



INTEGRITY IN PUBLIC LIFE

**SURVEY OF MEMBERS OF
DEVOLVED PUBLIC BODIES:
DETAILED ANALYSIS OF
RESPONSES**

EXECUTIVE SUMMARY

1. This document summarises the responses received by the Standards Commission for Scotland (Standards Commission) to a survey it issued to members of devolved public bodies.
2. The intention of the survey was to establish whether the lack of complaints about members of devolved public bodies was the result of a high level of adherence to the Codes of Conduct (based on the Model Code of Conduct) or whether poor conduct was taking place but going unreported. The Standards Commission also sought to establish the extent of awareness amongst members of certain provisions in the Codes.
3. The Standards Commission initially published a summary of responses in November 2018. It then undertook a further detailed analysis of the responses to, and potential links between, certain questions posed in the survey. This detailed analysis is now attached as Annex A.

ANALYSIS OF RESPONSES

4. The majority of Respondeees advised that they considered they had received wholly adequate training on the Code of Conduct for their devolved public body and that there were not any provisions within it that they found potentially confusing or difficult to understand. Where topics were identified by Respondeees as being challenging or problematic; these primarily related to the provisions on declaring interests and the extent to which the Code applied when members were using social media.
5. The data suggests that members of National Health Board, Territorial Health Boards and Health & Social Care Integration Joint Boards are quite significantly less satisfied with the adequacy of the training they received on the Code of Conduct than members of other Schedule 3 bodies. It further suggests that Respondeees who were offered training on the Code of Conduct at the outset have a better awareness of the fact that a formal complaint about a breach of it can be made / how to make such a complaint.
6. While a majority of Respondeees indicated they were 'entirely clear' about what interests required to be declared, a substantial minority reported that they were only 'reasonably' or 'not entirely' clear about this. Comments received from several Respondeees indicated there was some confusion about how to identify a declarable interest and about whether they were required to withdraw from the room having declared an interest. The data suggests that Respondeees who were offered training on the Code of Conduct at the outset consider that they have a better awareness of what constitutes a declarable interest.
7. Members were asked whether they were aware of, or had experienced, any disrespectful conduct by a fellow board member, such as conduct that could be described as bullying or harassment. While the majority of Respondeees confirmed they had not, a sizeable minority (16%) advised that they had. Examples of disrespectful behaviour provided included being dismissive of other members and using inappropriate language towards other members and officers.

8. The data suggests that the adequacy of training may have a positive impact in terms of reducing bullying, harassment and dismissive behaviour by board members. It indicates that members of Territorial Health Boards and Health & Social Care Integration Joint Boards have more experience of disrespectful behaviour than members of other Schedule 3 bodies. The data also indicates that a significantly less percentage of members of Health & Social Care Integration Joint Boards consider their board has a culture of collective responsibility than other categories of devolved public body.
9. Members were also asked about how reluctant they would be in making a complaint about a fellow board member. A substantial minority (43%) of Respondees advised they would either be 'very' or 'somewhat' reluctant to do so. It is evident from the comments provided that a large proportion of members would only consider making a formal complaint about another member if the potential breach was serious and the matter could not be resolved informally / internally.
10. If the overall picture is considered by gender, comparing the combined numbers of those both very reluctant and those somewhat reluctant to complain, the position is fairly equal. The data suggests, however, that members of Health & Social Care Integration Joint Boards may be more reluctant to make a complaint than members of other Schedule 3 bodies.
11. The Standards Commission intends sharing the survey results with the Scottish Government to help inform their induction and ongoing training programme for Chairs and members of devolved public bodies. The Standards Commission will also highlight the concerns raised about disrespectful behaviour in discussions with the Scottish Government regarding whether a bullying and harassment provision should be included in the Model Code of Conduct.

1. Introduction

- 1.1 At the end of August 2018, the Standards Commission for Scotland (Standards Commission) asked members of devolved public bodies to complete a survey to help it establish whether the lack of complaints about members of devolved public bodies was the result of a high level of adherence to the Codes of Conduct (based on the Model Code of Conduct) or whether poor conduct was taking place but going unreported.
- 1.2 A total of 299 responses were received by the closing date of 19 September 2018. This paper summarises the responses and comments received.

2. Respondees

- 2.1 Respondees were asked to indicate the type of public body of which they were a member. The following table compares the percentage of Respondees by category against the percentage of Members on each category of Board. It is evident from this that there was a relatively consistent response rate from each category.

CATEGORY OF PUBLIC BODY	% OF TOTAL BODIES	% OF RESPONDEES
National or regional public bodies	43	35
NHS Boards (including territorial health boards)	11	18
Health & Social Care IJBs	24	24
Further education college	17	18
Regional transport partnership	5	5

- 2.2 Respondees were asked to state their gender, sexual orientation, ethnicity and whether they considered themselves to have a disability. The Standards Commission has compared the responses to the overall profile of board members and is satisfied that that were no significant differences in the response uptake by gender, sexuality and / or ethnicity.

3. Training on and understanding of the Codes of Conduct based on the Model Code of Conduct (the Code)

- 3.1 Members were asked about the they had received on the Code for their devolved public body. 66% of Respondees confirmed they had received training when appointed or elected, with the remaining 34% advising they had not.
- 3.2 Members were asked whether training on the Code was provided on when they commenced in post. Just under 40% of Respondees who provided comments confirmed that training on the Code had been included as part of the induction, with another nearly 30% advising that while they had not received specific training on the Code they had been provided with a copy of it and / or had been made aware of it.

- 3.3 Some Respondeees commented they had already received training on the Councillors' Code. They acknowledged, however, that while the Codes were different, a number of provisions were similar. It is considered, therefore, that such comments are not problematic.
- 3.4 It is noted, however, that approximately 17% of Respondeees who made comments either did not receive any training on the Code or did not consider any such training to be necessary. Two Respondeees commented that the Code was "straightforward" and, as such, they should not be required to attend or receive training on it.
- 3.5 In response to a question about the adequacy of training received, 78% of Respondeees indicated it was wholly adequate, with 20% advising it was 'somewhat adequate'. Just less than 2% indicated the training was not at all adequate. The majority of Respondeees were positive in their comments about how comprehensive the training had been. Some noted, however, that training would only remain relevant if Members were able to put any knowledge gained into practice.
- 3.6 The majority of Respondeees confirmed that there were not any areas of the Code that they found potentially confusing or difficult to understand. Areas that were considered more problematic were identified as being:
- The provisions in respect of declaring interests and, specifically, whether declaring an interest meant that you had to leave the room or whether a member could remain and participate in the discussion and any decision-making; and
 - The use of social media.

4. Registering Interests

- 4.1 Members were asked whether they received reminders in respect of updating their register of interests. 90% of Respondeees confirmed that they received reminders, with 10% advising they did not. Of those who commented, almost a third advised they received reminders annually, with approximately 40% advising that they received quarterly or regular reminders.
- 4.2 It was noted that members had to register interests separately for different public bodies and that it would be helpful to only have to do this once (if, for example, the information was recorded in one place).

5. Declaring Interests

- 5.1 Respondeees were asked whether members of their boards were reminded to declare any interests at the start of each board or committee meeting. A clear majority of Respondeees 88% confirmed that they were always given a reminder, with a further 6% confirming this was usually the case. Of the Respondeees who answered 'not usually' or 'never', comments were made to the effect that there was no need to do so as a reminder was included in the papers or as a standing item on the agenda. A further comment was made that although there was no formal reminder, members invariably declared interests, which in itself acted a prompt for others to do so.

- 5.2 Members were asked whether they were clear about what constituted a declarable interest. 66% of Respondees indicated they were ‘entirely clear’, with a further 33% indicating they were only ‘reasonably’ or ‘not entirely’ clear, and 1% advising that they were ‘not at all’ clear.
- 5.3 A number of Respondees commented on what they would do if they were unsure about whether or not an interest should be declared. Of the Respondees who provided comments, only a relatively small minority indicated they would apply the objective test. Others stated they would seek advice from the Chair, fellow members or officers. More than a quarter of Respondees providing comments indicated that they would err on the side of caution and declare the interest even if it was not necessary to do so.
- 5.4 In addition, comments were made to the effect that most confusion over whether a declaration was required concerned non-financial interests and, in particular, interests in other organisations and bodies. A further comment was made that they were ‘differing standards’ for Councils, IJBs and Community Planning Partnerships in respect of what had to be declared.
- 5.5 Respondees were asked whether they were aware of any instances where a fellow board member had failed to declare a relevant interest and had proceeded to take part in the discussion and decision-making. A substantial majority of nearly 94% advised they had not, but some 6% confirmed they were aware of such an instance. Comments from those who stated that they were aware included ones to the effect that they had raised the issue and it had then been debated by the Board. It was noted that raising a concern was an ‘uncomfortable’ experience. A further comment was made that when the Respondee had questioned whether a fellow Member had a conflict, the Chair had not known how to handle the matter.

6. Respect

- 6.1 Members were asked whether they were aware of, or had experienced, any disrespectful conduct by a fellow board member, such as conduct that could be described as bullying, harassment or being dismissive. An 84% majority of Respondees confirmed they had not, with 16% advising that they had.
- 6.2 The question about respect attracted the highest number of comments. More than half of those who answered the question in the positive indicated that they had witnessed dismissive behaviour by members to their colleagues or in general. Sizeable minorities of Respondees indicated they had experienced bullying by other members and / or had witnessed bullying behaviour by members towards officers. A number of Respondees indicated that they had experienced members having used inappropriate language or tone in their communications with fellow members and officers.
- 6.3 Some examples of dismissive behaviour provided included “treating a board member as though they were a child, treating them in a demeaning way in front of the full board”; “dismissive of comments made” and “made to feel inadequate in front of other board members”; “showing disapproval, contempt, mocking in facial expression” and “putting a hand in front of a person trying to talk in order that they can be silenced”; “talked over and ignored on repeated occasions”; and “made to feel my views were not relevant”.

7. Complaints

- 7.1 Members were asked whether they were clear about how and to whom a formal complaint about a potential breach of a Code of Conduct could be made. 77% of Respondeees advised that they were clear about this, with the remainder advising they were unclear.
- 7.2 Of the Respondeees who provided comments, more than half indicated that while they were unsure about how and to whom they could make a complaint, they were confident they could find this out. A number of Respondeees advised that they would make a complaint to the Chair of the Board in the first instance.
- 7.3 Members were asked about how reluctant they would be in making a complaint about a fellow board member. A total of 43% of Respondeees advised they would either be 'very' or 'somewhat' reluctant to do so, with the remainder indicating they would be either 'not very' or 'not at all' reluctant to do so.
- 7.4 Reasons given for reluctance included a fear of repercussions or concern about the outcome. A sizeable majority of Respondeees who commented advised that their decision about whether to make a complaint would depend on the circumstances and seriousness of the matter, whether they were sure a breach of the Code had occurred and / or whether there was any evidence to support an allegation that it had been contravened. Similarly, a sizeable majority of those who provided comments indicated that they would explore all possible internal avenues for resolving the matter (such as raising it in the first instance with the member concerned or the Chair) of the Board before making a formal complaint.
- 7.5 Some examples given in respect of why Respondeees would be reluctant to make a complaint due to fear of repercussions or concern about the outcome included:
- Fear of losing their job;
 - Concern about impact on relationships;
 - Concern that nothing would be done;
 - Not being comfortable about making a formal complaint of bullying and harassment (would prefer an informal route to resolve concerns);
 - That challenging the Chair of the Board was very difficult; and
 - That the CESPLS would only be able to investigate breaches of the Code and not those who behaved 'inappropriately'.
- 11.6 It was evident from the comments provided that a large proportion of members would only consider making a formal complaint about another member if the potential breach was serious and the matter could not be resolved informally / internally. One Respondee indicated that he or she would prefer to step aside than to do so.

8. Gifts & Hospitality

- 8.1 Members were asked whether their organisation had a clear policy on gifts and hospitality. The majority of Respondeees (94%) confirmed that there was either a 'very clear' or 'clear' policy in place. None of the comments received referred to the

organisation's policy being unclear but instead, 10 Respondees advised that they were unsure as to whether such a policy existed or were unaware of one.

9. Next Steps

- 9.1 The Standards Commission will share its findings and conclusions with Scottish Government, where appropriate, to help inform their induction and ongoing training programme and online materials for Chairs and members of devolved public bodies.

ANNEX A: DETAILED ANALYSIS

STANDARDS COMMISSION SURVEY: MEMBERS OF DEVOLVED PUBLIC BODIES FURTHER ANALYSIS

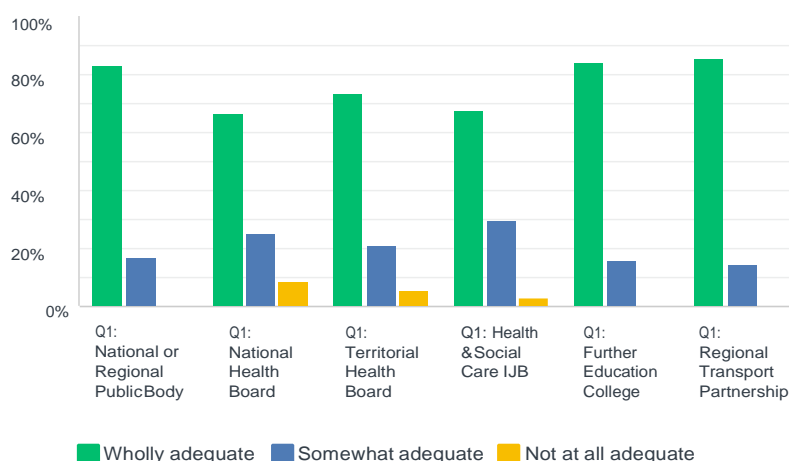
1. Adequacy of Training and Category of Devolved Public Body

1.1 Section 1 explores whether there is any correlation between members' views on the adequacy of training on the Code of Conduct and the different categories of devolved public body by comparing the answers to questions 1 and 3.

Q1: Type of Devolved Public Body

against

Q3: How adequate was the training you received on the Code of Conduct?



TYPE OF DEVOLVED PUBLIC BODY	Q3: TRAINING WHOLLY ADEQUATE	Q3: TRAINING SOMEWHAT ADEQUATE	Q3: TRAINING NOT ADEQUATE AT ALL
NATIONAL OR PUBLIC BODY	83.08% 54	16.92% 11	0% 0
NATIONAL HEALTH BOARD	66.67% 8	25% 3	8.33% 1
TERRITORIAL HEALTH BOARD	73.68% 14	21.05% 4	5.26% 1
HEALTH & SOCIAL CARE IJB	67.65% 23	29.41% 10	2.94% 1
FURTHER EDUCATION COLLEGE	84.21% 32	15.79% 6	0% 0
REGIONAL TRANSPORT PARTNERSHIP	85.71% 6	14.29% 1	0% 0

1.2 The table above outlines both the percentage and number of responses received. These suggest that members of National Health Board, Territorial Health Boards and Health & Social Care IJBs are quite significantly less satisfied with the adequacy of the training they received on the Code of Conduct than members of other Schedule 3 bodies.

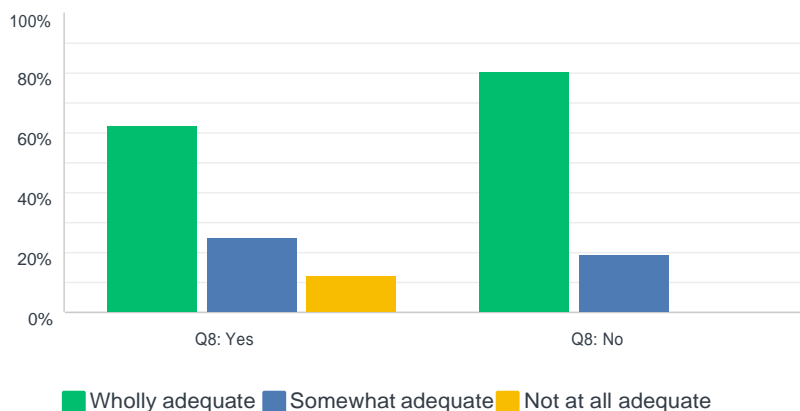
2. Adequacy of Training and Disrespectful Behaviour

2.1 Section 2 explores whether there is any correlation between the adequacy of training on the Code of Conduct and board members' experiences of conduct that could be described as bullying, harassment or

being dismissive by comparing the answers to questions 8 and 3.

Q8: Are you aware of, or have you experienced, any disrespectful behaviour by a fellow board member, such as conduct that could be described as bullying, harassment or being dismissive?
against

Q3: How adequate was the training you received on the Code of Conduct?



	TRAINING WHOLLY ADEQUATE	TRAINING SOMEWHAT ADEQUATE	TRAINING NOT AT ALL ADEQUATE	TOTAL RESPONSES (by % and number)
Q8: YES, EXPERIENCED DISRESPECTFUL BEHAVIOUR	62.5% 15	25% 6	12.5% 3	13.79% 24
Q8: NO, NOT EXPERIENCED DISRESPECTFUL BEHAVIOUR	80.67% 121	19.33% 29	0% 0	86.21% 150

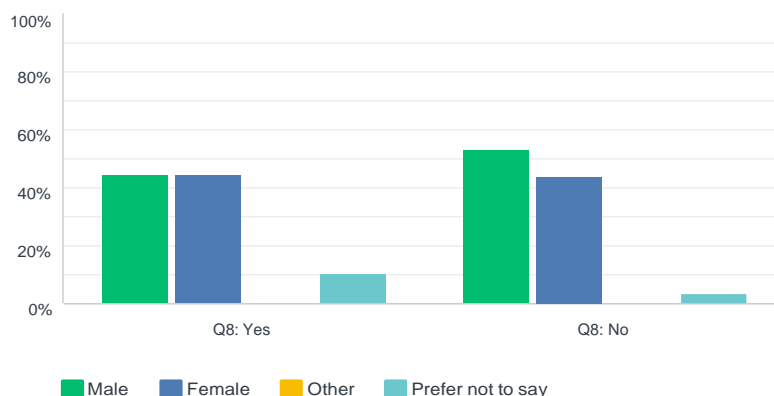
2.2 The table above outlines both the percentage and number of responses received. The figures suggest the adequacy of training may have a positive impact in terms of reducing bullying, harassment and dismissive behaviour. This is because 100% of Respondees who considered their training wholly or somewhat adequate indicated they were not aware of / had not experienced such conduct, whereas 37.5% of Respondees who were aware of / had experienced bullying, harassment or dismissive behaviour considered their training to be less than wholly adequate.

3. Gender and Disrespectful Behaviour

3.1 Section 3 explores whether there is any correlation between board members’ gender and their experiences of conduct that could be described as bullying, harassment or being dismissive by comparing the answers to questions 8 and 14.

Q8: Are you aware of, or have you experienced, any disrespectful behaviour by a fellow board member, such as conduct that could be described as bullying, harassment or being dismissive?
against

Q14: Gender: Male; Female; Other; Prefer not to say.



	MALE	FEMALE	OTHER	PREFER NOT TO SAY	TOTAL RESPONSES (by % and number)
Q8: YES, EXPERIENCED BULLYING, HARASSMENT OR DISMISSIVE BEHAVIOUR	44.74% 17	44.74% 17	0% 0	10.53% 4	15.08% 38
Q8: NO, NOT EXPERIENCED BULLYING, HARASSMENT OR DISMISSIVE BEHAVIOUR	52.80% 113	43.93% 94	0% 0	3.27% 7	84.92% 214
TOTAL RESPONDEES	130	111	0	11	252

YES TO Q8	MALE	FEMALE
OVERALL NUMBER	17	17
PERCENTAGE	13%	15%

NO TO Q8	MALE	FEMALE
OVERALL NUMBER	113	94
PERCENTAGE	87%	85%

3.2 The table above outlines both the percentage and number of responses received. The data indicates only a small discrepancy between male and female Respondees in terms of those who indicated they were aware of or had experienced bullying, harassment or dismissive behaviour.

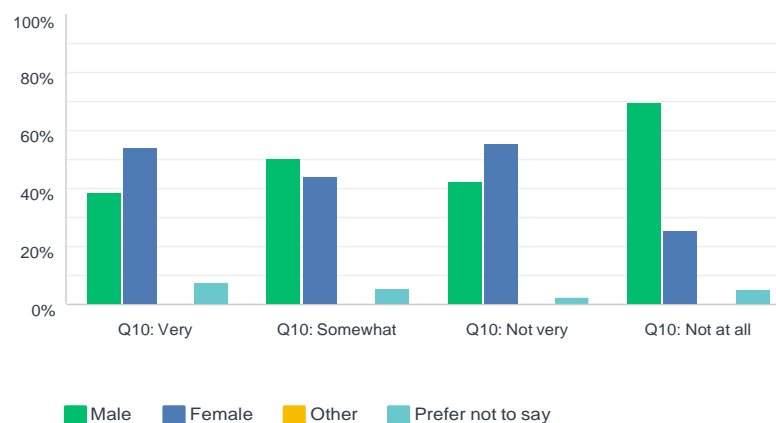
4. Gender and Reluctance to Complain

4.1 Section 4 explores whether there is any correlation between board members' gender and their reluctance or otherwise to make a complaint by comparing the answers to questions 10 and 14.

Q10: How reluctant would you be to make a complaint about a fellow board member?

against

Q14: Gender: Male; Female; Other; Prefer not to say.



	MALE	FEMALE	OTHER	PREFER NOT TO SAY	TOTAL RESPONSES (by % and number)
Q10: VERY RELUCTANT TO COMPLAIN	38.46% 5	53.85% 7	0% 0	7.69% 1	5.16% 13
Q10: SOMEWHAT RELUCTANT TO COMPLAIN	50.53% 48	44.21% 42	0% 0	5.26% 5	37.70% 95
Q10: NOT VERY RELUCTANT TO COMPLAIN	42.35% 36	55.29% 47	0% 0	2.35% 2	33.73% 85
Q10: NOT AT ALL RELUCTANT TO COMPLAIN	69.49% 41	25.42% 15	0% 0	5.08% 3	23.41% 59
TOTAL RESPONDEES	130	111	0	11	252

% DIFFERENCE BETWEEN MALE AND FEMALE RESPONDEES	
VERY RELUCANT TO MAKE A COMPLAINT	15.39
NOT AT ALL RELUCANT TO MAKE A COMPLAINT	44.07

4.2 The table above shows both the percentage and number of responses received. If the overall picture is considered by gender, comparing the combined numbers of those both very reluctant and those somewhat reluctant to complain, the position is fairly equal. 53 out of 130 males reported reluctance to complain (41%) as compared with 49 out of 111 females (44%). Similarly, 77 out of 130 males (59%) reported an absence of reluctance to complain compared with 62 out of 111 females (56%). It is interesting to note that a smaller number of female Respondee would be “Not at all reluctant to complain” (15 females as compared with 41 males).

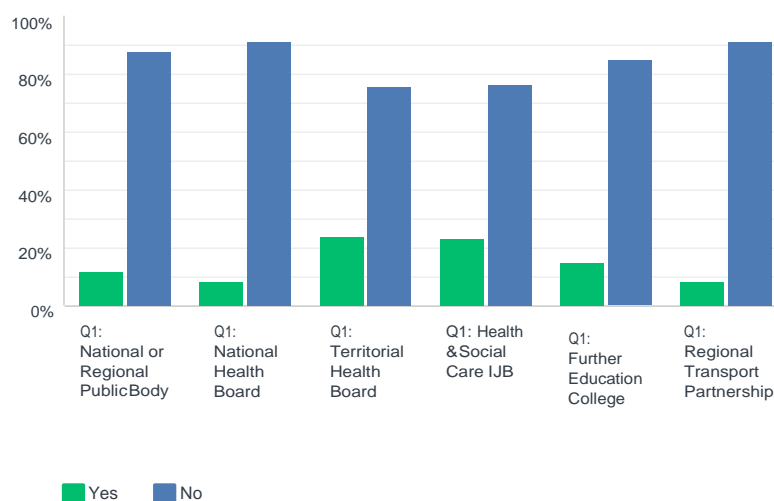
5. Disrespectful Behaviour and Category of Devolved Public Body

5.1 Section 5 explores whether there is any correlation between board members’ experiences of conduct that could be described as bullying, harassment or being dismissive and the category of devolved public body they are a member of by comparing the answers to questions 1 and 8.

Q1: Type of Devolved Public Body

Against

Q8: Are you aware of, or have you experienced, any disrespectful behaviour by a fellow board member, such as conduct that could be described as bullying, harassment or being dismissive?



TYPE OF DPB	Q8: YES, HAVE EXPERIENCED DISRESPECTFUL BEHAVIOUR	Q8: NO, HAVE NOT EXPERIENCED DISRESPECTFUL BEHAVIOUR
NATIONAL OR PUBLIC BODY	12.09% 11	87.91% 80
NATIONAL HEALTH BOARD	8.70% 2	91.30% 21
TERRITORIAL HEALTH BOARD	24% 6	76% 19
HEALTH & SOCIAL CARE IJB	23.44% 15	76.56% 49
FURTHER EDUCATION COLLEGE	14.89% 7	85.11% 40
REGIONAL TRANSPORT PARTNERSHIP	8.33% 1	91.67% 11

5.2 The table above outlines both the percentage and number of responses received and suggests that members of Territorial Health Boards and Health & Social Care IJBs have more experience of disrespectful behaviour than members of other Schedule 3 bodies.

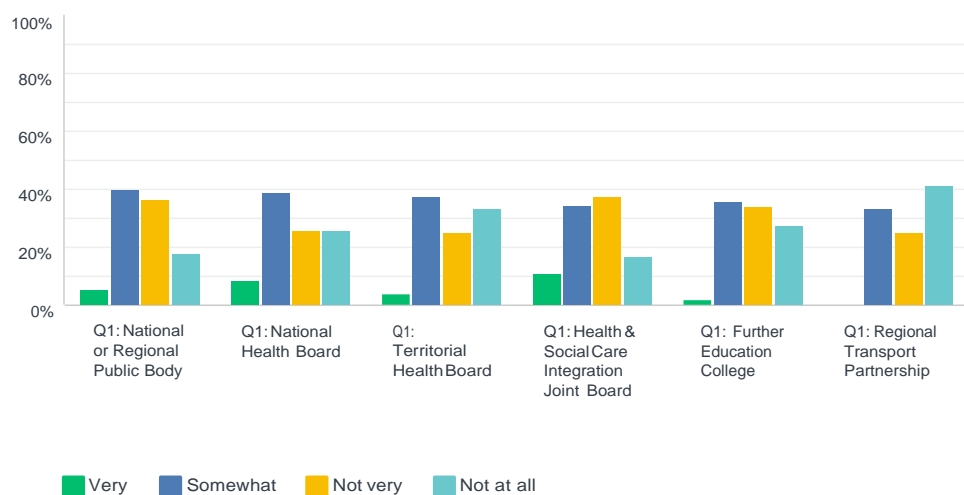
6. Category of Devolved Public Body and Reluctance to Complain

6.1 Section 6 explores whether there is any correlation between board members' reluctance or otherwise to make a complaint and the category of devolved public body they are a member of by comparing the answers to questions 1 and 10.

Q1: Type of Devolved Public Body

Against

Q10: How reluctant would you be to make a complaint about a fellow board member?



TYPE OF DPB	Q10: VERY RELUCTANT TO COMPLAIN	Q10: SOMEWHAT RELUCTANT TO COMPLAIN	Q10: NOT VERY RELUCTANT TO COMPLAIN	Q10: NOT AT ALL RELUCTANT TO COMPLAIN
NATIONAL OR PUBLIC BODY	5.56% 5	40% 36	36.67% 33	17.78% 16
NATIONAL HEALTH BOARD	8.70% 2	39.13% 9	26.09% 6	26.09% 6
TERRITORIAL HEALTH BOARD	4.17% 1	37.50% 9	25% 6	33.33% 8
HEALTH & SOCIAL CARE IJB	10.94% 7	34.38% 22	37.50% 24	17.19% 11
FURTHER EDUCATION COLLEGE	2.13% 1	36.17% 17	34.04% 16	27.66% 13
REGIONAL TRANSPORT PARTNERSHIP	0% 0	33.33% 4	25% 3	41.67% 5

6.2 The table above outlines both the percentage and number of responses received. The data suggests that members of Health & Social Care IJBs may be more reluctant to make a complaint than members of other Schedule 3 bodies.

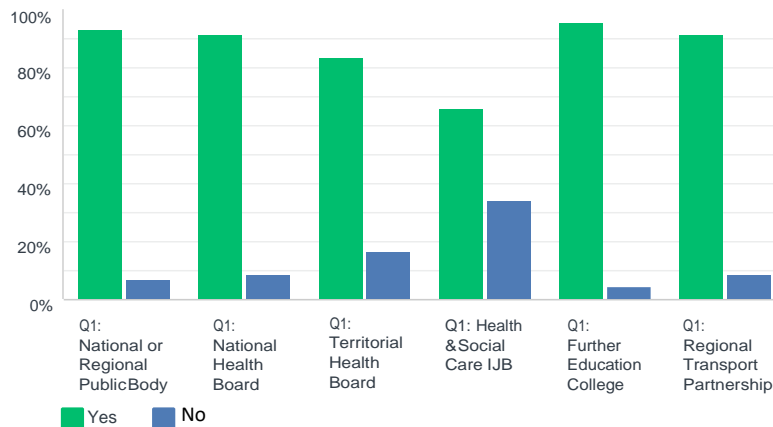
7. Category of Devolved Public Body and Collective Responsibility

7.1 Section 7 explores whether there are any differences in responses from members of different categories to the question about whether the board has a culture of collective responsibility by comparing the answers to questions 1 and 13.

Q1: Type of Devolved Public Body

Against

Q13: Do you consider your board has a culture of collective responsibility?



TYPE OF DPB	Q13: YES, HAS CULTURE OF COLLECTIVE RESPONSIBILITY	Q13: NO, DOES NOT HAVE CULTURE OF COLLECTIVE RESPONSIBILITY
NATIONAL OR PUBLIC BODY	93.18% 82	6.82% 6
NATIONAL HEALTH BOARD	91.30% 21	8.70% 2
TERRITORIAL HEALTH BOARD	83.33% 20	16.67% 4
HEALTH & SOCIAL CARE IJB	66.13% 41	33.87% 21
FURTHER EDUCATION COLLEGE	95.65% 44	4.35% 2
REGIONAL TRANSPORT PARTNERSHIP	91.67% 11	8.33% 1

7.2 The table above outlines both the percentage and number of responses received. The data indicates that a significantly less percentage of members of Health & Social Care IJBs consider their board has a culture of collective responsibility than other categories of devolved public body. This may be because IJBs have members who are used to politicised debate and decision-making in local government. It is, however, interesting to note the comparable percentage of Respondees from regional transport partnerships who consider their boards have a culture of collective responsibility, despite such board councillors comprising around two-thirds of their membership.

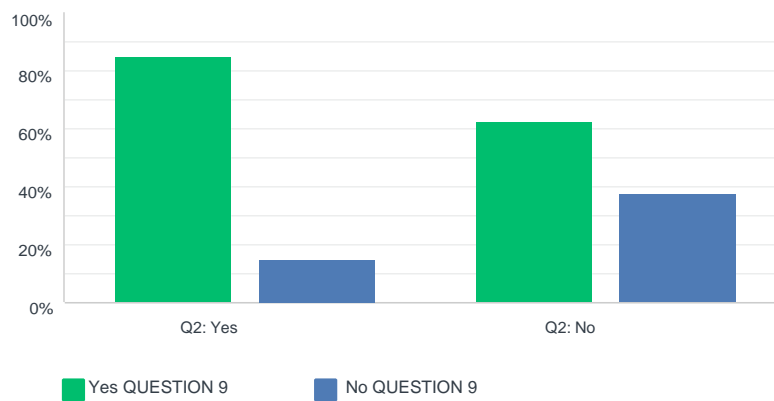
8. Training and Awareness of How to Make a Formal Complaint

8.1 Section 8 explores whether there is a correlation between being offered training on the Code of Conduct and awareness of how to make a formal complaint about a breach of it by comparing the answers to questions 2 and 9.

Q2: Were you offered training on the Code of Conduct when you were appointed / elected?

Against

Q9: Are you clear as to how and to whom a formal complaint about a potential breach of the Code of Conduct can be made?



	Q9: YES, AWARE OF HOW TO MAKE COMPLAINT	Q9: UNAWARE OF HOW TO MAKE COMPLAINT
Q2: YES, OFFERED TRAINING	84.97% 147	15.03% 26
Q2: NO, NOT OFFERED TRAINING	62.5% 55	37.5% 33
TOTAL RESPONDEES	202	59

8.2 The table above outlines both the percentage and number of responses received and suggests that Respondees who were offered training on the Code of Conduct at the outset have a better awareness of the fact that a formal complaint about a breach of it can be made / how to make such a complaint.

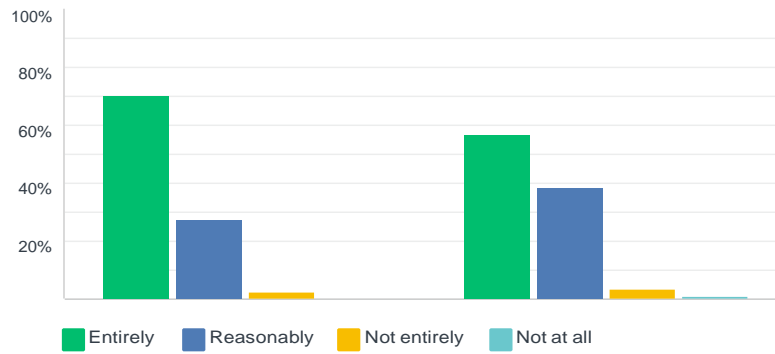
9. Training and Awareness of Awareness of What Constitutes a Declarable Interest

9.1 Section 9 explores whether there is a correlation between being offered training on the Code of Conduct and awareness of how to make a formal complaint about a breach of it by comparing the answers to questions 2 and 6.

Q2: Were you offered training on the Code of Conduct when you were appointed / elected?

Against

Q6: How clear are you about what constitutes an interest, which requires to be declared?



	ENTIRELY CLEAR ABOUT WHAT CONSTITUTES A DECLARABLE INTEREST	REASONABLY CLEAR	NOT ENTIRELY CLEAR	NOT AT ALL CLEAR
Q2: YES, OFFERED TRAINING	70.29% 123	27.43% 48	2.29% 4	0% 0
Q2: NO, NOT OFFERED TRAINING	56.82% 50	38.64% 34	3.41% 3	1.14% 1

9.2 The table above outlines both the percentage and number of responses received. The data suggests that Respondees who were offered training on the Code of Conduct at the outset consider that they have a better awareness of what constitutes a declarable interest.