

East Lothian Council

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Agenda

- **Role and Remit of the SCS**
- **Overview of Code of Conduct, Principles and Process**
- **Conduct at Meetings** (*Section 3.2*)
- **Relationships with Council Employees** (*Section 3.3 – 3.5 & Annex C*)
- **Appointments to Partner Organisations** (*Section 3.17 – 3.18*)
- **Registration & Declaration of Interests** (*Sections 4 & 5*)
- **Quasi Judicial and Regulatory Matters** (*Section 7*)
- **Learning Points from Recent Hearings**
- **Questions and Answers**

Role and Remit of SCS

What does the Standards Commission do?

- Issue Guidance on Code of Conduct
- Conduct Hearings on alleged breaches
- Education and promotion
- Consider requests for dispensations

Action of Standards Commission on receipt of report from the CESPLS

- Direct CESPLS to carry out further investigation
- Hold a hearing
- Do neither

If Standards Commission find a contravention has occurred it may:

- Censure
- Suspension (up to 1 year)
- Disqualification (up to 5 years)



OVERVIEW

CODE OF CONDUCT, PRINCIPLES & PROCESS

Codes of Conduct

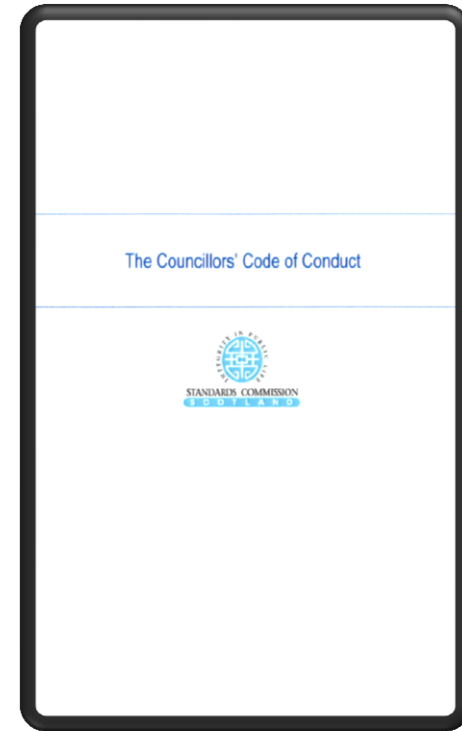
Key principles

1. Duty
2. Selflessness
3. Integrity
4. Objectivity
5. Accountability & Stewardship
6. Openness
7. Honesty
8. Leadership
9. Respect

Worth noting....

Legal requirement to comply with the Code
Is your personal responsibility

“You must not, at any time, advocate or encourage any action contrary to the Code of Conduct.”





STANDARDS
COMMISSION
FOR **SCOTLAND**

INTEGRITY IN PUBLIC LIFE

CONDUCT AT MEETINGS

Section 3.2

“You must respect the chair, your colleagues, Council employees and any members of the public present during meetings of the Council, its Committees or Sub-Committees or of any Public Bodies where you have been appointed by, and represent the Council. You must comply with rulings from the chair in the conduct of the business of these meetings.”

[Reference: 3.2 of Code of Conduct]

Conduct at Meetings

- Recent breach case

Case	Situation	Outcome
LA/ER/1490	Inappropriate comments at Planning Committee meeting	Breach & censure
LA/S/1336	Failure to respect members of the public who appeared as objectors at meeting	Breach & suspension for 5 months
LA/Fa/1392	Said “sieg heil” to Provost at public meeting of the Council	Breach & censure

- Any Questions?



STANDARDS
COMMISSION
FOR **SCOTLAND**

INTEGRITY IN PUBLIC LIFE

RELATIONSHIPS WITH COUNCIL EMPLOYEES

SECTION 3.3- 3.5 & ANNEX C

4. Member / Officer Relationships

- What the Code states...

You must respect all Council employees and the role they play, and treat them with courtesy at all times. It is expected that employees will show the same consideration in return.

Whilst both you and Council employees are servants of the public, you have separate responsibilities: you are responsible to the electorate but the employee is responsible to the Council as his or her employer. You must also respect the different roles that you and an employee play. Your role is to determine policy and to participate in decisions on matters placed before you, not to engage in direct operational management of the Council's services; that is the responsibility of the Council's employees. It is also the responsibility of the Chief Executive and senior employees to help ensure that the policies of the Council are implemented.

[Reference: 3.3 and 3.4 of Code of Conduct, and Appendix C: Protocol for relations between Councillors and Employees in Scottish Councils]

Member / Officer Relationships

- Recent breach and non-breach cases

Case	Situation	Outcome
LA/WD/1418/9	Press criticism of appointment made by Council	Breach & suspension for 2 and 9 months respectively
LA/Fa/1519	Public comment on officer's capability	No breach
LA/H/1504	Public criticism of officers in meeting and in press	No breach
LA/WD/1493	Public criticism of Chief Executive and Director of Educational Services	Breach & censure
LA/NL/961	Leaking letter to press calling for the suspension of a senior officer	Breach & suspension for 3 months

- Any Questions?

APPOINTMENTS TO PARTNER ORGANISATIONS

SECTION 3.17- 3.18

External Appointments

- What You Can Do

You can ensure compliance with the Code by:

- Be clear of different roles and responsibilities on the different bodies – i.e. Companies Act and OSCAR requirements
- Be aware of conflicts of interest
- Seek early advice in advance of meetings

- Any Questions?



**REGISTRATION
AND
DECLARATIONS
OF INTERESTS**

**SECTIONS 4
AND 5**

Registration of Interests

- “Registrable Interests”

Category 1: Remuneration

Category 2: Related Undertakings

Category 3: Contracts

Category 4: Election Expenses

Category 5: Houses, Land & Buildings

Category 6: Interest in Shares & Securities

Category 7: Gifts & Hospitality

Category 8: Non-Financial Interests

- Things to Consider

- Frequency of registration
- What requires to be registered
- Responsibility for registration

Registration of Interests

- Questions & Answers

Ceased interests: The 2003 Statutory Instrument no. 135 says an interest must be retained for 5 years.

<http://www.legislation.gov.uk/ssi/2003/135/contents/made>

Casual paid work: Must register a financial interest within one month. So need to register but might not need to declare. Paragraph 5.6 (ii) states there is no need to declare an interest which is so insignificant it could not reasonably fall within the objective test. It would totally depend on the nature & regularity of the work, the amount of remuneration etc.

Membership of masonic societies: Up to individual to decide if membership could lead members of public to reasonably think it might influence their actions, speeches or votes in terms of paragraph 4.22. Need to declare unless so remote or insignificant.

- Any Other Questions?

Declaration of Interests

- What the Code states...

It is your responsibility to make decisions about whether you have to declare an interest or make a judgement as to whether a declared interest prevents you from taking part in any discussions or voting. You are in the best position to assess your personal circumstances and to judge how these circumstances affect your role as a councillor in regard to a particular matter. You can, of course, seek advice from appropriate Council officers or from other sources which may be available to you. In making decisions for which you are personally responsible you are advised to err on the side of caution.

You may feel able to state truthfully that an interest would not influence your role as a councillor in discussion or decision-making. You must, however, always comply with the objective test (“the objective test”) which is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor.

[Reference:5.2 and 5.3 of Code of Conduct]

Declaration of Interests

- Breach and non-breach cases

Case	Situation	Outcome
LA/H/1630	General support for development & receipt of hospitality	No breach
LA/SB/1503	Closeness of personal business interests	Breach & suspension for 5 months
LA/R/1397	Failure to declare financial interest	Breach & suspension re certain meetings for 4 weeks.
LA/SB/1291	Failure to declare non-financial interest	Breach & suspension re planning for 3 months

- Questions and Answers

Dispensations re Health and Social Care Integrated Joint Boards (IJBs):

The Commission granted the Dispensation before the Scottish Government added IJBs as devolved public bodies to the Ethical Standards Act. The Dispensation does not specifically prevent anything, which means on all other matters if the specific exclusion applies (i.e. it isn't a regulatory or quasi-judicial in nature), and they need to declare but can still take part in the discussion and decision.

Declaration of Interests

- Topics to consider

- Impact of membership of other bodies
- What information you require to provide when making a declaration
- Balancing wish to be as transparent as possible with not having to make a declaration
- Declaration of interests of family & close associates
 - What is a close associate (election agent?)
 - How can confidentiality of another person's business or financial interests be protected

QUASI JUDICIAL AND REGULATORY MATTERS

SECTION 7

Quasi Judicial & Regulatory

- What the Code states...

To reduce the risk of your decisions being legally challenged, you must not only avoid impropriety, but must at all times avoid any occasion for suspicion and any appearance of improper conduct.

[Reference: 7.4 of Code of Conduct]

- What You Can Do

You can ensure compliance with the Code by:

- **Attending any mandatory training e.g. under the Licensing (Scotland) Act 2005**
- **Remember it is not a Court of Law – the function is to regulate and it is not therefore adversarial**
- **It is an application driven process, and decisions should be based on the relevant criteria and statutory provisions – independent of any party allegiances.**

Quasi Judicial & Regulatory

- Breach and non-breach cases

Case	Situation	Outcome
LA/PK/1348	Business relationship between agent and respondent	No breach
LA/G/1389	Architectural competition application of Code	No breach
LA/S/1336	Pre-judged licensing application	Breach & 5 month suspension
LA/EL/1133	Demonstrated bias and pre-judged planning application	Breach and 3 month suspension from planning committees

- Any Questions?

Learning Points from Recent Hearings

- 1. Councillors have duty to promote and support the principles of the Code of Conduct by leadership & example. Have a duty to be respectful to all other Councillors, Council employees and members of the public and to treat them with courtesy at all times when performing duties as a Councillor. Includes informal dealings as well as at formal meetings. Councillors have duty to hold officers to account but must do so in a courteous & professional manner. Abusive or offensive language and behaviour will not be tolerated.**
- 2. Vital that Councillors understand particular nature of quasi-judicial role. Must ensure they maintain the confidence of all sides that they will consider issues fairly and without pre-judging them.**
- 3. Registration & declaration of relevant interests is essential part of the Ethical Standards Framework. Intended to ensure transparency of decision-making. Each and every Councillor has a personal responsibility to register and declare relevant interests as any failure to meet the requirements is likely to undermine public confidence.**

Learning Points from Recent Hearings cont.

4. Important for local authorities to engage with the Standards Commission to raise awareness of the Code of Conduct & ethical framework & to provide training on the Code. However, is personal responsibility of each and every councillor to ensure they understand the provisions of the Code & how to interpret them.
5. In considering whether to register any non-financial interests, councillors must comply with the requirements of the Code and apply the objective test. A failure to register or declare an interest may not be intentional but may still amount to a breach of the Code of Conduct.
6. Complaints may be made for a variety of reasons, including politically focused. Complainant's motives not usually relevant to the question of whether or not there has been a breach of the Code.

Other Questions & Answers

Costs of the average investigation and hearing: The cost of a Hearing depends on a number of factors including where it is held, how many days it takes (which itself is dependent on number of witnesses, whether there is an admission, joint statement of facts etc.), the number of respondents and whether the Standards Commission can use Council accommodation or needs to pay for a venue.

The cost is made up of Member's time (salary and employer's costs), members and staff travel and expenses, venue costs, legal advice and *ad hoc* expenses such as on updating hearings equipment.

Vexatious complainants: In general, the Standards Commission does not consider the motive of the complainant and does not think this is relevant as, by the time it has been referred, the CESPLS has already advised he considers there has been a potential breach (i.e. there is a case to answer). It is simply a fact of political life that some complaints are made solely to cause trouble or annoyance. Such complaints will be rejected by the CESPLS if there is no case to answer.

Any Further Questions?

SCS Decisions are available at:

[www.standardscommissionscotland.org.uk/full list](http://www.standardscommissionscotland.org.uk/full_list)

See also Standard Commission's professional briefings

CESPLS Reports are available at:

www.publicstandardscommissioner.org.uk/decisions/

Further information can be found at:

www.ethicalstandards.org.uk

www.standardscommissionscotland.org.uk