

1 Introduction

This Code of Conduct applies to all members of the HEFCW Council, and the principles set out in the Code also apply to members of the Council's Committees. It was approved by the Council in **November 2018**. It is based on the *Code of Conduct for Board Members of Public Bodies in Wales* that form part of the Welsh Government's *Terms and Conditions for Appointment as Member of the Higher Education Funding Council for Wales* (as revised in December 2017).

2 Relationship with the sponsor department

The Minister of the Welsh Government sponsor department (the Minister) is answerable to the National Assembly for Wales for the policies and performance of public bodies sponsored by the department, including their use of resources and the policy framework within which they operate. The *WGSB Framework Document: Higher Education Funding Council for Wales* sets out the broad framework within which HEFCW operates; details the terms and conditions under which the Welsh Ministers provide grant-in-aid to HEFCW; and describes the respective roles of the Welsh Government sponsor department and the Council.

3 Key principles of public life

- 3.1 The key principles upon which this Code of Conduct is based are the Seven Principles of Public Life (*Standards in Public Life: First Report of the Committee on Standards in Public Life*. Volume 1: Report. CM 2850-1). These are:

Selflessness

You should take decisions solely in terms of the public interest. You should not do so in order to gain financial or other material benefits for yourself, your family or your friends.

Integrity

You should not place yourself under any financial or other obligation to outside individuals or organisations that might, or might be perceived to, influence you in the performance of your official duties.

Objectivity

In carrying out public business, including awarding contracts and recommending individuals for rewards and benefits, you should make choices on merit.

Accountability

You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate for your office

Openness

You should be as open as possible about the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.

Honesty

You have a duty to declare any private interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

You should promote and support these principles by leadership and example.

- 3.2 These principles should inform your actions and decisions as a Council/Committee member.

4 General conduct

- 4.1 You will be expected to:

- play a full and active role in the work of the Council and to fulfil your duties and responsibilities conscientiously and act, at all times, in good faith and in the best interests of the Council;
- deal with the public and their affairs fairly, efficiently, promptly, effectively and sensitively and to the best of your abilities;
- comply with any statutory or administrative requirements relating to your duties as a member of the Council; and
- respect the principles of collective decision-making and corporate responsibility.

You must not:

- act in a way that favours unjustifiably or discriminates unfairly against particular individuals or interests; nor
- use - or attempt to use - the opportunity of public service to promote your personal interests or those of any connected person, firm, business or other organisation.

- 4.2 The *Terms and Conditions for Appointment as Member of the Higher Education Funding Council for Wales* state that Council members are expected to attend the meetings regularly and set out the conditions under which a Council member's appointment may be terminated.

(Further details on the roles and responsibilities of Council members are included in Schedule 1 to the *Terms and Conditions for Appointment as Member of the Higher Education Funding Council for Wales*, and in the *WGSB Framework Document: Higher Education Funding Council for Wales*.)

Use of Public Funds

- 4.3 You have a duty to safeguard public funds - which for this purpose should be taken to include all forms of receipts from fees, charges and other sources - and to ensure the proper custody of assets which have been publicly funded.
- 4.4 You must take appropriate measures to ensure that at all times HEFCW uses its resources as economically, efficiently and effectively as possible, with full regard to the relevant statutory provisions and to relevant guidance in Managing Welsh Public Money.
- 4.5 You are responsible for ensuring that HEFCW does not exceed its powers or functions, whether defined in statute or otherwise, or through any limitations on its authority to incur expenditure.

Allowances

- 4.6 You must comply with the rules set by the Council and HEFCW regarding remuneration, allowances and expenses. It is your responsibility to ensure compliance with all relevant HM Revenue and Customs' requirements concerning payments, including expenses.

Use of Official Resources

- 4.7 You must not misuse official resources – facilities, equipment, stationery, telephony and other services, for example – for personal gain or for political purpose. Use of such resources must be in line with HEFCW's rules on their usage.

Use of Official Information

- 4.8 You must not use any knowledge gained from your work as a member of the Council/Committee for private profit or any other direct or indirect gain, neither should you lay yourself open to suspicion of doing so. You must not, without receiving proper authority, disclose any information which is confidential in nature or which is provided in confidence to you. This duty continues to apply even after you have left the Council/Committee. (Further details of the requirements placed upon Council members with respect to Confidentiality and the Use of Official Information are set out in the *Terms and Conditions for Appointment as Member of the Higher Education Funding Council for Wales*.)

Hospitality, Gifts and Other Benefits

- 4.9 You must not accept any gift, hospitality or benefit of any kind which might be seen to compromise your personal judgement or integrity or to influence you to show favour or disfavour to any person or organisation. Nor should you leave yourself open to the accusation that you might have been so influenced. If a gift is sent to you which you feel you cannot return, or a gift or hospitality is offered to you in circumstances in which it

would cause embarrassment or offence (to you or the giver or others present) if you were to decline it, you should promptly report its receipt in writing to the Chief Executive. (See *Appendix for further guidance.*)

(Further details of the requirements placed upon Council members with respect to Gifts and Hospitality are set out in the *Terms and Conditions for Appointment as Member of the Higher Education Funding Council for Wales.*)

Political Activity

- 4.10 In your public role as a Council member, you must abstain from all controversial political activities and be - and be seen to be – politically impartial. You should not occupy a paid party political post, nor hold a particularly sensitive or high-profile role in a political party. On matters directly affecting your work as a board member, you should not make political statements nor engage in other political activities. You must abide by any guidance issued from time to time by the Welsh Government on attendance at Party Political Conferences etc.
- 4.11 If you are already a member of the UK Parliament, the House of Lords, the National Assembly for Wales and/or other Devolved Administrations or are a local councillor you are exempt from these requirements, although you should still exercise proper discretion on matters directly relating to the work of the body and recognise that certain political activities may be incompatible with your role as a Council member.

(Further details of the requirements placed upon Council members with respect to Political Activity are set out in the *Terms and Conditions for Appointment as Member of the Higher Education Funding Council for Wales.*)

5 Handling Conflicts of Interests

- 5.1 You must comply with HEFCW's rules on the handling of conflicts of interest (*see Appendix for further information*). As a minimum these will require that you:
- declare as soon as possible, for the public register kept by HEFCW for such purpose, any personal or business interests you maintain which may - or may be perceived to - conflict with your public duties;
 - withdraw from the discussion or determination of matters in which you have a direct pecuniary interest (in matters in which you have an interest that is not of a direct pecuniary kind, you should consider whether participation in the discussion or determination of such would suggest a real danger of bias).
- 5.2 It is your responsibility to ensure that your entry in the body's register of members' interests is accurate and kept fully up-to-date.

Business Appointments/Acceptance of Appointments during Term of Office and Following Resignation or Retirement

- 5.3 On taking up your appointment to the Council you were required to make a declaration detailing any/all your other employment/business appointments. You should be aware that the Council's rules on handling conflicts of interest also include provisions should you seek to take up any new position during the period of your appointment. For the avoidance of doubt, you should consult with the HEFCW Chair and Chief Executive before accepting any new appointments.

(Further details of the requirements placed upon Council members with respect to Conflicts of Interest and Business Appointments are set out in the *Terms and Conditions for Appointment as Member of the Higher Education Funding Council for Wales*.)

6 Relationship with employees

- 6.1 The Chief Executive is responsible for the day-to-day management of HEFCW and is, ex-officio, a member of the Council. The Chief Executive and other staff are available to advise, inform and assist you with your duties as a Council/Committee member. As such, you will need to liaise closely with the Chief Executive and other senior staff in order that you might exercise your responsibilities effectively.
- 6.2 Responsibility for day-to-day management matters is delegated to the HEFCW executive so far as is practicable within a clearly defined framework of strategic control that includes the Council's *Scheme of Delegation*, which outlines, inter alia, those matters which are reserved exclusively for decision by the Council.
- 6.3 The Council has a responsibility to monitor the performance of the Chief Executive and other senior staff. Where the terms and conditions of employment of such officers include an entitlement to be considered for performance-related pay, and where such payments are assessed by the Council, you must ensure that you are satisfied that you have access to all pertinent detail and advice necessary to make fully informed judgements.
- 6.4 You must not ask or encourage HEFCW employees to act in any way which would conflict with their Code of Conduct.

7 Personal liability of Council members

- 7.1 Although any legal proceedings initiated by a third party are likely to be brought against the Council, in exceptional cases proceedings (civil or, in certain cases, criminal) may be brought against the Chair or other individual Council members. For example, a Council member may be personally liable if he or she makes a fraudulent or negligent statement which results in loss to a third party. A Council member who misuses information gained by virtue of his or her position may be liable for

breach of confidence under common law or may commit a criminal offence under insider dealing legislation.

- 7.2 The Welsh Government has indicated, however, that an individual Council member who has acted honestly and in good faith will not have to meet out of their own personal resources any personal civil liability which is incurred in execution or purported execution of their Council function, save where he/she has acted recklessly.
- 7.3 Council members who want further advice in the furtherance of their duties may, where appropriate, consult the Council's legal advisers on condition that the Chair or Chief Executive is consulted beforehand.

Last reviewed and revised: November 2018

APPENDIX: Further guidance for HEFCW Council and Committee Members on Rules of Personal Conduct

Communications

- 1 Communications between the Council and the Minister will normally be through the Chair, except where the Council has agreed that an individual member should act on its behalf. Nevertheless, an individual member has the right of access to Welsh Government Ministers on any matter which he or she believes raises important issues relating to his or her duties as a member of the Council. In such cases the agreement of the rest of the Council should normally be sought. Initially Council members should discuss their issues with the Chair and if still dissatisfied (or if the issues relate to or involve the Chair) then with the Director of the Welsh Government sponsor department, and through them to the Permanent Secretary to the Welsh Government and Minister if necessary. If the Council member wishes to take the matter to the Minister, the sponsor department should ensure that this opportunity is made available to the Council member. The main point of contact between HEFCW and the sponsor department on day-to-day matters will normally be the Chief Executive or another member of staff who is authorised to act on behalf of the Council

Handling Conflicts of interests

- 2 It is essential that members of Council/Committees avoid, as far as is reasonably possible, a position of conflict of interests. In situations where a possible conflict of interest may arise, members must inform the Chief Executive and in the event of the conflict of interests touching on matters which are the subject of Council business, they must inform the Chair. The onus is on the member to inform the Chief Executive or Chair as the case may be.
- 3 In the event of the Council/Committee debating an issue involving an institution, organisation or any other matter in which a member may be taken to have an interest, that member must declare it to the Chair and should leave the meeting for the duration of the debate if so requested by the Chair. In deciding this the Chair will have regard to the need to ensure that the continued presence of the member during the debate is one which could easily and reasonably be explained to the satisfaction of members of the public.
- 4 The Council Secretary will be responsible for maintaining a register of interests of members of Council/Committees. The register of interests is updated as and when the Council Secretary is informed of changes by Council/Committee members, and is also reviewed annually at the end of each financial year. It is available to the public via publication on the HEFCW website. The onus is on each member to ensure that the Council Secretary is informed immediately of any changes to their interests which might result in a further conflict.

- 5 In the event of a member failing to declare an interest or failing properly to complete the register of interests, the Chair will be responsible for discussing with the sponsor department in the Welsh Government whether that member should continue in office.
- 6 All Council/Committee members should declare by registering with the Council Secretary details of any personal or business interests which may conflict with their responsibilities as Council/Committee members. The Council, in consultation with its sponsor department, will keep under review the rules of this Code of Conduct for Council members to ensure that such conflicts are identified at an early stage and that appropriate action can be taken to resolve them.
- 7 The rules include the keeping of a register of interests appropriate to the Council's activities. The register should, as a minimum, list direct or indirect pecuniary interests which members of the public might reasonably think could influence judgement. The register of interests should also include non-pecuniary interests of members which relate closely to the Council's activities, and interests of close family members and persons living in the same household as the Council member which are closely related to the activities of the Council ¹.
- 8 In the absence of specific statutory provisions, the common law requires:
 - that members of the public bodies should not participate in the discussion or determination of matters in which they have a direct pecuniary interest; and
 - that when an interest is not of a pecuniary kind, members of public bodies should consider whether participation in the discussion or determination of a matter would suggest a real danger of bias. This should be interpreted in the sense that Council members might unfairly regard with favour, or disfavour, the case of a party to the matter under consideration. In considering whether a real danger of bias exists in relation to a particular decision, members should assess whether they, a close family member, a person living in the same household as the Council member, or a firm, business or other organisation with which the Council member is connected are likely to be affected by the decision in question. This would cover, for example, a decision to invite tenders for a contract where a firm with which a member was connected was significantly better placed than others to win it.

¹ Indirect pecuniary interests arise from connections with bodies which have a direct pecuniary interest or from being a business partner of, or being employed by, a person with such an interest. Non-pecuniary interests include those arising from membership of clubs and other organisations. Close family members include personal partners, parents, children (adult and minor), brothers, sisters and the personal partners of any of these.

For the avoidance of doubt, this paragraph does not preclude the Council from deciding to issue an indemnity in accordance with the terms.

- 9 Where, in accordance with the above, Council members do not participate in the discussion or determination of a matter, they should normally withdraw from the meeting. This is because the continued presence of someone who had declared an interest might be thought likely to influence the judgement of the other Council members present.
- 10 The Council should obtain legal advice on the effect of any specific statutory provisions applying to them. In cases where Council members are authorised by law to represent a group likely to be affected by the Council's decisions, the relevant statutory framework may permit Council members to be involved, notwithstanding any direct pecuniary interest that they may have in the decision. However, the Council should not overlook the possibility that specific statutory provisions may impose restrictions that are stricter than those described in paragraph 9 for interests that are not of a pecuniary kind.
- 11 Whether or not Council members are able in the light of the considerations above to participate in the discussion or determination of a matter, they should declare as soon as practicable after a meeting begins if they have an interest, pecuniary or other, in a matter being considered. They should also disclose any interests in it of which they are aware on the part of close family members² and persons living in the same household as the Council member. In addition, Council members should consider whether they need to disclose relevant interests of other persons or organisations which members of the public might reasonably think could influence the Council member's judgement.
- 12 Because the Council is required, other than exceptionally, to follow generally accepted accounting practice, Council members must facilitate compliance with the need under International Accounting Standard (IAS) 24 for material transactions with related parties to be disclosed in financial statements. "Related parties" in IAS 24 include (in addition to business contacts) 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 reporting entity.
- 13 The Council should adopt safeguards to prevent conflicts of interests arising from the acceptance of outside appointments during or after tenure as a Council member, taking account of guidance from the sponsor department.

Acceptance of Gifts, Hospitality and Awards

- 14 The Council is responsible for allocating significant sums of public money.

² See footnote 7

- 15 It is imperative that Council/Committee members should maintain high standards of propriety and professionalism if they are offered gifts, hospitality or awards.
- 16 Some members may spend time with representatives of institutions and other organisations where it is normal business practice or social convention to offer gifts, hospitality or awards. Offers of this kind can place members in a difficult position since to refuse may cause misunderstanding or offence; but to accept may give rise to questions of impropriety or conflict of interest, or to criminal liability.
- 17 Council/Committee members may not accept any benefit as an inducement or reward either for:
 - a. taking any action (or specifically not taking action) in his or her official capacity as a Council/Committee member.
 - b. showing favour (or disfavour) to anyone in his or her official capacity as a Council/Committee member
- 18 The guiding principles are:
 - a. The conduct of individuals must not create suspicion of any conflict between their official duty and their private interest.
 - b. The actions of individuals in their official capacity must not give the impression (to any member of the public, to any organisation with whom they deal or to their colleagues) that they have been (or may have been) influenced by a benefit to show favour or disfavour to any person or organisation.

Gifts

- 19 Gifts other than of token value should generally be refused or avoided. Where it would be ungracious or otherwise difficult not to accept, you should inform the Chief Executive of the gift, the estimated value and the donor. Council/Committee members should register any gift whose value is estimated to exceed £10.00. The member should also have regard to whether a gift, or the circumstances in which it is offered, are appropriate. The yardstick for appropriateness is the risk of embarrassment to, or loss of public confidence in, either the member or HEFCW.
- 20 If members have any doubts about whether a gift should be refused (it is accepted, for example, that refusal of a gift may cause offence), they should consult the Chief Executive who at his discretion may discuss the matter with the Chair.
- 21 If the Chief Executive considers that a gift cannot be used to support the Council's business, he may authorise retention of the gift by the Council/Committee member. Alternatively, if the member does not wish to retain the gift, then arrangements may be made for the gift to be stored until disposal, for example for charity.

- 22 Council members should declare any gifts whether given or offered, or whether refused or accepted, for recording in the central register held by the Council Secretary, who will also register whether a gift has been accepted, refused or disposed of. Any member with a query about the contents of the register should direct it to the Council Secretary.

Hospitality

- 23 It is accepted that Council members may receive hospitality from the head or senior members of an institution; that they may attend as part of their official HEFCW function an event organised by another body for promotional or influential purpose; that they may sometimes be offered a nominal fee for presenting a paper or speech at a conference; and may receive the occasional invitation to a cultural event. The normal level of hospitality may include alcoholic drinks at, say, an official reception or working dinner.
- 24 Offers of hospitality that exceed the normal level described above should in general be refused. The following items should be avoided:
- a. Hospitality offered instead of fees for broadcasts, speeches, lectures or other work done.
 - b. Inducements which could lead to a contractual relationship between the Council and a supplier or consultant.
 - c. Substantial offers of social functions, travel or accommodation.
 - d. Acceptance of meals, tickets and invitations to sporting, cultural or social events, particularly from the same source.
- 25 If members have any doubt about whether to accept hospitality they should refer the matter to the Chief Executive, who in turn may discuss it with the Chair.
- 26 If, exceptionally, the Chief Executive agrees that the circumstances justify the normal level of hospitality being exceeded, this will be recorded in the central register.

Awards and Prizes

- 27 Council/Committee members should consult the Chief Executive if they are approached by an outside organisation offering an award or prize which could in any way be seen to be connected with their role as members. Retention of the award or prize will normally be allowed, provided that:
- a. It is offered in recognition of personal achievement.
 - b. It is not a gift (see above).
- 28 In deciding whether the award would give rise to public criticism that it was in fact a gift, members are advised to consider:

- a. The status of the awarding body - for example, whether it is a registered charity, a funded HEI or a related body.
- b. The regularity and nature of the awards made by the body.
- c. The range of people or bodies to whom the awards are given.
- d. The method of selection.
- e. The standing of the selectors.
- f. Actual or potential Council dealings with the awarding body.

29 These provisions do not apply to the acceptance of Honours.

Travel and Subsistence

30 Members must abide by the Policy for travel and subsistence claims. Copies of these rules and forms are provided to members of Council/Committees.