

**CER Code of Business Conduct  
for Employees of the Commission**

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## **CODE OF BUSINESS CONDUCT**

### **1. INTRODUCTION**

The Commission for Energy Regulation ('the CER') is the independent body responsible for overseeing the regulation of Ireland's energy and water sectors. The CER was initially established and granted regulatory powers over the electricity market under the Electricity Regulation Act, 1999. The enactment of the Gas (Interim) (Regulation) Act, 2002 expanded the CER's jurisdiction to include regulation of the natural gas market, while the Energy (Miscellaneous Provisions) Act 2006 granted the CER powers to regulate electrical contractors with respect to safety, to regulate natural gas undertakings involved in the transmission, distribution, storage, supply and shipping of gas and to regulate natural gas installers with respect to safety. The Electricity Regulation Amendment (SEM) Act 2007 outlined the CER's functions in relation to the Single Electricity Market (SEM) for the island of Ireland. This market is regulated by the CER and the Northern Ireland Authority for Utility Regulation (NIAUR). The CER is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector. The introduction of the Petroleum (Exploration & Extraction) Safety Act 2010 has also added to the functions of the organisation. In addition, the Water Services Act 2013 has seen the CER become the economic regulator of the Irish public water and wastewater sector. The Commission's focus in water is on protecting the consumer interest in the setting of charges for water supply and wastewater treatment and disposal.

The CER has developed this Code of Conduct for employees of the Commission as required under:

State Bodies Guidelines (March 1992);  
Section 2.1 of the Code of Practice for the Governance of State Bodies (2001 and revised & updated by the Department of Finance June 2009);  
Section 8 of the Gas (Interim) (Regulation) Act 2002;

This Code of Conduct also takes into account the relevant provisions and requirements of, amongst others, the Ethics in Public Office Acts 1995 and 2001, the Employment Equality Acts 1998 – 2011, the Equal Status Acts 2000 - 2011, Safety, Health and Welfare Act 2005, the Data Protection Acts 1988 and 2003, Freedom of Information Acts 1997 - 2014, Electricity Regulation Act 1999 and the Gas (Interim) Regulation Act 2002 (as amended).

The CER Code of Conduct is an important element of the overall framework within which all CER employees are required and expected to work in order to ensure that the function of the CER is carried out effectively. It sets out the standards required of all in the discharge of their duties. These standards of conduct and these values are set in the context of a commitment to excellence and a high quality public service, which strives to maintain high levels of performance and personal responsibility. The Code aims to establish an agreed set of ethical principles and prevent the development of acceptance of unethical practices.

### **2. OBJECTIVES**

The objectives of the Code are:

- to set out an agreed set of ethical principles
- to promote and maintain confidence and trust
- to prevent the development or acceptance of unethical practices

- to promote the highest legal, management and ethical standards in all the activities of the CER
- to promote compliance with best current practice in all the activities of the CER and
- to set out the standards and behaviour expected of employees of the Commission

### **3. GENERAL PRINCIPLES**

Each employee of the Commission is required to observe the following fundamental principles as set out in this document and ensure that the CER's values of

- Integrity
- Impartiality
- Professionalism
- Transparency
- Effectiveness

are constantly reinforced and developed throughout the organisation. In order to achieve these values the following fundamental principles are applicable throughout the organisation:

#### **3.1 Integrity**

1. Disclosure of Interests  
Section 9 & 10 of the Gas (Interim) (Regulation) Act 2002 contains provision governing matters relating to disclosure of interests in respect of employees of the CER
2. Ethics in Public Office Acts 1995 & 2001 / Standards in Public Office Act 2001  
Employees of the CER holding designated positions must comply with obligation under both acts.
3. Under the CER's Code of Conduct in relation to interest, staff members are prohibited from buying or dealing or having shares or other forms of securities in energy companies without the specific consent of the Commission. Such consent will be automatically and immediately withdrawn in the event of the organisation applying to the Commission for a licence, or applying to purchase all or a substantial part of a licensee's shares / business, such that the CER license is substantially controlled or co-controlled by the organisation, and represents a significant interest for the organisation
4. Exclusive Service  
During their term of employment employees should not engage directly or indirectly in any other business, trade or professions, save with the express consent of the CER

#### **3.2 Information**

1. Employees of the Commission are required to respect the confidentiality of sensitive information held by the Commission. This will constitute material such as commercially sensitive information, personal information and information received in confidence by the Commission.
2. Employees of the Commission will observe appropriate consultation procedures with third parties where it is proposed to release sensitive information in the public interest.
3. Employees of the Commission will comply with all relevant statutory provisions.
4. Employees of the Commission will observe the strictest confidentiality in relation to all discussions and decisions taken at meetings of the Commission.

#### **3.3 Obligations**

1. Employees of the Commission will fulfil all regulatory and statutory obligations imposed on them as set out in all relevant legislation.

2. Employees of the Commission will comply with detailed tendering and purchasing procedures as well as prescribed levels of budgets for sanctioning any relevant expenditure.
3. Employees of the Commission are required to comply with controls to prevent fraud including adequate controls to ensure compliance with prescribed procedures in relation to claiming of expenses.

### **3.4 Loyalty**

1. Employees of the Commission acknowledge the responsibility to be loyal to the Commission and to be fully committed to all its activities.
2. Employees of the Commission acknowledge their duty to conform to the highest standards of business ethics.

### **3.5 Fairness**

1. The CER is committed to complying with employment equality and equal status legislation.
2. The CER is committed to fairness and impartiality in all its business dealings

### **3.6 Work/External Environment**

1. In accordance with the Safety, Health & Welfare Act 2005, the CER has a safety statement in place and continues to implement appropriate measures to protect the safety, health and welfare of its employees and that of visitors to its office.

### **3.7 Gifts**

1. The receipt of gifts, as distinct from hospitality, by employees of the Commission from those with whom they have official dealings must be governed by the highest standards. The overriding concern is that the actions of any employee of the Commission be above suspicion and not give rise to any conflict of interest, and that their dealings with commercial and other interests should bear the closest possible scrutiny.
2. The term “gift” includes any benefit, which is given to an employee of the Commission free of charge or at less than its commercial price. Gifts of modest value (e.g. diaries, pens, etc.) may be accepted and retained
3. Employees of the Commission may not solicit gifts, directly or indirectly
4. Employees of the Commission may not approach any business with which they have contact through their official duties seeking sponsorship or support for any club, association, trade union or other organisation
5. Employees of the Commission should not accept special facilities or discounts on private purchases from suppliers/industry partners with whom they have business dealings.

### **3.8 Hospitality**

1. The receipt of hospitality by an employee of the Commission from those with whom they have official dealings must be governed by the highest standards. The overriding concern is that the actions of an employee of the Commission be above suspicion and not give rise to any conflict of interest, and that their dealings with commercial and other interests should not give rise to any actual or perceived conflict of interest
2. Employees of the Commission may accept what would be regarded as routine hospitality, such as a business lunch.

3. Subject to the above point, it is recognised that participation in certain events such as industry conferences and seminars can be of particular value where they support the establishment of relationships or enhance the Commission's knowledge or understanding of a particular area. For such events, the hospitality element should be incidental to the event and relevant business information is expected to be gained through attendance. Prior written authorisation from the Chairperson should be obtained to accept invitations of this kind and they should be recorded
4. Invitations of a social kind (e.g. sporting /cultural events) should be declined
5. Hospitality that includes travel or overnight accommodation must not be accepted.
6. Where an invitation has been received for multiple or group attendance, prior consent must be sought from the Chairperson.
7. In cases of doubt, where an employee or manager is concerned about issues relating to the acceptance of hospitality, the matter should first be discussed with the Director of Operation, the HR Manager, and the Chairperson.

### **3.9 Responsibility**

1. The Commission will circulate this Code of Business Conduct to all members of the Commission for their retention.
2. Recipients are required to acknowledge receipt and understanding of the code.

## **4. Standards and Behaviour**

This section sets out the standards required of employees in the discharge of their duties. These standards of behaviour will support a high quality public service based on high levels of personal performance and responsibility.

In the performance of their duties employees must:

1. Maintain high standards in service delivery by
  - discharging responsibilities conscientiously, honestly and impartially
  - always acting within the law and
  - performing their duties with efficiency, diligence and courtesy.
2. Observe appropriate behaviour at work by:
  - dealing with the public and/or visitors sympathetically, fairly and promptly
  - treating colleagues including consultants with respect
3. Maintain the highest standards of probity by:
  - conducting themselves with honesty, impartiality and integrity
  - never seeking to use improper influence, in particular, never seeking to use political influence to affect decisions concerning their official positions
  - abiding by guidelines in respect of offers or gifts or hospitality as outlined above
  - avoiding conflicts of interest
4. Support and be loyal to the CER by:
  - supporting colleagues and the CER in the performance of its functions
  - promoting the goals and objectives of the CER and not undermining any of them through action or omission
  - seeking to resolve grievances and concerns through agreed channels (please refer to the CER's Grievance procedure for further details)
  - ensuring any actions taken maintain public confidence in the CER and its good name

**Freedom of Information Acts 1997 - 2011 / Data Protection Acts 1988 & 2003**

CER complies with Freedom of Information & Data Protection legislation

**Consultation Process**

CER is committed to observing a consultation process with stakeholders in the course of its activities

**This code forms part of the terms and conditions of employment of all employees. Employees are expected to comply with the code at all times. Breaches of the code will constitute a breach of the terms and conditions of employment and may result in disciplinary sanction up to and including dismissal. The Commission will review and update this Code as appropriate.**

**Code of Conduct for Employees of the Commission – Confirmation of Compliance**

Employee's name: \_\_\_\_\_

I confirm that:

- I have read and am fully aware of the Code of Conduct for Employees of the Commission and,
- I comply, and will continue to comply, with the Code and will confirm compliance with the Code as and when required.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_



## **RELEVANT LEGISLATION**

### **GAS (INTERIM) (REGULATION) ACT, 2002**

8.—(1) The Commission shall, following consultation with the Minister, draw up a code of conduct in respect of controls on the interests and ethical behaviour to apply to each member of the Commission and member of the staff of the Commission.

(2) The Commission shall publish any code of conduct drawn up under *subsection (1)*.

## **CODE OF PRACTICE FOR THE GOVERNANCE OF STATE BODIES**

**2.1** All State bodies should have written Codes of Business Conduct for Directors and Employees. Typical components of such a code are listed in Appendix B to this document. The requirements of the Companies Acts which relate to the behaviour of directors should be implemented in the case of those State bodies which are statutory boards, even where their legislation does not reflect these requirements. The code for employees, a copy of which should be given to every employee, should embrace such matters as duty to the State body, avoidance of conflict of interest, limits on outside activities, acceptance of gifts and honesty in dealings. The up to date codes of business conduct should be available upon request with a copy of each such code being accessible through the State body's web site (where relevant).

## **Ethics in Public Procurement**

### **1. Introduction**

The purpose of this note is to provide information to assist public sector buyers to conduct purchasing in a way that satisfies probity and accountability requirements and to offer a framework within which contracting authorities may wish to draw up more detailed internal procurement procedures relevant to their own activities.

These guidelines do not purport to be a legal interpretation of the relevant legislation or Circulars. Accordingly, contracting authorities should familiarise themselves thoroughly with the provisions applying.

### **2. Guiding Principles**

It is very important that the public procurement function is discharged with probity, transparency and accountability in a manner that secures best value for public money.

*Probity* requires the purchasing process to be conducted

- ethically;
- honestly; and
- with fairness to all participants

*Transparency* and *accountability* require that the basis for decisions is demonstrably clear and objective and that the purchaser is held to account for the conduct of the procurement process.

Contracting authorities must be cost effective and efficient in the use of resources while upholding the highest standards of integrity. Procurement practices are subject to audit and scrutiny under the Comptroller and Auditor General (Amendment) Act 1993 and Accounting Officers are publicly accountable for expenditure incurred. Management in contracting authorities should ensure that there is an appropriate focus on good practice in purchasing and, where there is a significant procurement function, that procedures are in place to ensure compliance with all relevant guidelines.

### **3. Probity**

In the context of procurement, the aim should be that individuals and organisations are trusted and respected by those with whom they deal and that business is conducted by all parties not only efficiently but in a fair and reasonable manner. Some of the practical implications of ensuring probity in procurement are set out in the following sub-sections.

#### **3.1 Legality**

There is an obligation on officials to exercise their powers lawfully. Officers must be aware of the provisions of the various Acts, Directives, regulations, policies and procedures that are relevant to their function. Compliance with national and EU legal requirements is a duty owed to contractors, suppliers, and service-providers by awarding authorities. Contractors, suppliers, and service-providers who have been treated unfairly or whose rights have been infringed in the public procurement process have a right to legal redress under EU remedies Directives.

If officials are unsure of the legal, policy or procedural requirements, they must seek advice from their line managers.

#### **3.2 Disclosure of Interest**

Any form of personal interest which may impinge, or might reasonably be deemed by others to impinge, on a public official's impartiality in any matter relevant to his or her duties should be disclosed in writing to line management. Personal interest includes an interest of a relative or connected person. Line management must then

decide if the exercise should be dealt with by another member of staff or seek further advice.

### **3.3 Gifts**

Public officials should not accept benefits of any kind from a third party which might reasonably be seen to compromise their personal judgement or integrity. The actions of public officials must be above suspicion and not give rise to any actual or potential conflict of interest and their dealings with commercial and other interests should bear the closest possible scrutiny.

It is not possible to give guidelines for every conceivable situation that may arise but if a doubt arises about a particular situation line management should be consulted. The following general guidelines provide a framework within which decisions in this area can be made or local rules formulated:

- Gifts must never be solicited, directly or indirectly.
- Subject to local rules, an official may accept and retain gifts of low intrinsic value. Any gift of more significant value should be refused. The policy of the contracting authority and the ethical rules that apply to public officials should be explained to the donor so that reasons for refusal are not misunderstood or offence caused. Particular care should be taken in relation to offers of gifts from donors who stand to derive a personal or commercial benefit from their relationship with the contracting authority concerned.
- Cash, gift cheques or any vouchers that may be exchanged for cash may not be accepted regardless of the amount.
- Public purchasers must never solicit sponsorship for social, sporting, charitable or similar organisations or events from contractors, suppliers or service providers. Where such sponsorship is offered, it may only be accepted when expressly approved in writing by management. (This is not intended to relate to instances of appropriate and acceptable sponsorship of projects or activities which are related to a contracting authority's official activities and are otherwise in accord with public procurement rules).
- Public purchasers must not seek or accept special facilities or discounts on private purchases from contractors, suppliers or service providers with whom they have official dealings.

It should be noted that the Prevention of Corruption Acts 1889 to 2001, as amended by the Ethics in Public Office Act 1995, provide that money, gifts or other consideration received by a public official from a person holding or seeking to obtain a contract from a public body is deemed to have been received corruptly unless the contrary is proved.

### **3.4 Hospitality**

Normal business practice may occasionally justify accepting routine / modest hospitality from suppliers provided that:

- The frequency and scale of hospitality is not allowed by the recipient to reach a position whereby he or she might be, or might be reasonably deemed by others to have been, influenced in making a business decision as a consequence of such hospitality.
- The number of officers availing of the hospitality is kept to a minimum.

- Invitations do not include provisions deemed to be excessive, such as significant travel, overnight accommodation or trips abroad.
- Availing of the hospitality does not identify the contracting authority in a public way with any particular contractor, supplier or service provider.

Under the Civil Service Code of Standards and Behaviour, which applies to central government departments and offices, offers of hospitality should be reported to line management. Particular care should be taken where suppliers are in the process of tendering for business. In this regard there should be no acceptance of gifts or hospitality from contractors, suppliers or service providers involved in a current tendering process.

#### **4.0 Transparency and Accountability**

Procurement transactions and decisions must in all respects be fair, equitable and ensure value for money. Contracting authorities must be able to justify decisions made and actions taken.

In organising the procurement function, management in contracting authorities must ensure appropriate separation of duties within the procurement cycle. For example, insofar as possible, ordering and receiving goods and services should be distinct from payment for goods and services.

Accurate written records (including computer records) are essential in demonstrating that proper ethical standards have been observed. Therefore, appropriate records should be maintained throughout the purchasing process. These records should provide an audit trail of the reasons for making a particular procurement decision. The type and detail of information that is recorded should be specified in local procedural guidelines and will depend on the complexity or sensitivity of the particular purchasing issue.

#### **5.0 Confidentiality of Information**

The basic rule is that commercially sensitive information must be kept secure and never used for personal gain or to prejudice fair competition. Information on individual contracts must not be given to the media or any other enquirer (except the individual contractor concerned), without the authority of line management. Disclosure of supplier and tender information relating to the tender process prior to contract award, and in particular to another interested party, is strictly prohibited.

After the award of contract, information may be provided in accordance with the detailed guidance on *“Notifying Tenderers and Disclosure of Information”* outlined in the booklet *“Public Procurement Guidelines – Competitive Process”* and published in the general procurement guidance section of [www.etenders.gov.ie](http://www.etenders.gov.ie). Some information on the tendering process may be disclosable under FOI legislation where invoked.

*National Public Procurement Policy Unit / Government Contracts Committee  
June 2005*