

Terms and conditions of performance networks membership

As members of the Association for Public Service Excellence ("APSE") performance networks (referred to in this section as "we", or "performance networks"), each member (referred to in this section as "you" or a "member") shall comply with the following terms and conditions as a requirement of membership of and participation in performance networks.

1.0 Membership and PINs

1.1 PIN

Your PIN code will be revealed to other performance network members automatically and by default unless you choose to opt out by marking the box on the service contacts form/application form, or by contacting APSE in writing, stating that you would like to opt out of releasing your PIN code. APSE will at all times strive to ensure that performance information is used for proper purposes and will withhold PIN code information from disclosure where it appears that confidentiality as defined in Section 3 of these terms and conditions could be breached.

1.2 Not opting out

By not opting out, you automatically authorise APSE to release your PIN code, the identity of your Authority and contact details to other performance networks members. APSE will also publish both your PIN code and your local authority identity in a separate page at the front of the performance reports.

1.3 Opting out

If a member contacts APSE to opt out of releasing their PIN code(s), we will not be able to identify the PIN code(s) of other members in performance reports which include the member who has opted out in order to maintain the confidentiality of the identity of the member opting out.

1.4 PIN codes and authority references

The authority reference and PIN codes of each member of performance networks are confidential. Members are not permitted to disclose and shall not disclose their own or any other member's authority reference or PIN code(s) to any person outside of the performance networks membership without the consent of APSE and the other member(s) concerned. APSE will not disclose the authority reference or PIN code(s) of any member to any person outside of the performance networks membership without the consent of the member concerned.

2.0 Intellectual property rights

2.1 Trademarks

"APSE performance networks" is a registered trade mark. Members are not permitted to use this trademark without the prior consent of APSE.

2.2 Other intellectual property

Intellectual property rights, including but not limited to trade marks (registered and unregistered), database rights, copyright and design rights in all performance networks materials (including but not limited to the performance networks web portal, promotional literature, manuals, CDs, data collection and submission templates,

spreadsheets, reports, documents, know-how and any other material generated or produced by or on behalf of APSE in relation to performance networks in any media including information available through the performance networks web portal ("performance networks material") and data including performance indicators, performance indicator data and outputs, data sets and tables, profile data and/or related data generated or produced by or on behalf of APSE in relation to Performance Networks in any media including data available through the performance networks web portal ("performance network data") are owned by APSE together with all or any goodwill relating thereto. In submitting data to APSE, members agree that all rights in the data once submitted, including database rights and copyright is owned by APSE. To the extent that legal ownership in any such intellectual property rights cannot effectively be assigned by these terms and conditions, the members hereby agree that they shall hold any such intellectual property rights in data submitted and to be submitted on trust for APSE and agree to execute all and any assignment documents or do all or any such thing as is reasonably required by APSE to perfect the assignment of the intellectual property rights to it.

2.3 Licence

Subject to the restrictions set out below, APSE hereby grants each member a non-exclusive licence to use performance networks materials and the performance network data for the duration of membership to the extent necessary to receive the performance network services and to participate in performance networks.

2.4 Restrictions

The licence granted to members above is subject to the following restrictions:

Members are only permitted to use performance networks materials and performance networks data for their own internal, non-commercial business purposes;

Performance networks materials and performance networks data may only be used by the member, its officers and employees;

Members shall not publish, copy, reproduce, broadcast, distribute or disseminate any performance network materials or performance networks data externally (which includes but is not limited to newspapers, press releases, articles or websites) without the prior written consent of APSE;

Members may publish, copy, reproduce, broadcast, distribute and disseminate performance network materials and performance networks data internally within the member's organisation provided that the material and/or data is reproduced accurately, identifies the source of the information and contains an acknowledgement that the intellectual property rights in the material and/or data is owned by APSE;

Members are not permitted to disclose performance network materials or performance networks data to any third parties which includes by way of example but is not limited to private or public sector consultants advising or acting on behalf of a member, contractors and any other non-members without the prior written consent of APSE;

Members may use and distribute performance networks data within the context of internal service reviews and/or efficiency reviews and for reports or committee papers provided that data relating to other members is anonymised;

Members may not disclose confidential information (as defined below).

3.0 Confidentiality

3.1 Confidential information

Confidential information means information that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) and may include information whose disclosure would or would be likely to prejudice the commercial interests of any person, or which would or would be likely to prejudice trade secrets, intellectual property rights and/or the know how of APSE and/or members of performance networks.

For the avoidance of doubt confidential information includes:

Performance network data to the extent that it relates to members of performance networks other than you;

The performance network database;

The authority reference and PIN codes of members to the extent this would reveal the identity of any members, including you; and/or

Information disclosed by other members in performance network meetings which ought to be considered confidential.

3.2 Use and disclosure of confidential information

APSE and you (together "the parties") shall keep confidential all confidential information relating to performance networks and shall use all reasonable endeavours to prevent their employees and any third parties authorised by APSE in accordance with these terms and conditions from making any disclosure to any person of any such confidential information unless the disclosure is permitted below.

3.3 Permitted disclosures

Either party may disclose confidential information where:

Any disclosure of information is reasonably required by any person engaged by APSE in the performance of the performance networks service;

A party can demonstrate the information is already or becomes generally available and in the public domain otherwise than as a result of a breach of these terms and conditions;

Any disclosure is required pursuant to any statutory, legal (including any order of a court of competent jurisdiction) or parliamentary obligation placed upon the party making the disclosure or the rules of any governmental or regulatory authority having the force of law or if not having the force of law, compliance with which is in accordance with the general practice of persons subject to the governmental or regulatory authority concerned provided that the party whose confidential information is to be disclosed shall be promptly informed by the recipient of the confidential information of such requirement to release the confidential information and shall have an opportunity to make representations to the court, parliament, governmental or regulatory authority to limit such disclosure which shall include without limitation the seeking of a protective order;

The information is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;

Any disclosure is required for the purpose of:

- a. The examination and certification of a member's accounts;

- b. Any examination pursuant to the Audit Commission Act 1998 of the economy, efficiency and effectiveness with which a member has used its resources; and/or
- c. Compliance by a member with the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004.

For the avoidance of doubt, this paragraph 3.3 shall not permit disclosure of Confidential Information otherwise prohibited under paragraph 3.2 above where that information is exempt from disclosure under sections 41 and/or 43 of the Freedom of Information Act 2000 or Regulation 12(5)(e) or 12 (5)(f) of the Environmental Information Regulations 2004.

4.0 Termination

4.1 Subscription period

Membership of and participation in performance networks is subject to payment by each member of the annual subscription as notified to you by APSE in July of each subscription year. A subscription year runs from April to April. Annual subscriptions are non-refundable.

4.2 Termination - general

If you wish to terminate your membership of performance networks for any reason other than breach you must give 12 months notice in writing to APSE.

4.3 Termination in the event of breach

In the event of a breach by you of these terms and conditions, APSE reserves the right to suspend or terminate your membership and/or participation in performance networks by providing written notice of the breach.

In the case of a breach of the terms and conditions of membership which is not capable of remedy, such notice of termination shall have immediate effect.

In the case of a breach of the terms and conditions of membership which is capable of remedy, such notice of termination shall be effective if such breach is not remedied by you within 14 days of receipt of the notice of termination.

In the event of a breach by APSE of these terms and conditions, you may terminate your membership by providing APSE with written notice of the breach. In the case of a breach of the terms and conditions by APSE which is not capable of remedy, such notice of termination shall have immediate effect. In the case of a breach which is capable of remedy, such notice of termination shall be effective if such breach is not remedied by APSE within 14 days of receipt of the notice of termination.

5.0 Limitations

5.1 Disclaimer

Although APSE has taken care in the compilation of the performance networks material and the performance networks data, no representation or warranty is given that such material or data is accurate, complete, up to date or error free. Although all reasonable endeavours will be made to correct any errors brought to APSE's attention, the use of performance networks material and performance networks data is at your sole discretion and risk.

5.2 Amendments to the terms and conditions

APSE reserves the right to make amendments to the terms and conditions as appropriate or required from time to time and will notify you accordingly.

5.3 Liability

The total aggregate liability of APSE in respect of all claims, losses or damages, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with these terms and conditions (but excluding liability for death or personal injury caused by negligence, liability for fraud and/or breach of statutory duty) shall in no event exceed the annual subscription fee paid by you for the current subscription year.

6.0 Privacy policy

6.1 Privacy policy

This policy sets out the basis on which any personal data we collect from you or your employees or that you or your employees provide to us, will be processed by us. For the purpose of the Data Protection Act 1998 ("the Act"), the data controller is the Association for Public Service Excellence.

6.2 Data protection

APSE as data controller complies with the Act and its relevant subordinate legislation. Individuals can request a copy of the personal information we hold about them for which a statutory fee of £10 may be payable. You can also ask us to make any necessary changes to the personal information that we hold to ensure that it is accurate.

6.3 Information we may collect from you and why

We will collect personal information when your employees respond to requests to submit personal information through our Portal, when you sign up to become a member of performance networks and provide us with employee contact details or when you otherwise provide us with personal information. If you contact us, we may keep a record of that correspondence.

We will use the personal information supplied by you and your employees to keep a record of the services you have subscribed to and to deliver services you may have requested including in the case of employee contact details, for the purposes of facilitating networking and the sharing of performance data amongst members of performance networks. Contact details will also be included in the contacts page in performance reports. We may also provide you with information; products or services which we feel may interest you and notify you about changes to our services.

6.4 Disclosure of personal information

We will only supply personal information to another person or organisation where we need to share the information to provide a product or service you have requested or in order to comply with any legal obligation.