



INTEGRITY IN PUBLIC LIFE

ADVICE ON RELATIONS BETWEEN MEMBERS AND EMPLOYEES OF DEVOLVED PUBLIC BODIES

1. Introduction

1.1 Section 3 of the Model Code of Conduct for Members of Devolved Public Bodies (the Code) concerns issues relating to the general conduct expected following an appointment as a member of a devolved public body. Section 3 of the Code governs various matters, which includes relationships with other Board Members and employees of the public body.

1.2 Paragraph 3.3 of the Code states:

You will treat your fellow board members and any staff employed by the body with courtesy and respect. It is expected that fellow board members and employees will show you the same consideration in return. It is good practice for employers to provide examples of what is unacceptable behaviour in their organisation. Public bodies should promote a safe, healthy and fair working environment for all. As a board member you should be familiar with the policies of the public body in relation to bullying and harassment in the workplace and also lead by exemplar behaviour.

1.3 The advice note is intended to assist members in complying with the provisions of the Code in their dealings with employees. However, given the variety of circumstances and situations which may arise, this advice note is intended to be a starting point and is not to be perceived an exhaustive or definitive guide.

2. Distinction between Roles of Members and Employees

2.1 Members should not be involved in the delivery of services supported or provided by the devolved public body – that is the role of the employees. However as an employer, a board also has a duty of care to its employees. It must abide by its employment responsibilities and ensure that the body has the right number of staff with the right skills to deliver its services.

2.2 Members are expected to:

- Provide leadership, direction, and support to the body, agreeing its strategic aims and business priorities;
- Promote commitment to the values and ethos of the organisation including equality and diversity;
- Ensure satisfactory delivery of the body's performance and financial objectives;
- Be accountable to and maintain the trust of key stakeholders;
- Ensure identification and control of the main risks associated with the delivery of the body's responsibilities and business objectives;
- Ensure employees have the appropriate skills, knowledge, culture and working environment; and
- Scrutinise the body's performance and, when necessary, provide challenge to senior employees.

2.3 Employees are expected to deliver the body's performance and achieve the strategic objectives set by the board.

3. General

3.1 Members and employees should work in an atmosphere of mutual trust and respect, with neither party seeking to take unfair advantage of their position.

3.2 The most common contacts between members and employees will be at Chief Executive or senior management level, therefore this guidance mainly concerns those contacts. However, there may also be many contacts between board members and other employees in their daily business, and the principles of the guidance also apply to them. The particular position of employees who provide direct support services for board members is dealt with separately at section 5 of the Guidance.

3.3 It is in the interests of both employees and board members to build a healthy relationship of mutual respect and understanding. The role of members is to scrutinise and hold employees to account for delivery of the organisation's objectives but it is also to provide support, guidance and understanding. Members who are too close to staff or who just assume that everything is fine may be failing in their responsibilities. On the other hand, members who are too confrontational or too quick to doubt employees will not gain the best from the partnership.

3.4 In order to develop a constructive and professional partnership with employees, members may wish take time to understand the roles of individual employees. Members should recognise what is a professional relationship and should endeavour to maintain this with employees.

4. Scrutiny Role

4.1 If a member has concerns about something employees are doing or a proposal they have made, in the first instance the member may wish to check whether other

members share these concerns. Employees take instruction from the board as a whole, not individuals.

- 4.2 Members will not have a full awareness of the priorities and workload of individual employees. Therefore, any issues about conflicting priorities, conduct or performance must be referred to the employee's line manager in accordance with the body's agreed procedures.
- 4.3 Members should make sure that the body has a strong performance management framework to measure both qualitative and quantitative achievements against planned objectives.
- 4.4 Members should ask for assurance and evidence that actions to mitigate risks to the body's business objectives are being taken and that risks are being properly recorded and managed.
- 4.5 Often the most effective ways to challenge employees is to simply ask for more information or to seek confirmation of the evidence behind a recommendation or action proposed. It may help if members explain why they are asking for such information.
- 4.6 Members should ensure that the Board has mechanisms for keeping in touch with the opinions and experiences of employees, not only the views passed on to them by senior staff.

5. Access and Support

- 5.1 Where bodies arrange for employees to support members directly in carrying out their duties, particular considerations should be applied. Such employees are normally involved in providing administrative and practical support to members. While they may operate to the requirements of individual members in their daily business, members should remember that the employees remain accountable to their line managers for their actions and activities.
- 5.2 Members are entitled to seek advice, support and information in respect of matters relating to the body. If a member is seeking assistance that is outwith an employee's normal duties, the request should be made to, and approved by, the employee's line manager. Employee support in these circumstances must not extend beyond providing information, assistance and advice in relation to matters directly concerning the body's business.

6. Delegated Authority and Committees

- 6.1 Members should be aware that where authority is delegated, the employee to whom it is delegated may consult them about the action they propose to take. However, the responsibility for the final decision remains with the employee who is accountable for the action or decision. Members should bear this in mind when discussing proposed action with employees.
- 6.2 The Chair of the Board or any committee will often be consulted on the preparation of agendas and reports. Employees will always be fully responsible for the contents of

any report submitted in their name and have the right to submit reports to members on their areas of professional competence. While employees will wish to listen to the views of members, they must retain final responsibility for the content of reports.

6.3 It is clearly important that there should be a close professional working relationship between the Chair of a committee and the director or senior manager of any service which reports to that committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an employee's ability to deal impartially with other members, and the ability of Chairs to deal impartially with other employees.

7. Public comment

7.1 Members should not raise matters relating to the conduct or capability of employees in public and must accord to employee the respect and courtesy due to them in their various roles. Any issues about the conduct, capability or performance of an employee should be raised in accordance with the body's procedures.

8. Communications

8.1 Members should ensure that all communications with employees are professional, respectful and courteous in both tone and content. In return, members should expect to be treated with courtesy and respect by employees.

9. Appointments

9.1 Where members are involved in the appointment of employees they must act fairly and openly and judge candidates solely on merit.

10. Social relationships

10.1 The relationship between members and employees depends upon trust and this will be enhanced by the development of positive, professional relationships. Members and employees may find themselves in social situations within the community and they have a responsibility to project a positive image of the body. Members should be aware of the potential implications of social relationships with employees, including on whether they can undertake their governance and scrutiny role effectively and also on whether they are perceived to be doing so.

11. Other Resources

11.1 Other guidance that may be of interest includes:

- The Scottish Government's On Board Guidance for Board Members of Public Bodies in Scotland (April 2015), which can be found at www.gov.scot/Publications/2015/04/9736.