

XXXXX
Council

DATE 2016

NAME

Convener

NAME

Commission Member
/ Executive Director

Agenda

- **Standards Commission's Role & Remit**
- **Introduction to Councillors' Code of Conduct**
- **General Conduct / Respect**
- **Gifts & Hospitality**
- **Confidentiality**
- **Use of Social Media**
- **External Appointments (general and identifying potential conflicts of interest)**
- **Registration of Interests**
- **Declaration of Interests**
- **Lobbying & Access**
- **Quasi Judicial & Regulatory Applications**
- **Learning Points from Recent Hearings**
- **Where to Find Assistance**



Our Role & Remit

What do we do?

- Proactive educational role, including publishing Guidance on the Codes of Conduct and providing training for stakeholders
- Adjudicatory role in relation to cases where the Commissioner for Ethical Standards (CESPLS) has reported a breach



If the Standards Commission hold a Hearing and find a breach has occurred, it may:

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

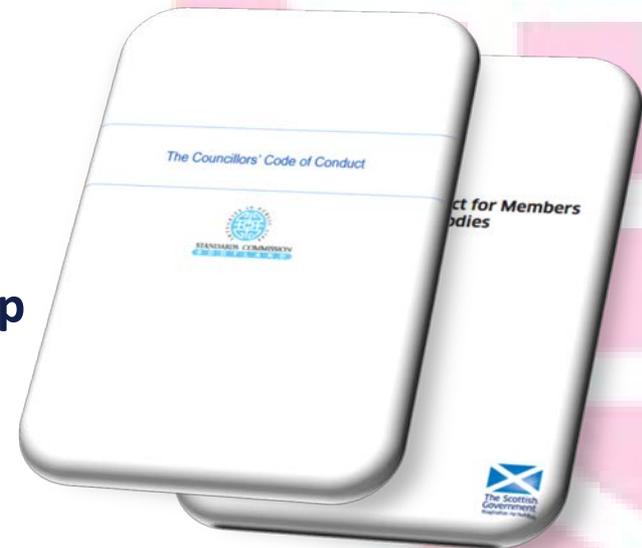
Introduction

It is your **PERSONAL RESPONSIBILITY** to comply with your Code of Conduct

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

Key principles

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



General Conduct: Respect

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

Case	Situation	Outcome
LA/R/1800	Disrespectful towards Committee Chair and failure to comply with ruling made by Chair	Breach & suspension
LA/H/1693	Disrespectful towards a constituent	Breach & censure
LA/ER/1490	Disrespectful at a planning meeting	Breach & censure
LA/FA/1392	Inappropriate behaviour at a meeting	Breach & censure
LA/S/1336	Questioned an officer in an unacceptable way at a meeting	Breach & suspension

- Any Questions?

General Conduct: Respect Cont.

Scenario 1: Relationships with Employees

You are attending a public meeting of the Council where an Officer is presenting a report on a matter that affects your ward. You have concerns about the factual accuracy and quality of the report.

What factors should you consider?

Case	Situation	Outcome
LA/C/1640	Disrespect towards officers and intruding on operational matters	Breach & suspension
LA/WD/1418 & 1419	Disrespectful about new officer / making an accusation at officer at a meeting	Breach & suspension

- Any Questions?

General Conduct: Gifts & Hospitality

Scenario 2: Gifts & Hospitality

You are invited by a local company to inspect their factory and have lunch afterwards.

What factors should you consider when deciding whether or not to accept the invitation?

Case	Situation	Outcome
LA/NL/1776	Allegation councillor accepted hospitality from employee of a firm contracted to the Council	CESPLS found no breach
LA/H/1630	Allegation councillor accepted hospitality from organisation that had an outstanding planning application	CESPLS found no breach

- Any Questions?

General Conduct: Confidentiality

Scenario 3: Confidentiality

An officer provides you with information that you consider may be relevant to one of your constituents, who is engaged in a dispute with the Council about the provision of a service.

What do you need to consider when deciding whether or not you can divulge the information to the constituent?

Case	Situation	Outcome
LA/D/1714	Divulged information of a confidential nature about an officer.	Breach & censure
LA/S/1509	Divulged information of a confidential nature at a Licensing Board meeting	Breach & censure

- Any Questions?

Use of Social Media



Scenario 4: Social Media

Some of your constituents have set up a Facebook page which contains criticism of a local teacher. They have asked for your support.

What are the factors / risks you should consider?

The Improvement Service guidance

www.improvementservice.org.uk/documents/elected_members/follow-me-guide-to-social-media-for-elected-members.pdf

- Any Questions?

External Appointments

You can ensure compliance with the Code by being aware of:

- Your different roles and responsibilities in respect of both the Council and the ALEO
- The requirements of the Councillors' Code of Conduct and also the ALEO's Code of Conduct
- The status of the ALEO
- The purpose and function of the ALEO and the activities it undertakes
- The ALEO's funding arrangements
- Whether the ALEO has a contractual relationship with the Council
- The status of your appointment to the ALEO

If you are in any doubt, seek early advice in advance of meetings

See also the Standards Commission's Advice Note on ALEOs

- Any Questions?

External Appointments

Identifying Potential Conflicts of Interest and Making Declarations of Interest

- Your responsibility
- Most, but not all, ALEOs will be covered by the specific exclusion in Paragraph 5.18 of the Code of Conduct,
- Need to declare your interest in the ALEO at any meeting where matters relating to, or concerning, the ALEO are being discussed. However, specific exclusion means you can take part in consideration, discussions and voting on the matter provided it is not quasi-judicial or regulatory in nature
- Must declare any financial and non-financial interests even if the specific exclusion applies unless the interest could not reasonably be taken to fall within the objective test. However, if the specific exclusion applies you do not need to withdraw and you can take part in the discussion / decision

Registration of Interests

Categories

- 1: Remuneration
- 2: Related Undertakings
- 3: Contracts
- 4: Election Expenses
- 5: Houses, Land & Buildings
- 6: Interest in Shares & Securities
- 7: Gifts & Hospitality
- 8: Non-Financial Interests

Things to Consider

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

Registration of Interests

Scenario 5: Non-Financial Interests.

You are a member of a local community group that has, in the past, received a grant from the Council.

Should you register your membership?

Case	Situation	Outcome
LA/EL/1654	Failure to register financial and non-financial interests	Breach & suspension
LA/Mi/1278	Failure to properly and timeously register a financial interest	Breach & censure

- Any Questions

Declaration of Interests

Can seek advice but is **your responsibility** to decide 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 affect your role in regard to a particular matter. 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**:

whether a member of public, with knowledge of 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.

Declarations of Interests

Scenario 6: Your Non-Financial Interests. You have been appointed by your council to be a member of a charity. You are at a meeting where issues concerning the charity are being discussed.

Things to consider:

Should you declare an interest?

Can you take part in the discussion and vote?

Would it make a difference if the charity provided services to the Council?

- Any Questions?

Declarations of Interests

Scenario 7: Financial Interests of Other Persons. A member of your partner's family is employed by a local library. You are considering a budgetary report to to reduce budgetary expenditure on the library services.

Should you make a declaration?

Other points to consider...

- If you have made a declaration, have you given sufficient information for those at the meeting to understand why.
- Transparency - on occasion, you may indicate why you have considered making a declaration but have chosen not to on the grounds it is not clear and substantial.

Declaration of Interests

Case	Situation	Outcome
LA/SB/1503	Closeness of personal business interests	Breach & suspension
LA/R/1397	Failure to declare financial interest	Breach & suspension
LA/Fi/1501, 1516, 1518, 1536	Failure to declare non-financial interests	Breach & suspension
LA/AN/1772	Failure to declare the financial interests of a close relative	Breach & suspension
NPA/LLT/1781	Failure to declare a financial interest and withdraw	Breach & censure

- Any Questions?

Lobbying and Access

Scenario 8: Lobbying & Access. You are on a Planning Committee. Some of your constituents have asked you for assistance in opposing an application to build a wind turbine.

What factors should you consider if you agree to help?
What should you consider if you do not agree to assist?

Case	Situation	Outcome
LA/AC/1864	Councillors accused of using political meeting to decide how to vote on planning application	CESPLS found no breach

- Any Questions?

Quasi Judicial & Regulatory Applications

- 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.

Scenario 9: Taking Decisions on Quasi-Judicial and Regulatory Matters

You are on a Licensing Committee which deals with applications for taxi licences. You are asked to take part in a radio debate about traffic congestion in your area and, in particular, the high volume of taxis.

What issues should you consider before agreeing?

Quasi Judicial & Regulatory Applications

Case	Situation	Outcome
LA/S/1336	Pre-judged licensing application	Breach & suspension
LA/EL/1133	Demonstrated bias and pre-judged planning application	Breach & suspension
LA/SB/1291	Failure to declare non-financial interest	Breach & suspension

- Any Questions?

Learning Points from Recent Hearings

- 1. Councillors have duty to promote and support the principles of the Code of Conduct by leadership and example. Have a duty to be respectful to all other councillors, officers 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.**
- 1. Councillors have duty to hold officers to account but must do so in a courteous and professional manner. Abusive or offensive language and behaviour will not be tolerated. While councillors have a scrutiny role, they should not become involved in operational management.**
- 3. Vital that councillors understand the particular nature of a quasi-judicial role. Must ensure they maintain the confidence of all sides that they will consider issues fairly and without pre-judging them.**
- 4. Registration and declaration of relevant interests is essential part of the ethical standards framework. Intended to ensure transparency of decision-making. Each and every councillor has personal responsibility to register and declare relevant interests as any failure to do so is likely to undermine public confidence.**

Learning Points from Recent Hearings cont.

5. Important for local authorities to engage with the Standards Commission to raise awareness of the Code of Conduct and ethical standards framework and to provide training on the Code. However, is personal responsibility of each and every councillor to ensure they understand the provisions of the Code and how to interpret them.
6. 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.
7. Complaints may be made for a variety of reasons, including for political advantage. Complainant's motives are not usually relevant to the question of whether or not there has been a breach of the Code.

Where to find assistance...

The new look Standards Commission website:

- Hearings Decisions
- Codes of Conduct for Councillors / Members
- Guidance and Advice Notes
- Professional Briefings
- Make an enquiry



www.standardscommissionscotland.org.uk

CESPLS Reports are available at:

www.publicstandardscommissioner.org.uk/decisions/

Discuss any specific issues /concerns with your Council's Monitoring Officer.

Contact the Standards Commission for general queries.

0131 248 6666 or enquiries@standardscommission.org.uk