

Infrastructure Scheme Coordinators – Code of Conduct

Introduction

Under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (PDI Act) the Minister may adopt a code of conduct to be observed by a scheme coordinator or members of committees appointed as scheme coordinators for infrastructure delivery schemes under the PDI Act. This code of conduct sets out standards of conduct and professionalism that are to be observed by all scheme coordinators under the PDI Act. This code of conduct must be read in conjunction with the Act.

For the purposes of the PDI Act, a key requirement is that all scheme coordinators must carry out, and be seen to carry out, their functions with the highest ethical standards so as to maintain public confidence in the integrity of development assessment under the Act.

The code is the key tool to ensure that all scheme coordinators act honestly and ethically with a high degree of accountability. If a scheme coordinator has any doubt in regard to any function they may perform under the Act they should seek the advice of the Chief Executive.

While some scheme coordinators may also be bound by other codes of conduct or professional standards issued by their respective professional associations, they have no legal status under the Act. If there is a conflict between a requirement in this code of conduct and any other professional code or standard, this code prevails for the purposes of the Act.

Legislative framework

Under section 16 of the PDI Act, all scheme coordinators are subject to a statutory duty as described in the section as follows:

- (1) *It is expected that a person or body that—*
- (a) *seeks to obtain an authorisation under this Act; or*
 - (b) *performs, exercises or discharges a function, power or duty under this Act; or*
 - (c) *takes the benefit of this Act or is otherwise involved in a process provided by this Act, will—*
 - (d) *act in a cooperative and constructive way; and*
 - (e) *be honest and open in interacting with other entities under this Act; and*
 - (f) *be prepared to find reasonable solutions to issues that affect other interested parties or third parties.*

- (2) *Without limiting subsection (1), a person or body performing, exercising or discharging a function, power or duty under this Act must-*
- (a) *exercise professional care and diligence; and*
 - (b) *act honestly and in an impartial manner; and*
 - (c) *be responsible and accountable in its conduct; and*
 - (d) *comply with any code of conduct, service benchmark or other requirement that applies in relation to the person or body.*
- (3) *The Minister may, after taking into account the advice of the Commission, establish and maintain service benchmarks for the purposes of this section.*
- (4) *The principles and benchmarks under this section— (a) do not give rise to substantive rights or liabilities; but (b) may lead to action being taken on account of a breach of a code of conduct or professional standard that applies in relation to a relevant person or body.*

Code of conduct requirements

A scheme coordinator must comply with the following requirements.

General duties

1. A scheme coordinator must in performing, exercising or discharging a function, power or duty under the PDI Act, act in accordance with the general duties as set out in section 15 of the PDI Act

Act in the public interest

2. A scheme coordinator must act in a manner that promotes or protects the public interest.

Procedures

3. A scheme coordinator must ensure that the procedures specified in the Act or prescribed in the *Planning Development and Infrastructure (Infrastructure frameworks) Regulations 2017* are complied with.

Regard for honesty

4. A scheme coordinator must act with integrity, good faith and equity and must not discriminate toward any person in performing their duties.
5. A scheme coordinator must advise the Chief Executive immediately if they:
 - a. are the subject of a formal investigation into, or have been found to have, breached any other code of conduct, ethical standards or similar, either in another State or through a professional body of which they are a member; or
 - b. have been found guilty of a breach of any Act related to planning, building or a development related matter.

Conflict of interest

6. A scheme coordinator who has a direct or indirect personal or pecuniary interest in a matter that forms part of, or is directly related to a scheme (other than an indirect interest that exists in common with a substantial class of persons):

- a. must as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the Chief Executive and
 - b. must comply with any direction of the Chief Executive to deal with the conflict.
7. A scheme coordinator will be taken to have an interest in a matter for the purposes of item 6 if an associate of the scheme coordinator (within the meaning of section 3 (7) of the PDI Act) has an interest in the matter.

Protection and use of information

8. A scheme coordinator must maintain the integrity and security of confidential information in their possession and must not use confidential information gained by virtue of their official position for the purpose of securing a private benefit for themselves or any other person.
9. A scheme coordinator must not disclose information acquired in the course of their professional work other than if consent of the relevant person has been granted or where there is a legal or professional duty to disclose such information.

Proper exercise of power

10. A scheme coordinator must not take advantage of their position, power or duties for the purpose of obtaining, either directly or indirectly, any preferential treatment or other improper advantage for themselves or any other person.

Gifts and benefits

11. A scheme coordinator must not seek or accept a gift or benefit that is intended to, is likely to or could be perceived as likely to, cause them to act in an unfair or biased manner in the course of their duties.
12. A scheme coordinator must take all reasonable steps to ensure that a person related to them does not receive gifts or benefits that could appear to be an attempt to influence or secure or have the effect of influencing or securing a favour from them. A person is related to a scheme coordinator for the purpose of this provision if the person is spouse, de facto partner, sibling, parent or child of the scheme coordinator.

Bias

13. A scheme coordinator should always have regard to any affiliation, disposition or any material, pecuniary or other interest that would lead to a reasonable apprehension that they may be biased in carrying out any aspect of their role under the Act.