

West  
Dunbartonshire  
Council

7 October 2015

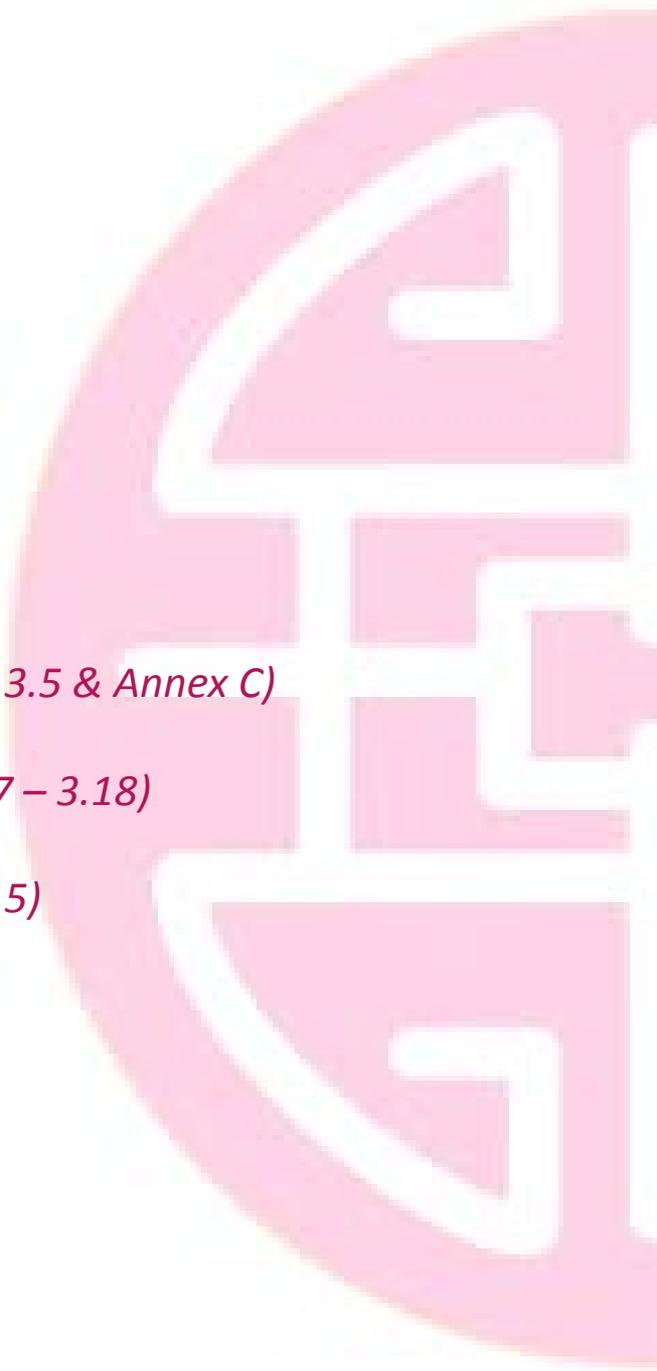


STANDARDS  
COMMISSION  
FOR **SCOTLAND**

*INTEGRITY IN PUBLIC LIFE*

Julie Ward &  
Matt Smith  
Commission  
Members

# Agenda

- **Role and Remit of the SCS**
  - **Overview of Code of Conduct & Key Principles**
  - **Conduct at Meetings** (*Section 3.2*)
  - **Use of Social Media**
  - **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?

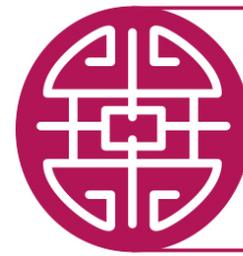
- Issues Guidance on Code of Conduct
- Conducts Hearings on alleged breaches
- Education and promotion
- Considers requests for dispensations

## 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
- Suspend (up to 1 year)
- Disqualify (up to 5 years)



STANDARDS  
COMMISSION  
FOR **SCOTLAND**

*INTEGRITY IN PUBLIC LIFE*

# OVERVIEW

# CODE OF CONDUCT & KEY PRINCIPLES

# Codes of Conduct

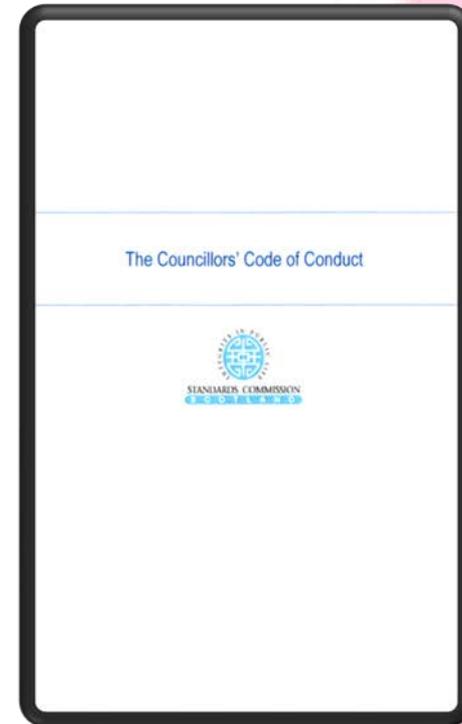
## Key principles

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

You should treat everyone you come into contact with in course of work as a Councillor with **courtesy and respect** even if you disagree with their opinion.

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 view openly and respectfully and making personal attacks.

Must respect **decisions reached collectively**.

Note risks associated with **social media** and talking to the **press**.

**- Any Questions?**

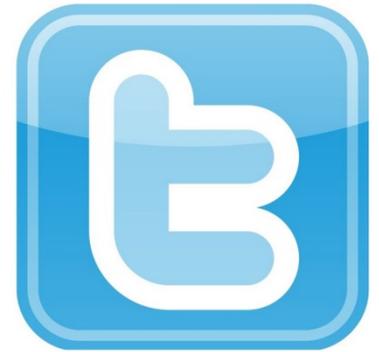
# Section 3: General Conduct

## - Other breach cases

| Case       | Situation                 | Outcome          |
|------------|---------------------------|------------------|
| LA/Fa/1392 | Conduct at a meeting      | Breach & censure |
| LA/E/1098  | Breach of confidentiality | Breach & censure |

- Any Questions?

# USE OF SOCIAL MEDIA



# Use of Social media

Consider if your exchange identified you as a councillor, and if yes:

- Your conduct should be no different to the conduct you should employ in other methods of communication
- Ensure you have not broken the law e.g. data protection, employment law, equalities, harassment
- Make sure you comply with any policy your Council has produced on the use of social media
- Be aware of your responsibility not to disclose confidential information that you only have access to as a councillor
- Be respectful



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

## - Breach cases

| Case      | Situation  | Outcome                          |
|-----------|--|----------------------------------|
| LA/S/1336 | Prejudged a licensing application at a Licensing meeting<br>Failed to respect members of the public who appeared as objectors<br>Behaviour towards a Committee Officer was aggressive during a Committee meeting | Breach & suspension for 5 months |
| 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 OSCR 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

## - Breach cases

| Case        | Situation  | Outcome          |
|-------------|--|------------------|
| LA/ER/1046c | Failure to properly and timeously register an interest | Breach & censure |

## - Any 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 cases

| Case                         | Situation                                  | Outcome  |
|------------------------------|--|--|
| 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                       |
| LA/Fi/1501, 1516, 1518, 1536 | Failure to declare non-financial interests | Breach and suspended from certain meetings during July/August 2015 |

## - 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 (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
- You are not acting as a court – the function is to make decisions and regulate. The process is not 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/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

**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/](http://www.publicstandardscommissioner.org.uk/decisions/)**

**Further information can be found at:**

**[www.ethicalstandards.org.uk](http://www.ethicalstandards.org.uk)**

**[www.standardscommissionscotland.org.uk](http://www.standardscommissionscotland.org.uk)**