

DRAFT

CODE OF PRACTICE

FOR

NORTHERN IRELAND TRUST PORTS

1. Introduction

- 1.1 Trust ports are autonomous statutory bodies which are independent of Government. They are run for the benefit of all their stakeholders and any surpluses require to be reinvested for the benefit of the port.
- 1.2 The Boards of the three main commercial trust ports of Belfast, Londonderry and Warrenpoint are appointed by the Head of the Department for Regional Development, however responsibility for the operation and management of each trust port falls to the individual Boards and the port management teams.
- 1.3 Trusts are run for the benefit of all their stakeholders. Any surpluses are ploughed back into operation of the trust. All trust ports have a duty to maximise the benefits available to all their stakeholders (existing, potential and future). They should always be subject to, and constrained by, their duty to uphold the rights of all stakeholders and treat them in an accountable manner. It is the duty of each trust board to steer this course, fulfilling their commercial operational and strategic requirements against the framework laid down in this guide.
- 1.4 These stakeholders form two distinct tiers
 - **beneficiary stakeholders** who are entitled to benefit from the use of trust facilities. These would include users of the harbour who pay a commercial rate (owners of cargo, passengers, operators of ships etc) and others who derive direct benefit from the trust (employees, those with a direct commercial interest in the port's operation – traders and their employees); and
 - **non beneficiary stakeholders** representing the broad range of those with an indirect interest (but without the specific statutory entitlement of users) in the port and its accountable and effective operation (local authorities and the community at large, trades unions, the Government, partners, investors, lenders and creditors the national and regional economy, specific interest groups covering environmental, conservation and transport matters amongst others).

2. Purpose

2.1 This Code of Practice sets out the key aspects of conduct, accountability and openness to which Trust Ports in Northern Ireland shall seek to aspire in fulfilling the duties and responsibilities conferred on them by statute.

3. Public Service Values

3.1 The Boards of Trust Ports are expected to:

- Observe the highest standards of propriety in the exercise of their duties and are required at all times to operate within the limits of their statutory powers.
- Demonstrate honesty, impartiality, integrity and objectivity in relation to all of their duties relative to the operation of the port.
- Have responsibility for their decisions and actions to all stakeholders of the trust (including port users, employees, trade unions, local authorities investors and the wider community).

4. Corporate Responsibilities of Board Members

4.1 Members of the Board of a Trust port have a corporate responsibility to ensure that the organisation complies with all statutory and administrative requirements placed upon it.

4.2 In addition, Board members should:-

- ensure that high standards of corporate governance are observed at all times;
- establish the overall strategic direction of the organisation following consultation with key stakeholders, having regard to the best interests of the port and the local economy;
- ensure that, in reaching decisions, the Board has taken into account Government policy and any relevant guidance provided by the sponsor department;

- ensure that due regard is paid to the need to promote equality of opportunity in carrying out the functions of the Board

5. The Role of the Chairman

5.1 The Chairman should provide effective leadership for the Board and act as an ambassador for the trust. He should also normally represent the Trust, particularly at meetings involving public representatives and the media, unless authority is specifically delegated to others and should take personal responsibility for presentations, speeches and public events.

5.2 It is the Chairman's responsibility to:

- formulate the Board's policy for discharging its statutory duties;
- encourage high standards of propriety, and promoting efficient and effective use of staff and resources within the organisation;
- ensure that key and appropriate issues are addressed by the Board in a timely manner;
- ensure that the Board has adequate information and guidance on which to base informed decisions;
- ensure that all Board members have the opportunity to make a full contribution to the Board's business and encouraging the Board to act as a team;
- appoint Board Members to Committees as required for the smooth running of the organisation;
- provide an assessment of Board Members' performance when requested, to enable the Department to consider whether the individuals concerned are suitable for re-appointment

- 5.3 The Chairman should also ensure that the Board meets at regular intervals and that the Board's record of meetings accurately records the decisions taken and, where necessary, the views of individual members.
- 5.4 Communications between the Board and the Minister will normally be conducted through the Chairman. (The main point of contact with the Department on day-to-day matters will normally be the Chief Executive, or the Management Team.)
- 5.5 The Chairman is responsible for ensuring that all members of the Board are fully briefed on the terms of their appointment and on their duties rights and responsibilities. Board Members should be provided with a copy of this Code of Practice and other relevant background papers and guidance, such as the Annual Report and Accounts and Corporate Plan.
- 5.6 The Chairman should ensure that adequate arrangements are in place to provide appropriate induction training for new Board Members.

6. The role of the Chief Executive

- 6.1 The Chief Executive has responsibility for the overall organisation, management and staffing of the harbour business. He also has responsibility for financial and other procedures including conduct and discipline. The Chief Executive should be supported by the Board in undertaking these responsibilities. He should lead by example promoting the values embodied in the guiding principles of trust port membership.
- 6.2 The Chief Executive has personal responsibility for the propriety and regularity of the finances of the organisation, for the keeping of proper accounts, for prudent and economical administration, for the avoidance of waste and extravagance and for the efficient and effective use of resources.
- 6.3 He should provide the Board with clear financial and operational reports to enable it to make accurate, informed decisions and ensure that the statutory and legislative framework for the port is kept under regular review.

6.4 The Chief Executive also provides the link between the Board and the Department on day-to-day matters.


6.5 The Chief Executive will be bound by the same Code of standards as applies to other Board members (see 7.1 below).

7. Responsibilities of individual Board Members

7.1 Individual Board members should be aware of their wider responsibilities as members of the Board. They should follow the Guiding Principles of trust boards (adapted from the Cabinet Office code of practice for board members of non-Departmental public Bodies). The principles are listed at **Appendix 1**. Board members must:

- undertake as a condition of appointment to comply at all times with this Code of Practice and with rules relating to the membership of public bodies;
- act in good faith and in the best interests of the Board;
- not misuse information gained in the course of their public service for personal gain or for political purposes, nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations;
- ensure that they honour and support Board decisions, both individually and collectively. (Should a Board member fundamentally disagree with a decision of the Board then that member should carefully consider their position).
- ensure that they comply with any rules on the acceptance of gifts and hospitality which may be issued by the Board.

7.2 Members are free to engage in political activities but must exercise proper discretion in regard to the work of the Board, recognising their corporate responsibilities as Board Members.



7.3 Individual Board Members may be removed from office by the Minister in the event that they fail to perform the duties required of Board members to the standards of persons who hold public office.

8. Handling conflicts of interests

8.1 The procedures laid down by the legislation governing local trust ports includes specific provision for dealing with conflicts of interest:

A Board Member shall, if he is any way directly, or indirectly, interested in any contract or other transaction entered into or proposed to be entered into by the Board which involves or is likely to involve any payment by or on behalf of the Board, disclose the nature of his interest at a meeting of the Board as soon as possible after the relevant circumstances have come to his knowledge.

Any resulting disclosure shall be recorded in the minutes of the meeting, and that Board Member shall not take part after the disclosure in any deliberation or decision of the Board with respect to that contract or transaction.

Where a Board Member is prohibited from taking part in any deliberation or decision, that member shall be disregarded for the purpose of constituting a quorum for that deliberation or decision.

In observing this statutory requirement Harbour Commissioners should avoid taking a narrow view. Rather the term 'transaction' should be interpreted broadly to include any proposed or potential development of port land or assets.

8.2 In addition, a Register of Interests should be maintained by the Ports. The Register should as a minimum list direct and indirect pecuniary interests of Board Members, which might be construed by members of the public, to influence their judgement.

Board members should also declare any involvement or association with a third party having personal, direct and other pecuniary interests which relate closely to the activities of the Port

In addition key elements of the Register should be published in the annual report published by the Board.

8.3 Board Members must facilitate compliance with the need under Financial Reporting Standard 8 for material transactions with related parties to be disclosed in financial statements.

“Related parties” in FRS 8 include close members of the family of an individual, who are defined for the purposes of the standard as those family members, or members of the same household, who may be expected to influence, or be influenced by, that person in their dealings with the Port.

9. Personal Liability

9.1 Trust Board members have a duty of care to the trust they are appointed to oversee. Board members who have acted honestly, reasonably, without negligence and in good faith will not be faced with personal civil liability for actions taken as a board member. The Ports should provide suitable indemnities for Board members consistent with these sentiments.

9.2 A Board member may be personally liable if he or she makes a fraudulent or negligent statement which results in loss to a third party. Board members who misuse information gained by virtue of their position may be liable for breach of confidence under common law or may commit a criminal offence under insider dealing legislation.

10. Strategic Planning and Control

10.1 Good practice points to the need for the Board to produce a corporate plan for the business. The oversight, production and monitoring of this should be one of the Board’s main tasks. In addition an Annual Business Plan should be developed which would outline a series of performance measures and targets for the business during the year in question.

11. Delegation

11.1 Responsibility for day-to-day management of the organisation is delegated to the Management Team. There should be a clearly understood framework of strategic control to

ensure that Board approval is obtained when necessary;

11.2 In addition, the Board may decide to delegate responsibility for specified matters to individual Board members or Committees. Decisions taken by individual members or Committees of the Board in such circumstances should be recorded in written minutes and made available to the full Board.

12. Openness and responsiveness

12.1 Each Trust Port should conduct its business in an open and responsible way commensurate with safeguarding commercially sensitive information. In the event of the nature of such information being challenged, the Department should be consulted. Each Board should also seek to demonstrate that satisfactory arrangements are in place to ensure that the ports meet their statutory and other responsibilities.

12.2 More specifically, each Board should:

- establish formal arrangements for consultation with Port Users and other stakeholders. The establishment of a Port Users Forum should assist in this process.
- establish and maintain formal arrangements with the local authority within whose area the port is situated, to facilitate regular discussion of matters of mutual interest; such meetings should be convened at least twice per year.
- adopt a policy of holding well-published Open Annual General Meetings.

12.3 Each Board should also ensure that the public is made aware of the information about the business that is available, where it can be obtained and how a complaint will be dealt with if they are not satisfied with the information provided.

12.4 Each Board should undertake to provide the Department for Regional Development with such information as may be required from time to time.

Each Board should also accommodate the attendance of a Senior Civil Servant from the Department in an observer capacity at Board meetings and should provide the Department with details of Board meetings together with Agenda items for discussion in advance of each Board Meeting.

In addition to the Ministerial programme of visits formal meetings should take place on a six-monthly basis with the Minister for Regional Development to discuss progress against the published Corporate and Business Plans.

Trust Port Boards are also encouraged to establish formal links with the Regional Development Committee and a meeting should be arranged at least once per year, ideally at the time of the publication of the annual report and audited accounts. It is envisaged that each Trust Port would take this opportunity to discuss their corporate and Business Plans.

13. Accountability of the Board

13.1 Each Board must take appropriate measures to ensure that the business operates as economically, efficiently and effectively as possible, with full regard to the relevant statutory provisions and to relevant guidance.

Moreover Board Members are responsible for ensuring that the Port does not exceed its powers or functions.

13.2 It should be noted that Trust Ports in Northern Ireland come within the remit of the Parliamentary Ombudsman and the Commissioner for Complaints. In addition, under the powers conferred on the NI Assembly, the Regional Development Committee of the Assembly can call for papers and ask for witnesses to appear before it to give evidence on any matter in which it has an interest.

14. Annual Report and Accounts

14.1 Trust ports are required by statute to produce an annual statement of accounts.

14.2 In keeping with the Government's policy on openness, the Annual Report and Accounts should provide a full description of the board's activities; list the names of the current members of the board and senior staff; and provide details of remuneration of board members and senior staff. The Annual Report should also contain information on accessing registers of interests in respect of Board Members.

14.3 In addition to the Department, elected representatives, and stakeholders, the Annual Report should be made widely available. In the case of the general public, it should be made available, free or for a token charge from the port office on request. The Board should also consider making the document available on the website, if available.

15. Audit Committees

15.1 Each Board should establish an audit committee as a committee of the Board. This committee should consist of non-executive board members who are independent of management and free from any business or other relationship which could materially interfere with the exercise of their independent judgement. It should be chaired by someone other than the chairperson of the main Board, who has experience of financial matters. The Chief Executive should attend all meetings of the committee unless the committee is discussing his/her performance.

16. The Board as an employer

16.1 Each Board should ensure:

- that it complies with all relevant legislation and that it employs suitably qualified staff who will discharge their responsibilities in accordance with the high standards expected of staff employed by such bodies. All staff should be familiar with the Port's main aims and objectives;
- that the organisation adopts management practices which use resources in the most economical, efficient and effective manner;

- that the Port's rules for the recruitment and management of staff provide for appointment and advancement on merit on the basis of equal opportunity for all applicants and staff. In filling senior staff appointments, the board should satisfy itself that an adequate field of qualified candidates is considered, and should always consider the merits of full open competition. In recruiting external candidates, this should normally be used;
- that its staff, and the board's own members, have appropriate access to expert advice and training opportunities in order to enable them to exercise their responsibilities effectively.

16.2 The Board should adopt a Code of Conduct for its staff perhaps using as a model that issued for executive NDPBs by Cabinet Office (OPS) in August 1996. There should be safeguards in place to ensure that the Port's interests are protected when staff depart.

16.3 All Boards have a responsibility to monitor the performance of the Chief Executive and other senior staff. This would normally be overseen by a Remuneration Committee which should consist of non-executive Board members. Where the terms conditions of employment of the Chief Executive and other senior staff include an entitlement to be considered for performance-related pay, and where such payments are assessed by board members, the board should ensure that they have access to the information and advice needed to make the necessary judgements.

THE GUIDING PRINCIPLES OF TRUST PORT BOARD MEMBERSHIP

Independence

All board members are appointed to act independently in the best interests of the trust and all of its stakeholders both present and future.

Selflessness

Board members should take decisions solely in terms of the interest of the stakeholders of the trust. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Board members should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out trust business, including making appointments, awarding contracts, or recommending individuals for rewards and benefits, board members should make choices on merit.

Accountability

Board members are accountable for their decisions and actions to all stakeholders of the trust and should submit themselves to whatever scrutiny is appropriate to their office.

Openness

Board members should be as open as possible with all stakeholders about the decisions and actions that they take. They should publicise the reasons for their decisions and restrict information only to the extent that matters of commercial or personal confidentiality are involved.

Honesty

Board members have a duty to declare any private interests which might influence their trust duties and to take steps to resolve any conflict arising in a way that protects the interests of stakeholders of the trust.

Leadership

Board members should promote and support these principles by leadership and example.