

Training for
Elected Members
on
Councillors' Code
of Conduct

Standard
Training
Presentation

1 May 2017

Agenda

- **Standards Commission's Role & Remit**
- **Introduction to Councillors' Code of Conduct**
- **General Conduct: Respect**
- **Relations with Officers**
- **Separate Responsibilities**
- **Confidentiality**
- **Use of Social Media**
- **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)

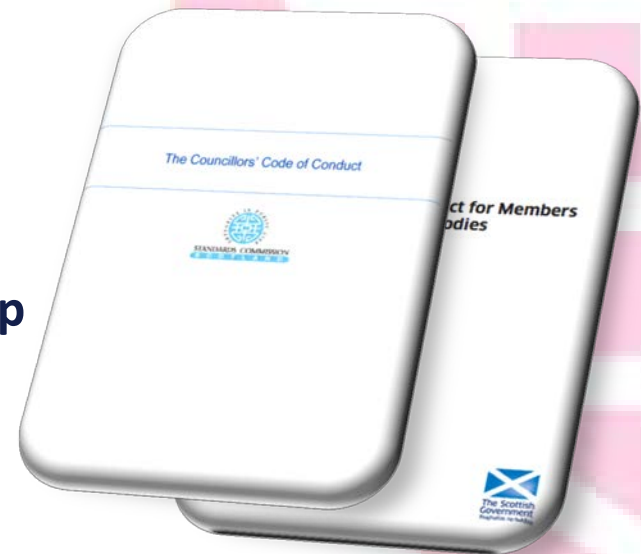
Introduction

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

- Any Questions?

Relations with Officers

Scenario 1: Relations with Officers

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/AB/1758	Disrespectful towards officer	Breach & censure
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?

Separate Responsibilities

The role of councillor is to determine policy and participate in decisions on matters placed before them, not to engage in direct operational management of the Council's services – that is the responsibility of officers.

Scenario 2: Operational Management

A constituent approaches you for assistance in respect of a dispute about housing benefit entitlement.

What factors should you consider?

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?

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?

Cases	Situation	Outcome
LA/NL/1940	Failed to register a financial interest	Breach & censure
LA/EL/1654	Failure to register financial and non-financial interests	Breach & suspension

- 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: 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/WD/1879	Failure to declare non-financial interest and withdraw	Breach & censure
LA/WL/1882 & NHS/Lo/1872	Failure to declare interests and withdraw	Breach & censure
LA/AN/1772	Failure to declare the financial interests of a close relative	Breach & suspension
LA/Fi/1501, 1516, 1518, 1536	Failure to declare non-financial interests	Breach & suspension

- Any Questions?

Lobbying and Access

Scenario 7: 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

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.

Case	Situation	Outcome
LA/AC/1876	Pre-judged licensing application	Breach & suspension
LA/S/1336	Pre-judged licensing application	Breach & suspension
LA/EL/1133	Demonstrated bias and pre-judged planning application	Breach & suspension

- Any Questions?

Learning Points from Recent Hearings

- 1. Councillors have a duty to be respectful and courteous to all other councillors, officers and members of the public when performing duties as a councillor. Includes informal dealings as well as at formal meetings.**
- 2. Councillors have duty to hold officers to account but must do so in an appropriate 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. Registration and declaration of relevant interests is essential part of the ethical standards framework. Intended to ensure transparency in 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.**
- 4. 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.**

Learning Points from Recent Hearings cont.

5. Councillors should not pre-judge, or be perceived as having pre-judged, any quasi-judicial or regulatory application as doing so has potential to result in decisions on such applications being legally challenged and can erode public confidence and trust in local government and democratic process itself.
6. 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.
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