

Non-Executive Board Members

Code of Conduct

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Introduction

The Scottish public has a high expectation of the conduct of those who undertake public appointments. To that end, Education Scotland has published a Code of Conduct to provide guidance for Non-Executive Board Members.

This Code of Conduct sits alongside the Terms and Conditions that accompanied your appointment letter from the Chief Executive. A copy of the Terms and Conditions can be found at Annex A.

Guidance on the Code of Conduct

As an Education Scotland Non-Executive Board Member (NEBM), it is your personal responsibility to make sure that you are familiar with, and that your actions comply with, the provisions of this Code of Conduct. It is your personal responsibility to comply with these provisions and review regularly, and at least annually, your personal circumstances with these in mind, particularly when your circumstances change.

Your conduct should be above reproach and you must not at any time advocate or encourage any action contrary to the Code of Conduct. As an Education Scotland NEBM your conduct should be consistent with the Education Scotland's vision, mission and values

You may find it helpful to familiarise yourself with the Scottish Government publication "On Board for members of Management Advisory Boards". This publication will provide you with information to assist you in your role as a NEBM.

If you are uncertain about how the rules apply, you should seek advice from the Head of Governance, Education Scotland.

Our Vision

- ***Achieving excellence and equity for Scotland's learners with Scotland's educators***

Our Mission and Strategic Priorities

To work collaboratively with all stakeholders involved in Scottish education to secure sustained improvement in achievement and attainment for all learners, closing the poverty related attainment gap and securing positive and sustained destinations for all learners regardless of their age and where the learning takes place.

We will do this by working more closely and collaboratively with all involved in improving Scotland's education system, focussing on five new strategic priorities which are fully in line with the National improvement Framework (NIF) for education:

- a strong focus on learning, teaching and leadership;
- national collaborative professional learning networks;
- getting it right for every child;
- best use of high quality evidence; and effective partnerships

Our Core Values

Our core values were established following consultation with staff. These values underpin all of our work. We are committed to embedding our values in everything we do, both internally and externally.



Integrity

- Demonstrate the highest professional standards of behaviour
- Build trust with all those we engage with
- Be open and transparent in our decision making
- Communicate clearly and effectively with staff and external partners

Respect

- Treat all people with dignity, courtesy and respect
- Listen to the views of our staff and partners, including them in decision making
- Recognise and respect individual differences
- Recognise and use the strengths, skills and abilities of all to deliver improvement

Excellence

- Support all learners in Scotland to achieve their highest aspirations
- Recognise staff excellence and promote best working practice
- Demonstrate excellence in all we do
- Develop and lead internationally recognised practice

Creativity

- Work with others to explore new and different ways to do things better to continually improve learning, teaching and assessment in Scotland
- Empower our staff to use their skills and knowledge to lead improvement
- Promote and develop creative thinking and creative skills
- Inspire, innovate, transform

Key principles of the Code

NEBMs must observe the principles as set out by the Ethical Standards Commissioner

The key principles upon which this Code is based are:

Duty	You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interest of Education Scotland and its core functions and duties.
Selflessness	You have a duty to take decisions solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.
Integrity	You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.
Objectivity	You must make decisions solely on merit and in a way that is consistent with the functions of Education Scotland when carrying out public business. ,
Accountability and Stewardship	You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking into account the views of others, and must ensure that Education Scotland uses its resources prudently and in accordance with the law.
Openness	You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions, restricting information only when the wider public interest clearly demands.
Honesty	You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest.
Leadership	You have a duty to promote and support these principles, to lead by example, and to maintain and strengthen the public interest and confidence in the integrity of Education Scotland.
Respect	You must treat fellow NEBMs, members of staff and stakeholders of Education Scotland with courtesy at all times. Similarly you must respect members of the public when performing duties as a NEBM of Education Scotland.

Specific duties

As a NEBM, you will prepare for and attend meetings as required. You will provide active and effective support and guidance to assist Education Scotland deliver its functions effectively and efficiently and in accordance with the aims, policies and priorities of the Advisory Board and Chief Executive.

The specific duties relating to your NEBM role are:

- Strategic Advice – bringing external perspectives, stimulating innovation and bringing fresh eyes to issues and challenges, acting as a “critical friend”
- Improving Performance – by ensuring clarity and rigour in the scrutiny, measurement and evaluation in delivering objectives and outcomes
- Promoting Good Governance – helping our corporate Boards discharge their functions effectively
- Audit – where relevant as a member of the Risk and Audit Committee, providing assurance to the accountable officer regarding risks, systems and performance
- Risk - holding officials to account for identifying and managing risk within their defined areas of responsibility, and ensuring risk strategies are fit for purpose, monitored and evaluated

You will receive annual feedback on your performance against these duties from the Chief Executive during a one-to-one meeting.

Gifts and hospitality

You will not accept gifts, hospitality and entertainment in performing your functions and in consequence of your office (unless wholly trivial and of minimal value) and will report any such offers to the Chief Executive. Any gifts and hospitality accepted must be declared in writing to the Head of Governance, Education Scotland, and will be recorded in the Agency’s Register of Interests.

Confidentiality

You will exercise due care in the use of information to which you have access in the course of performing your functions or in consequence of your appointment, and you will protect information that you receive in confidence from unauthorised disclosure. When your period in office ends (whatever the reason) you will continue to owe a duty of confidentiality to Education Scotland in relation to information of a confidential nature to which you had access during your period of appointment in office.

Personal liability of Board members

If legal proceedings are brought against you by a third party, the Scottish Ministers will meet any civil liability incurred in performing your functions, provided that you acted honestly, reasonably and in good faith.

Conflicts of interest

You will not participate in any discussion or determination by Education Scotland of a matter in which you have a relevant personal or business interest and will withdraw from any such discussion or determination if you have a direct interest. If the matter under consideration gives rise to a potential conflict of interest you will inform the Head of Governance.

Nor will you take part in activities which conflict with the interests of the Education Scotland and, in particular, you must not misuse any information acquired in the course of your appointment to further your private interests or those of others.

Education Scotland maintains a register of interests held by NEBMs. You must declare any personal or business interest which might be perceived to influence your judgement in performing your functions. If any such interest arises in relation to a matter under consideration by the committee/board, you will declare that interest at the relevant meeting for recording in the minutes. You will ensure that such interests are recorded in Education Scotland Register of Interests and updated at least annually. If you have any questions about this please contact the Head of Governance.

Political activity

You are expected not to occupy paid party political posts or hold particularly sensitive or high ranking roles in a political party. Subject to the foregoing, you are free to engage in political activities provided that you are conscious of your general public responsibilities and exercise a proper discretion, particularly with regard to the work of Education Scotland.

You may be removed from office if the Chief Executive is satisfied that the acceptance or holding of any other office, role, position or interest means that it is not appropriate for you to remain an Education Scotland NEBM.

Media

You may be approached directly by the media by phone, email or in person. Within your role as an Education Scotland NEBM, individuals must not undertake media interviews or comment to the media unless authorised to do so by the Chief Executive. NEBMs should not provide information to the media, or do anything which could lead to the disclosure of confidential Education Scotland business. Corporate Board business and proceedings will only be made public, via the Education Scotland website.

Freedom of Information requests

In the unlikely event that you receive a Freedom of Information request regarding your role as a NEBM, please pass this on to the Governance Manager.

Speaking engagements

You should inform the Chief Executive if you have any public engagements which are likely to make reference to your position as an Education Scotland NEBM. You should not claim to speak or give the impression that you speak on behalf of Education Scotland unless you have been authorised to do so by the Chief Executive.

Use of social media

NEBMs engaging on social media, in an individual capacity, should be aware that posting information or views about Education Scotland cannot be isolated from their working life. Members should make themselves aware of the [Scottish Government social media policy](#).

It is important that in expressing views on social media, you do not compromise your position as a NEBM. You should be aware that hastily expressed views can be difficult to retract if required to do so.

NEBM role

Your key role as a Non-Executive Board Member (NEBM) is to support the Education Scotland Chief Executive.

Collectively, NEBMs are also involved in supporting the Chief Executive and Leadership Team discharge their corporate responsibilities and participating on the Advisory Board and the Audit and Risk Committee

In fulfilling this role, you are expected to promote the highest standards of corporate governance in pursuit of strategic outcomes by providing support and challenge, and acting as 'critical friends' to the organisation.

At times, we may also require you to be available for mentoring and for bespoke time limited projects.

Within the organisation, NEBMs are operationally supported by the Governance Team, and are accountable to the Chief Executive.

What does your work involve?

Specifically, the role of the Non-Executives includes:

- Develop an understanding of the business, whilst providing valuable, independent, external challenge and input on matters raised by management, and provide unbiased insights and ideas from a third point-of-view (whilst not involved in the operation of the business);
- Constructively challenge and contribute to the development of strategy, suggesting ambitious and customer-focused targets and innovative approaches for delivery;
- Scrutinising the performance of management in meeting goals and objectives and monitoring the reporting of performance; and
- Satisfying themselves of the reliability and integrity of risk management and internal control arrangements.

- **Audit and Risk Committee** – for those who are also members of the Audit and Risk Committee, providing assurance to the Accountable Officer regarding proper financial, risk and performance management. Good practice guidelines on the role of audit committees can be found in the [Scottish Government Audit Committee Handbook](#);
- **Performance Monitoring** – helping to improve Education Scotland’s performance by ensuring clarity and rigour in the measurement and evaluation of effectiveness of performance against our strategic outcomes; the effectiveness of Corporate Systems; and the alignment of financial resources.

In fulfilling this role, you will work to provide advice and support to Strategic Directors, the wider organisation and the Accountable Officer by reviewing the comprehensiveness of assurances, in meeting the assurance needs of the Advisory Board and Audit and Risk Committee and reviewing the reliability and integrity of these assurances.

Boards and Accountable Officers have many issues competing for their attention, and one of the challenges they face is knowing whether they are giving their attention to the right issues. The challenge you will provide in your role as a NEBM participating on the Advisory Board or the Audit and Risk Committee plays a key part in addressing this, providing an assurance function that can broadly be defined as *"an evaluated opinion, based on evidence gained from review, on the organisation's governance, risk management and internal control framework"*.

Registration of Interests

The following paragraphs set out the kinds of interests, financial and otherwise which you have to register. These are called “Registerable Interests”. You must, at all times, ensure that these interests are registered, when you are appointed and whenever your circumstances change in such a way as to require change or an addition to your entry in the Register. It is your duty to ensure any changes in circumstances are reported within one month of them changing. The Governance Team will send you a Register of Interests form for completion on an annual basis.

The interests which require to be registered are those set out in the following paragraphs and relate to you. It is not necessary to register the interests of your spouse or cohabitee.

Category One: Remunerated positions held

You have a registerable interest where you receive remuneration by virtue of being:

- employed;
- self-employed;
- the holder of an office;
- a director of an undertaking;
- a partner in a firm;
- undertaking a trade, profession, or vocation, or any other work; or
- an interest of a close relative or partner you may wish to register.

In relation to the above, the amount of remuneration does not require to be registered and remuneration received as a NEBM of Education Scotland does not have to be registered.

If a position is not remunerated it does not need to be registered under this category. However unremunerated directorships may need to be registered under category 2: “**Non-remunerated Directorships held**” (see below).

If you receive any allowances in relation to membership of any organisation, the fact that you receive such an allowance must be registered.

When registering employment, you must give the name of the employer, the nature of its business, and the nature of the post held in the organisation.

When registering self-employment, you must provide the name and give details of the nature of the business. When registering an interest in a partnership, you must give the name of the partnership and the nature of its business.

Where you undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and its regularity. For example, if you write for a newspaper, you must give the name of the publication, and the frequency of articles for which you are paid.

When registering a directorship, it is necessary to provide the registered name of the undertaking in which the directorship is held and the nature of its business.

Registration of a pension is not required, as this falls outside the scope of the category.

For the purposes of this category the following definition applies:

“Remuneration” includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind. This would include, for example, the provision of a company car or travelling expenses by an employer.

Category Two: Non-remunerated Directorships held

You must register any directorships held which are themselves not remunerated but where the company (or other undertaking) in question is a subsidiary of, or a parent of, a company (or other undertaking) in which you hold a remunerated directorship.

You must register the name of the subsidiary or parent company or other undertaking, and the nature of its business, and its relationship to the company or other undertaking in which you are a director and from which you receive remuneration.

The situations to which the above paragraphs apply are as follows:

- you are a director of a board of an undertaking and receive remuneration declared under category one; and
- you are a director of a parent or subsidiary undertaking but do not receive remuneration in that capacity.

Category Three: Contracts with the Scottish Government or any of its agencies

You have a registerable interest where you (or a firm in which you are a partner, or an undertaking in which you are a director or in which you have shares of a value as described in paragraph 4.3 below) have made a contract with the Scottish Government:

- (i) under which goods or services are to be provided, or works are to be executed; and
- (ii) which has not been fully discharged.

You must register a description of the contract, including its duration, but excluding the consideration.

The nominal value of the shares referred to in paragraph 4.1 is:

- (i) greater than 1% of the issued share capital of the company or other body; or
- (ii) greater than £25,000.

Category Four: Shares and securities owned

You have a registerable interest where you have an interest in shares which constitute a holding in a company or organisation which may be significant to, of relevance to, or bear upon, the work and operation of Education Scotland. You are not required to register the value of such interests.

The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any interests in shares and securities could potentially affect your responsibilities to Education Scotland and to the public, or could influence your actions, speeches or decision-making.

Category Five: Membership of, and/or work for, organisations which may lead to a conflict of interest with Education Scotland

You may also have a registerable interest if you have non-financial interests which may be significant to, of relevance to, or bear upon, the work and operation of Education Scotland. It is important that relevant interests such as membership or holding office on political parties, other public bodies, clubs, societies, and organisations such as trade unions and voluntary organisations, are registered and described. In addition, where you do not hold membership but undertake voluntary work for such organisations you should consider whether this would be a relevant interest.

The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any non-financial interest could potentially affect your responsibilities to Education Scotland and to the public, or could influence your actions, speeches or decision-making.

Category Six: Gifts and Hospitality

You have a registerable interest if you are offered or accept gifts or hospitality, with an estimated retail value of £15 and above, in the course of your duties as a Non-Executive Board Member of Education Scotland. The term “gift” includes benefits such as relief from indebtedness, loan concessions, or provisions of services at a cost below that generally charged to members of the public.

Category Seven: Interests of Partners or Close Family

You should also consider whether you require to declare an interest to the financial and non-financial interests of your partner or a close family which are known to you. You have to ask yourself whether a member of the public acting reasonably would regard these interests as effectively the same as your interests in the sense of potential effect on your responsibilities as an Education Scotland Non-Executive Board Member. In this context, the term “partner” means husband, wife, civil partner or co-habitee.

Annex A

Terms and Conditions for appointment as a Non-Executive Board Member to Education Scotland's Advisory Board.

Status

You are appointed as a Non-Executive Board Member of Education Scotland's Advisory Board. You are not a servant or agent of the Crown or a civil servant, and do not have any status, immunity or privilege of the Crown.

The Role of the Advisory Board

The main purpose of an advisory board of a Scottish public body is to provide effective leadership to the organisation and to assist the body to deliver its functions on behalf of Ministers.

Duties/responsibilities of Membership

Education Scotland is headed by a Chief Executive who, as Accountable Officer for Education Scotland, is personally answerable to Scottish Ministers and the Scottish Parliament for the performance of the Agency. The Advisory Board is advisory, rather than executive, in nature.

The role of members of Advisory Boards is therefore different to that of members of Non Departmental Public Bodies (NDPBs) and other bodies with statutory Boards. Advisory Board members are appointed to act in a purely advisory capacity and do not have any formal decision-making role.

The role of the Advisory Board is to provide constructive advice and support to the Chief Executive and the leadership team, including contributing to reviews of strategic direction, operating and business plans. As part of that, the Non-Executive Board Members provide the Chief Executive with an independent perspective on the agency's work and assist the Chief Executive in evaluating the effectiveness of the agency. The Board provides the Chief Executive and the leadership team with support, advice and challenge. Advice from Non-Executives and the outside perspective they bring help the Chief Executive and leadership team make well-considered and well-rounded decisions.

The Chief Executive chairs the Advisory Board and it comprises of key Agency personnel as determined by the Chief Executive.

As a member of Education Scotland's Advisory Board you are responsible for the matters specified above, and in particular are required:

to act at all times in good faith in the best interests of Education Scotland and to act at all times with due care, skill and diligence;
to give proper attention at all times to the affairs of Education Scotland Advisory Board with fair regularity and monitoring, challenging and supporting the activities of the Strategic Directors and leading executives of Education Scotland, and to act at all times in accordance with the terms and conditions of your appointment; and
to ensure that Education Scotland at all times acts in conformity with all proper obligations to which it is subject.

Accountability

Members of the Advisory Board are appointed by, and are accountable to, the Chief Executive and are required to work within the policy framework set by the Scottish Ministers.

Period of appointment

This appointment will be as stated in the accompanying offer of appointment letter from the Chief Executive.

You may resign by giving three months written notice to the Chief Executive.

Your appointment may be terminated in the event that:

you are convicted of a criminal offence;
you have had your estate sequestrated or have made a trust deed for the benefit or use of your creditors or a composition contract;
and/or where the Chief Executive believes that your conduct means that you are no longer a suitable person for the post.

Should the Advisory Board be dissolved or wound up during the period of your appointment, your appointment would, of course, also cease with effect from that dissolution or such other date as is specified in any relevant legislation.

Remuneration

Remuneration will be set at a daily rate.

All monies paid in connection with this appointment are taxable and paid through payroll. Non-Executive Board Members will have tax deducted from any remuneration they receive at source by the Scottish Government at the basic rate.

Travel and subsistence costs will be paid in accordance with standard Scottish Government arrangements. You are entitled to claim the following expenses and subsistence:

Travel expenses to and from home to the meeting venue (standard class when travelling public transport).

Travel and subsistence expenses incurred as part of the work of the board away from the normal venue.

Dependent Care Costs.

Attendance

You are expected to attend between 6 and 10 Advisory Board meetings per year. Additional days across the Agency may be required but these will be intimated by and agreed with the Head of Governance on behalf of the Chief Executive. The appointment may be terminated, without notice, if absent for three or more consecutive Board meetings.

Conduct

All board members have a duty regarding conduct, propriety and confidentiality. You are expected to conduct yourself in accordance with the principles of the Nine Principles of Public Life in Scotland as set down in Annex B to this document.

Liability

This appointment shall not be construed as in any way constituting a contract of service or for services between you and Education Scotland; between you and the Scottish Ministers, or as between you and the Crown.

If legal proceedings are brought against you by a third party, the Scottish Ministers will meet any civil liability which is incurred in the execution of your functions providing that you have acted honestly, reasonably and in good faith.

Confidentiality

As a Non-Executive Board Member of Education Scotland – and after termination of that appointment (whatever the reason) – you will owe a duty of confidentiality to the Agency and to the Scottish Ministers in relation to any information of a confidential nature to which you have had access in the course of your appointment.

You will be required to exercise care in the use of information which you acquire in the course of your duties and to protect any documents or other information provided to you in confidence from unauthorised disclosure.

Conflicts of interest

Non-Executive Board Members should not misuse their official position or information acquired in the course of their duties to further their private interests or those of others. Non-Executive Board Members should not take part in activities which might conflict with the interests of Education Scotland. The purpose of both these provisions is to avoid the danger of non-executive board members being influenced, or appearing to be influenced by their private interests in the exercise of their public duties.

You must therefore declare any personal or business interests which may, or may be perceived to, influence your judgements in performing your functions. If any such interest arises in relation to a matter under consideration by Education Scotland, you must declare that interest at the relevant meeting for recording in the minutes. You will also ensure that all such interests are recorded in the Register of Interests maintained by the Education Scotland. It is your responsibility to ensure that your entries are kept up-to-date. It will be for the Chief Executive to consider what, if any, action is required as a result of any perceived conflict of interest, for example, asking you to withdraw from meetings.

You will not accept gifts, hospitality and entertainment in performing your functions and in consequence of your office (unless wholly trivial and of minimal value) and will report any such offers to the Head of Governance.

Political activity

You are expected not to occupy paid party political posts or hold particularly sensitive or high ranking roles in a political party. Subject to the foregoing, you are free to engage in political activities provided that you are conscious of your general public responsibilities and exercise a proper discretion, particularly with regard to the work of Education Scotland.

You are expected to inform the Chief Executive of any intention to accept a prominent position in any political party and to understand that your appointment may be terminated if the Chief Executive feels that the positions are incompatible.

By virtue of the Scottish Parliament (Disqualification) Order 2007, as a Non-Executive Board Member of Education Scotland you are disqualified from being a member of the Scottish Parliament.

If you are uncertain about the propriety of any political activity, you should seek guidance from the Chief Executive.

Official Secrets Act

The provisions of the Official Secrets Acts 1911 to 1989 apply to Non-Executive Board Members of Education Scotland. Unauthorised disclosure of any information gained in the course of this appointment, or its use by the member or others for personal gain or advancement, could result in the appointment being terminated early, or even criminal prosecution.

Performance appraisal

Your performance as a non-executive board member will be reviewed on a regular basis. The Chief Executive will carry out reviews the aim of which is to:

consider your impact on the performance of the board as judged against the published criteria used in making your appointment;
provide a formal opportunity to recognise and discuss your contribution; and if appropriate;
provide information that can be used by the Chief Executive in deciding whether or not to re-appoint you.

Your appointment could be subject to termination by the Chief Executive if your performance is assessed as unsatisfactory.

Education Scotland

Denholm House
Almondvale Business Park
Almondvale Way
Livingston EH54 6GA

T +44 (0)131 244 4330

E enquiries@education.scotland.gov.scot

www.education.gov.scot