



Crofting Commission

11 September 2015

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Agenda

1. **Role and Remit of the SCS**
2. **Overview of Model Code of Conduct & Key Principles**
3. **Conduct at Meetings** (*Section 3.2*)
4. **Conduct in respect of the Media**
5. **Relationships with Board Member & Employees** (*Section 3.3*)
6. **Gifts & Hospitality** (*Sections 3.5 - 3.10*)
7. **Confidentiality** (*Sections 3.11 – 3.12*)
8. **Appointments to Partner Organisations** (*Sections 3.17 – 3.18*)
9. **Registration & Declaration of Interests** (*Sections 4 & 5*)
9. **Lobbying & Access** (*Section 6*)
10. **Learning Points from Recent Hearings**
11. **Questions and Answers**

Role and Remit of SCS

What does the Standards Commission do?

- Issues Guidance on Code of Conduct
- Conducts Hearings on alleged breaches
- Education and promotion
- Considers 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

MODEL CODE OF CONDUCT, PRINCIPLES & PROCESS

Model Code of Conduct

Key principles

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

Model Code of Conduct for Members
of Devolved Public Bodies

February 2014



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 Model Code of Conduct.”



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CONDUCT AT MEETINGS

Section 3.2

“You must respect the chair, your colleagues, and employees of the public body in meetings. You must comply with rulings from the chair in the conduct of the business of these meetings.”

[Reference: 3.2 of the Model Code of Conduct]

Conduct at Meetings

Have to treat everyone you come into contact with in course of work as a member with **courtesy and respect** even if you disagree with their view.

It is ok to discuss, debate and challenge in a professional and constructive manner. However, it is important to understand the difference between challenging a different views openly and respectfully and making personal attacks.

Must respect **decisions reached collectively**, even if you disagree.

- Any Questions?

Conduct in respect of the Media

Note risks associated with social media. The conduct expected of you in a digital medium is no different to the conduct you should employ in other methods of communication, such as face to face meetings, telephone or email.

You must act in accordance with the Crofting Commission's Media Protocol. Remember if you are approached and are not confident about the answer / whether there is a clear 'line to take', you should refer the reporter to the Head of Communications. You should always let the Head of Communications and Convener know as soon as possible if you are approached by a reporter.

- Any Questions?



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INTEGRITY IN PUBLIC LIFE

RELATIONSHIPS WITH BOARD MEMBERS AND EMPLOYEES

SECTION 3.3

“You will treat your fellow board members and any staff employed by the body with courtesy and respect...”

“As a board member you should...also lead by exemplar behaviour.”

[Reference: 3.3 of the Model Code of Conduct]

GIFTS AND HOSPITALITY

SECTIONS 3.5- 3.10

Gifts & Hospitality

- Things to Consider

The Code seeks to provide clear guidance about the type of gifts and hospitality you should normally avoid. However, the question of whether to accept a particular offer of a gift or hospitality is your personal responsibility. You should consider factors such as:

- all the circumstances in which the gift or hospitality is being offered;
- the value or cost of the gift or hospitality;
- how a member of the public would view the nature of the gift or hospitality;
- whether the invitation is to attend something you would not normally attend;
- whether you potentially be influenced to show favour to whoever has offered the gift or hospitality;
- whether acceptance of the gift or hospitality would place you under an obligation or which a member of the public, with knowledge of all the relevant facts, would reasonably regard as having placed you under an obligation;
- your Body's guidelines or policy on the acceptance of gifts and hospitality;
- whether you are accepting repeated gifts or hospitality from the same source.

If you do accept any gifts or hospitality, you must make an entry in the Register of Interests within **one month of receipt**.

- Any Questions?

CONFIDENTIALITY

**SECTIONS 3.11-
3.12**

Confidentiality

- Things to Consider

Although Freedom of Information legislation provides widespread public access to information, it is legitimate in some circumstances for a public body to require documents and information to be treated in a confidential way. Given the potential damage that the unauthorised disclosure of confidential material can do to the standing and integrity of a public body, it is essential that you respect the provisions in paragraphs 3.11 and 3.12.

You must not provide the media with off the record briefings on the general contents or 'line' of confidential material or information. Disclosures of this kind can seriously undermine and devalue the work of the public body.

Sometimes the confidential nature of the material will be explicit. In other cases, it will be clear from the nature of the information or from the circumstances in which it was provided to you that it is confidential.

- Any Questions?

APPOINTMENTS TO PARTNER ORGANISATIONS

SECTIONS 3.14- 3.15

Appointments to Partner Organisations

- What You Can Do

You can ensure compliance with the Code by:

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

- Any Questions?

Section 3

- Breach and non-breach cases

Case	Situation	Outcome
NB/SHR/1644	Conduct on social media and breach of confidentiality	No breach
LA/WD/1418/9	Press criticism of appointment made by Council	Breach & suspension for 2 and 9 months respectively
LA/NL/961	Leaking letter to press calling for the suspension of a senior officer	Breach & suspension for 3 months
LA/EL/1649	Acceptance of hospitality & conflict with role in partner organisation	No breach
LA/Fa/1392	Conduct at a meeting	Breach & censure
LA/E/1098	Breach of confidentiality	Breach & censure

- 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: Houses, Land & Buildings

Category 5: Interest in Shares & Securities

Category 6: Gifts & Hospitality

Category 7: Non-Financial Interests

N.B. Categories 1 & 2 must be registered whether or not the interest is relevant to your role in the public body

- Things to Consider

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

Registration of Interests

- Breach and non-breach cases

Case	Situation	Outcome
FEC/NH/1025	Failure to register membership of a trade union	No breach
LA/ED/1621	Failure to register a non-financial interest as active member of a parish	No breach
LA/WD/1419	Failure to register a non-financial interest in a local community initiative when supporting grant funding for the initiative	Breach & suspension for 9 months

- Any Questions?

Declaration of Interests

- What the Model Code states...

In considering whether to make a declaration in any proceedings, you must consider not only whether you will be influenced but whether anybody else would think that you might be influenced by the interest. You must comply with 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 member of a public body.

[Reference: 5.3 of the Model 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

- Any Questions?

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
 - How can confidentiality of another person's business or financial interests be protected

LOBBYING & ACCESS

SECTION 6

“.. the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the public body conducts its business.”

[Reference: 6.1 of the Model Code of Conduct]

Lobbing & Access

- What You Should Do

- Consider evidence and arguments advanced by all organisations and individuals
- Satisfy yourself about the identity of the person or organisation that is lobbying and the motive for lobbying

- What You Should Not Do

- Give preferential access to one side or an argument (or be perceived as having done so)
- Offer preferential access or treatment to those lobbying on a fee basis on behalf of clients compared with that you give any other person or organisation who lobbies or approaches you
- Do or say anything that could be construed as you having been improperly influenced to take a particular stance
- Accept paid work in which you give advice about how to influence the public body and its members

Lobbying & Access

- Breach and non-breach cases

Case	Situation	Outcome
LA/C/1476	Denial of access to a lobbying individual	No breach
LA/E/1708	Displaying bias towards some constituents	No breach

- Any Questions?

Learning Points from Recent Hearings

- 1. Members have duty to promote and support the principles of the Model Code of Conduct by leadership & example. Have a duty to be respectful to all other members and employees and to treat them with courtesy at all times when performing duties. Includes informal dealings as well as at formal meetings. Members have duty to hold employees to account but must do so in a courteous & professional manner. Abusive or offensive language and behaviour will not be tolerated.**
- 2. Registration & declaration of relevant interests is essential part of the Ethical Standards Framework. Intended to ensure transparency of decision-making. Each and every member 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 public bodies to engage with the Standards Commission to raise awareness of the ethical framework & to provide training on the Model Code of Conduct. However, is personal responsibility of each and every member to ensure they understand the provisions of the Code & how to interpret them.
5. In considering whether to register any non-financial interests, you 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 Model Code of Conduct.
6. Complaints may be made for a variety of reasons, including to cause trouble or annoyance. Complainant's motives not usually relevant to the question of whether or not there has been a breach of the Code.

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 or public body 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 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