

**CODE OF BEST PRACTICE
FOR TRUSTEES
OF
THE ROYAL BOTANIC GARDENS, KEW
(THE BOARD)**

FEBRUARY 2005

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1. This document sets out the Code of Best Practice for Board members of RBG Kew and became effective on 1 April 1998. It will be issued to each new Board member as and when they take up appointment. For the purposes of this document the references to public funds includes all income (whether grant or otherwise) received by RBG Kew.

Public service values

2. The Board as a whole, and individual Board members will at all times:
 - observe the highest standards of propriety involving impartiality, integrity and objectivity in relation to stewardship of public funds and management of the bodies concerned;
 - maximise value for money through ensuring that the mission and statutory obligations are achieved in the most effective, efficient and economical way, within available resources, and with independent validation of performance achieved wherever practicable;
 - be accountable to Parliament, users of services, individual citizens and staff for the activities of RBG Kew, their stewardship of public funds and the extent to which key performance targets and objectives have been met;
 - in accordance with Government policy on openness, comply with the Principles of the Citizen's Charter and Code of Practice on Access to Government Information.

Relationship with the sponsor department

3. RBG Kew's sponsor department is the Department for Environment, Food and Rural Affairs (Defra). The Defra Minister is answerable to Parliament for the policies and performance of all public bodies sponsored by the department, including their use of resources and the policy framework within which they operate. The respective roles of the sponsor department and RBG Kew will be set out in a Management Statement (to be put in place during 1998). In the case of RBG Kew, as a grant-aided body, this information is also supplemented by the Financial Memorandum specifying the terms on which RBG Kew receives and spends funds provided by the Minister.

Role of the Chairman

4. The Chairman has particular responsibility for providing effective strategic leadership on matters such as:
 - the Board's formulation of strategy for discharging its statutory duties;
 - encouraging high standards of propriety, and promoting efficient and effective use of staff and other resources throughout the organisation;
 - ensuring that the Board, in reaching decisions, takes proper account of guidance provided by Defra to the Chairman;
 - representing the work of RBG Kew to the general public; and
 - providing an assessment of performance of individual Board members, on request, when they are being considered for reappointment to the Board or appointment to the Board of some other public body.
5. The Chairman should ensure that the Board meets at regular intervals throughout the year; and that minutes of meetings accurately record decisions taken and, where appropriate, the views of individual Board members.

6. Communications between the Board and the Defra Minister will normally be through the Chairman except where the Board has agreed that an individual member should act on its behalf. Nevertheless, an individual member has the right of access to Ministers on any other matter which he or she believes raises important issues relating to his or her duties as a member of the Board. In such cases the agreement of the rest of the Board would normally be sought, except in situations where the member believes there are issues of Board propriety where it would not be appropriate to seek Board agreement.

The main points of contact between RBG Kew and Defra on day-to-day matters are the Director and the Director of Operations.

7. The Chairman will ensure through procedures agreed with the Secretary to the Board that all members of the Board,, when taking up office, are fully briefed on the terms of their appointment, and on their duties, rights and responsibilities. They will be given a copy of this Code of Practice; the Management Statement (when ready) and Financial Memorandum; the current Corporate Plan and Annual Reports and Accounts; the constitutional framework as set out in the National Heritage Act and any other relevant background material including details of the Civil Service College familiarisation course for new NDPB Board members. In addition the Chairman will ensure that the Director arranges an early briefing session with new Trustees to bring them up to speed on principal issues.

Corporate Responsibilities of Board Members

8. Members of the Board have corporate responsibility for ensuring that RBG Kew puts or has in place the practices, procedures and policies to meet its statutory or administrative requirements for the use of public funds. Other important responsibilities of Board members include:
 - ensuring that high standards of corporate governance are observed at all times;
 - establishing the overall strategic direction of the organisation within the policy and resources framework agreed with the Defra Minister;
 - overseeing the delivery of planned results by monitoring performance against agreed strategic objectives and

targets and by ensuring corrective action is taken when necessary;

- ensuring that the Board operates within the limits of its statutory authority; within the limits of the Board's delegated authority agreed with its sponsor department; and in accordance with any other conditions relating to the use of public funds;
- ensuring that, in reaching decisions, the Board has taken into account any guidance issued to the Board by the sponsor department;
- formulating appropriate strategies for implementing any Codes of Practice required by Government (eg Access to Government Information);
- ensuring that the Board operates sound environmental policies and *practices in accordance with the approach set out in the 1990 White Paper "This Common Inheritance"* (Cm 1200) and other relevant guidance.

Strategic planning and control

9. One of the main responsibilities of the Board is the oversight of the production of a corporate plan within the timetable agreed with Defra as part of the planning cycle. The process of preparing such a document provides an opportunity for agreeing, with the responsible Minister, or officials on his or her behalf, the policy and resources framework within which RBG Kew will discharge its duties; and for determining its key strategic objectives and targets. These targets are being continually refined and cover areas such as the organisation's financial performance; the efficiency and effectiveness of its operations; and the quality of the services it provides. Some final outputs cannot easily be measured and this makes it difficult to set suitable performance targets. In such cases the aim is to agree carefully formulated strategic objectives and milestones.

Delegation

10. Board members serve on a part-time basis. Responsibility for day-to-day management matters is delegated to the Director as Accounting Officer within a clearly understood framework of strategic control

linked to the planning process involving annual approval by the Board of Trustees of the Corporate Plan and budgets.

11. Where the Board decide to delegate (where it has power to do so) responsibility for specified matters to individual members or committees of the Board that delegation will be clearly specified as appropriate. Decisions taken by individual members or committees of the Board under delegated powers should be recorded in written minutes available to the Board as a whole. The Board will regularly review and continue to develop internal guidance covering those matters delegated to staff and those reserved for decision by the Board. The latter primarily include issues of corporate strategy; key strategic objectives and targets; major decisions involving the use of financial and other resources; and personnel issues including key appointments and standards of conduct.

Responsibilities of individual Board members

12. Individual Board members should be aware of their wider responsibilities as members of the Board. Like others who serve the public, they should follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life (the Nolan Committee). The principles are included at the end of this Code. Individual Board members must:
 - undertake on appointment to comply at all times with the Code of Practice that is adopted by RBG Kew and with rules relating to the use of public funds;
 - act in good faith and in the best interests of RBG Kew;
 - not misuse information gained in the course of the 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; and
 - ensure that they comply with the Board's rules on the acceptance of gifts and hospitality.
13. Board members, whether full or part-time, are expected not to occupy paid party political posts or hold particularly sensitive or high-

profile unpaid roles in a political party. Subject to that, part-time members are free to engage in political activities, provided that they are conscious of their general public responsibilities and exercise a proper discretion, particularly in regard to the work of the Board of Trustees of RBG Kew. On matters directly affecting that work, they should not make political speeches or engage in other political activities.

14. The restrictions in paragraph 13 do not apply to Board members who are MPs to local councilors or to Peers in relation to their conduct in the House of Lords.
15. The powers of the Defra Minister and procedures for appointing individual Board members are embodied in the National Heritage Act 1983. If appropriate the Minister is able to remove Trustees from office if they fail to perform the duties required of Board members to the standards expected of persons who hold public office.

Handling Conflict of Interest

16. The Chairman and other Board members should declare any personal or business interests which may conflict with their responsibilities as Board members. The Board, in consultation with Defra, should draw up rules of conduct for Board members which ensure that such conflicts are identified at an early stage and that appropriate action can be taken to resolve them.
17. This will include the keeping of a register of interests appropriate to the RBG Kew's activities. The register will, as a minimum, list direct and indirect pecuniary interests which members of the public might reasonably think could influence judgement. (Indirect pecuniary interests arise from connections with bodies which have a direct pecuniary interest or from being a partner of, or being employed by, a person with such interests.)
18. The existence of this register of interests will feature in each annual report giving details of how access to the register by the general public may be obtained. The register will be maintained by the Secretary to the Board and Board members are required to update the register as changes occur.
19. In the absence of specific statutory provisions, the common law requires:

- that Board members 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 direct pecuniary kind, members 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 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 Board member, or a firm, business or other organisation with which the Board member is connected are likely to be affected more than the generality of those 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.
20. Where, in accordance with the above, members do not participate in the discussion or determination of a matter, they should normally withdraw from the meeting, even if it is held in public. This is because the continued presence of someone who had declared an interest might be thought likely to influence the judgement of the other members present.
21. In cases where members are authorised by law to represent a group likely to be affected by RBG Kew's decisions, the relevant statutory framework may permit members to be involved, notwithstanding any direct pecuniary interest that they may have in the decision. However, the Board should not overlook the possibility that specific statutory provisions may impose restrictions that are stricter than those described in the paragraph 19 for interests that are not of a direct pecuniary kind.
22. Whether or not Board 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 members and persons living in the same

household as the Board member. In addition, Board 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 member's judgement.

23. Because executive NDPBs such as RBG Kew are required, other than exceptionally, to follow generally accepted accounting practice, 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 Financial Reporting Standard 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 reporting entity.
24. The Board should adopt safeguards to prevent conflicts of interests arising from the acceptance of outside appointments during or after tenure as a Board member.

Personal Liability of Board members

25. Although any legal proceedings initiated by a third party are likely to be brought against the Board, in exceptional cases proceedings (civil or, in certain cases, criminal) may be brought against the Chairman or other individual Board members. For example, 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. A Board member who misuses information gained by virtue of his or her position may be liable for breach of confidence under common law or under insider dealing legislation.
26. The Government has indicated that an individual Board member who has acted honestly and in good faith will not have to meet out of his personal resources any personal civil liability which is incurred in the execution or purported execution of his Board function, save where the person has acted recklessly.
27. Board members who want further advice should consult the Board's legal advisers through the Director of Operations.

Openness and responsiveness

28. Board members and their staff should conduct all their dealings with

the public in an open and responsible way, and ensure full compliance with the principles of the Citizen's Charter and the Code of Practice on Access to Government Information. Wherever possible, consistent with the nature of RBG Kew's business and the need for confidentiality on commercial or other grounds the Board should make records of major decisions publicly available.

29. The Board should ensure they can demonstrate that they are using resources to good effect, with propriety and without grounds for criticism that public funds are being used for private, partisan or party political purposes. The Board will need to act consistently with the nature of RBG Kew's business and the possible need for confidentiality on commercial or other grounds, always subject to the rights of Parliament and the Comptroller and Auditor General to obtain information. There will be internal procedures available to deal with complaints, including those on failure to provide information.

Accountability for public funds

30. Members of the Board have a duty to ensure that public funds - which for this purpose should be taken to include all forms of receipts from fees, charges and other sources - are properly safeguarded; and that, at all times, RBG Kew conducts its operations as economically, efficiently and effectively as possible, with full regard to the relevant statutory provisions and to relevant guidance in 'Government Accounting.
31. Members of the Board are responsible for ensuring that RBG Kew does not exceed its powers or functions, whether defined in statute or otherwise, or through any limitations on its authority to incur expenditure. They will be advised on these matters by the Director and if appropriate its legal advisers.
32. As part of its responsibilities for the stewardship of public funds, the Board of RBG Kew must ensure that it includes a full statement of the use of such resources in its Annual Report and Accounts. Such accounts should be prepared in accordance with the Accounts Direction issued by the responsible Minister and such other guidance as may be issued, from time to time, by Defra and the Treasury, including 'Executive NonDepartmental Public Bodies: Annual Reports and Accounts Guidance'. From 1996/97 RBG Kew will produce an Annual Report & Accounts as a single document.

33. Subject to any current statutory requirements, RBG Kew will aim to produce an Annual Report and Accounts as a single document and will give it appropriate publicity. If the Annual Report is published separately, it will contain at least a summary of the annual accounts and in any case give details of how to obtain the full accounts. A statement by the auditors will be included in the summary to confirm that it is consistent with the annual accounts. It will also state whether the report on the annual accounts was qualified and provide details if this was the case.
34. The Annual Report and Accounts will provide a full description of the Board's activities; state the extent to which key strategic objectives and agreed financial and other performance targets have been met; list the names of the current members of the Board and senior staff; and provide details of remuneration of Board members and senior staff within the range of prescribed salary bands. The Annual Report will refer to the existence of the register of interests in accordance with paragraph 18 above.

The role of the Director

35. The Director has responsibility, under the Board, for the overall organisation, management, and staffing of RBG Kew and for its procedures in financial and other matters, including conduct and discipline. This involves the promotion by leadership and example of the values embodied in the Nolan Committee's Seven Principles of Public Life. Board members should support the Director in undertaking this responsibility.
36. The Director is also designated as the Accounting Officer for RBG Kew and is responsible to Parliament and the Accounting Officer of Defra for the resources under his or her control. The essence of the role is a personal responsibility for the propriety and regularity of the public finances for which they are answerable; 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 all the resources in his or her charge. The Director as Accounting Officer has a responsibility to see that appropriate advice is tendered to the Board on all these matters. Satisfactory performance of these responsibilities is fundamental to the role of the Director.
37. More detailed guidance on the role of an Accounting Officer is set out in "The Responsibilities of a NDPB Accounting Officer", at

Appendix A which covers appearances before the Committee of Public Accounts of the House of Commons.

Audit

38. As required in all public bodies, RBG Kew established an Audit Committee in 1995 as a committee of the Board. The Committee consists of Board members with senior management attending and is chaired by a member of the Board, other than the Chairman, who has experience of financial matters.

The Board as employer

39. The Board should ensure

- that it complies with all relevant employment 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 RBG Kew's main aims and objectives;
- that the organisation adopts management practices which use resources in the most economical, efficient and effective manner;
- that RBG Kew'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.

40. The Board is adopting during 1998 a code of conduct for its staff using the model provided by Cabinet Office (OPS), and as agreed with Defra.

41. The Board has a responsibility to directly monitor and assess the performance of the Director and fix the level of remuneration based on performance and to maintain an overview of the performance of other senior staff.

The Government endorses the Seven Principles of Public Life set out by the Nolan Committee for the benefit of all who serve the public in any way.

The principles are set out below.

The Seven Principles of Public Life

Selflessness

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

Integrity

Holders of public office 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 public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

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

Leadership

Holders of public office should promote and support these principles by leadership and example.

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These principles apply to all aspects of public life. The Committee has set them out here for the benefit of all who serve the public in any way.