



**An Roinn Airgeadais
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Circular 12/2010: Protocol for Civil Servants nominated to the boards of non-commercial State bodies.

1. I am directed by the Minister for Finance to refer to the revised and up-dated Code of Practice for the Governance of State Bodies issued by the Department of Finance in 2009.
2. The Minister for Finance has issued a protocol outlining a procedure for civil servants nominated to the Boards of non-commercial State bodies to report to the relevant Minister where a matter of serious concern arises regarding the State body. The protocol was noted by Government at its meeting of 13 July, 2010 and should be considered as forming part of the Code of Practice.
3. The protocol is intended to contribute to greater accountability in the non-commercial State sector by providing further guidance to civil servant nominees on the boards of non-commercial State bodies above and beyond the governance framework already prescribed for all members of State boards and set out in the Code of Practice.
4. The text of the protocol is attached as an appendix to this circular and you are requested to bring it to the attention of all the non-commercial State bodies under the aegis of your Department/Office.

**Stephanie O'Donnell
Principal
Sectoral Policy Division**

Appendix

Position of Civil Servants who are Ministerial nominees to non-commercial State boards

(1) Reporting Arrangements and Political context - additional elements of a civil servant's role

The Code of Practice for the Governance of State bodies sets out the formal reporting requirements between the Chairman of the Board and the Minister (Section 13.1).

Further arrangements for information sharing may be agreed between the board and the Minister/Department - including that a civil servant nominated to the board may brief his /her Minister from time to time on matters that he/she considers of significant importance.

The purpose of this protocol is to outline the formal steps to be taken when a civil servant nominee to a non-commercial board has an unanswered concern in regard to areas outlined at Paragraph 2 below. The protocol should apply to all civil servants nominated to the board of non-commercial bodies including a civil servant appointed by a Minister to a board outside his Minister's or Department's area.

(2) Public Policy Issues

Unlike a commercial enterprise, a non-commercial state company/body operates in a context where public policy objectives (either economic or social) are central to its mission. There may be occasions when the other board members may not be in a position to identify fully the public policy dimension of an issue arising and it is appropriate for the civil servant to draw any relevant concerns to the attention of the board in the first instance.

Where there is a significant public policy issue at stake or a disagreement within the board on a major public policy issue, the civil servant should request the Chairman to notify the Minister or, failing that, notify the Minister himself/herself.

(3) Procedure for bringing matters to the responsible Minister's attention

Where a civil servant has concerns that a serious issue is not being addressed to his or her satisfaction by the Chairman, he or she should take the following steps:

- In the first instance request that the area of concern be noted in the minutes and action requested to address the matter;
- Where appropriate consult with a senior member of the board and/or seek their support in addressing the matter with the Chairman;
- If, following such approaches, the Chairman will not agree to go to the Minister, the nominee should advise the Chairman that he/she plans to brief the Secretary General of the parent Department in the matter with a view to

informing the Minister;

- Where it is decided to proceed directly to the Minister, the Chairman should be notified of this.

(4) Occasions when information must be conveyed directly to the relevant Minister¹ without delay

The Minister must be notified without delay where:

- (i) There are serious weakness in controls that have not been addressed despite being drawn to the attention of the board or the Chairman;
- (ii) There is a significant strategic or reputational risk to the body that is not being addressed;
- (iii) There are serious concerns about possible illegality or fraud occurring in body. A director may have obligations under company law (if it applies) in situations where a company is not being conducted in accordance with law – this may require that action be taken in addition to reporting matters to the Minister.

¹ The relevant Minister is the Minister under whose aegis the body falls.