note: There are no operational areas or levels within the organisation precluded from internal audit review.

### **Responsibilities**

It is the responsibility of the internal audit function to:

- serve the best interests of Léargas
- carry out its work in accordance to the *Standards for the Professional Practice of Internal Auditors* published by the Institute of Internal Auditors
- maintain comprehensive records to demonstrate that its work has been performed according to these standards of best practice
- ensure that at all stages of its work, including planning, executing and reporting, it provides value-for-money auditing.

### **Objectivity and independence**

Where external expertise is required to undertake internal audit functions, its objectivity and independence must be clearly demonstrated.

## **Ensuring compliance**

### **The role of the Léargas Board**

The Board is responsible for compliance with all statutory obligations applicable to Léargas.

If a Board member becomes aware of any non-compliance, they must bring this immediately to the attention of the other Board members.

The Chairperson must also bring the matter to the attention of the relevant Minister.

### **The role of the internal audit function**

To ensure compliance, the internal audit function will undertake:

- detailed testing on all specific areas covered by the charter
- occasional review of compliance with procurement and disposal procedures as required by the Board Finance and Audit Committee.

### **The role of the Board Finance, Audit and Risk Committee**

The Board Finance, Audit and Risk Committee will inform external auditors of corporate governance issues with which Léargas must comply.