



**STANDARDS
COMMISSION
FOR
SCOTLAND**

INTEGRITY IN PUBLIC LIFE

COUNCILLORS' CODE OF CONDUCT AND GUIDANCE – ADVICE FOR MEMBERS OF THE PUBLIC

1. Who is this advice for?

- 1.1** Members of the public, especially anyone thinking of making a complaint against a councillor.

2. What does this advice cover?

2.1 This advice covers:

- The different sections of the Councillors' Code of Conduct and the Guidance that goes with it.
- What they mean, in a user-friendly format.
- What the Code doesn't cover.
- What wouldn't be something that could be a complaint.
- The bodies that deal with issues under the Councillors' Code, and what they do.
- How to make a complaint.
- What happens to a complaint and how it is decided.
- What happens if a complaint is upheld.

3. What does the Councillors' Code cover?

3.1 The Councillors' Code of Conduct came into effect in 2003. Since then, it has been updated. There is also Guidance, and Advice Notes on particular parts of the Code. You can find all of these on the Standards Commission's website at:

<https://www.standardscommissionscotland.org.uk/>.

3.2 By law, councillors in Scotland have to follow the terms of the Councillors' Code. If they are found to have breached the Code's rules, the Standards Commission can:

- Censure them (give them a formal warning).
- Suspend them from some or all of their duties as a councillor for a period of time.
- In extreme cases, disqualify them from being a councillor.

3.3 The Code has 7 sections:

- An introduction
- The Key Principles
- General conduct
- Registration of Interests
- Declaration of Interests
- Lobbying and access to councillors
- Taking decisions on certain types of application

3.4 This advice isn't intended to be a complete guide to Code's wording. Instead, it sets out some of the most important points to bear in mind if you are concerned about how an individual councillor has acted.

4. Section 2: Key Principles

4.1 The Code has nine basic principles that guide how a councillor should behave. These are:

- Duty

- Selflessness
- Integrity
- Objectivity
- Accountability and Stewardship
- Openness
- Honesty
- Leadership
- Respect

4.2 The key principles are included for guidance and to help with the interpretation of the Code's Rules. However, the Standards Commission can't take action on a breach of a key principles alone, without a breach of any of the rest of the Code.

5. Section 3: General Conduct

5.1 Councillors, in their role as a councillor, are expected to behave respectfully towards other people. That includes fellow councillors, council employees, or members of the public. Bullying or harassment would be a breach of the Code. Councillors can ask for information on a constituent's behalf. They can tell Council officers of their constituent's views, or help them make their views known to the relevant Council officer. However, they cannot pressure officers to overturn a Council decision (for example, on the allocation of Council housing).

5.2 There are rules about what payment for work, and what gifts and hospitality councillors can accept. Although they can accept some gifts, for example, tickets to a local sporting event, they have to declare it in their Register of Interests (see below). This is to stop people or organisations from giving councillors gifts or hospitality in secret to try to influence the decisions they make.

5.3 Constituents, or council staff, often tell councillors things in confidence or give them information that is not to be made public

at that time. The Code says a councillor should keep such things confidential - even if they think it should be made public.

5.4 Councillors can only use council facilities for their role as councillor. This includes such things as computer equipment, or typing services. They should not use such facilities for their own personal interests (unless their Council has allowed them to do so), or for political messages or campaigning.

5.5 Councils often appoint councillors to partner organisations. If they do, the councillors need to look out for and manage conflicts of interest between that organisation and the Council.

5.6 In general, councillors are not bound by the Code in their private life. It's only when they're acting as councillors that the rules of the Code apply. However, when they deal with the Council as members of the public (for example if they are seeking planning permission for their own house), they should not look for any special treatment.

6. Section 4: Registration of Interest

6.1 Each council has to maintain a Register of Interests for all its councillors. It's each councillor's responsibility to update it with any interests that might affect their role as a councillor. The Council publishes the Register, which is split into 8 sections:

- Remuneration – what jobs councillors have, or any other sources of income.
- Related Undertakings – this is where a councillor is a director of certain types of company.
- Contracts – where a councillor has a business relationship with the Council through a contract.
- Election expenses – this covers donations above £50 to a councillor's election expenses, including in the year before election.

- Houses, Land and Buildings – a councillor’s property interests in Scotland.
- Interest in Shares and Securities – any investments the councillor holds, above a certain level.
- Gifts and Hospitality – any gifts or hospitality the councillor has accepted.
- Non-financial interests – this covers things like membership of clubs, societies, or other organisations like trade unions.

7. Section 5: Declaration of Interests

- 7.1 Councillors, like anyone else in public life, will have many interests. They will also have connections to other people and organisations. What is important for the Code is that any conflicts of interest should be declared publicly, and that the councillor does not take part in a decision where an interest could be seen to influence them.
- 7.2 The Code asks councillors in this situation to apply the ‘objective test’ to their situation. The test 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 [their] discussion or decision making in [their] role as a councillor.*
- 7.3 This is often a difficult decision for a councillor. The Code asks them to ‘err on the side of caution,’ and to ask for advice from council officers if they’re unsure.
- 7.4 Certain interests – where a councillor has a financial stake in the decision, for example, or their spouse’s employment will be affected by it – will clearly be situations where the councillor should declare an interest and withdraw from the meeting while the decision is taken.

7.5 On the other hand, there are some situations where they should declare the interest, but can still take part in the decision. An example would be where a councillor has been appointed to another organisation by the Council, and they will not gain anything personally from the decision.

8. Section 6: Lobbying and Access to Councillors

8.1 It's part of a councillor's duties to be open to all views, and for anyone – members of the public or organisations – to be able to have access to them. This means that they can be lobbied by people with a particular interest. This will often be on things like planning or licensing applications.

8.2 The Code recognises that councillors will be lobbied. If councillors want to take part in the decision that they are being lobbied on, however, they should not indicate whether they support the point of view being made to them or not. They should only make up their minds on matters such as planning and licensing applications when they have heard all the arguments. That's when they have all the facts presented to them at the committee that is making the decision.

8.3 The fact that councillors should provide access to all does not mean that they always have to answer all correspondence or telephone calls from a member of the public, particularly if they are unable to help or have already directed the member of the public towards the appropriate council officer who can help.

9. Section 7: Taking Decisions on Quasi-Judicial or Regulatory Applications

9.1 Section 7 goes into more detail about planning, licensing and other applications that the council has to decide. Decisions like this will often affect individuals so it is especially important that

councillors are seen to be giving applicants a fair hearing. An example would be a taxi driver applying for renewal of his licence.

9.2 Although Section 7 covers all such applications, there is a focus on planning matters. Councillors come into contact with planning decisions in various ways – if they sit on a planning committee, for example.

9.3 Any interests a councillor has in relation to such applications should be declared at the meeting. Having declared the interest, the councillor should leave the room while the application is discussed and the decision taken.

10. The Councillors' Code of Conduct, and which bodies are involved in dealing with breaches of it.

10.1 There are two bodies involved in dealing with breaches of the Code. The Commissioner for Ethical Standards in Scotland, (the 'Ethical Standards Commissioner') receives complaints from members of the public and decides whether the complaint shows a councillor could have breached the Code. If so, the Ethical Standards Commissioner investigates the complaint and gathers evidence.

10.2 If the Ethical Standards Commissioner decides there is evidence of a possible breach of the Code, then she will take the case to the Standards Commission for Scotland ('the Standards Commission.')

It will then be for the Standards Commission to decide whether the councillor has breached the Code. If so, it decides what action should be taken.

11. How Do I Make A Complaint, and what will happen to it?

11.1 If you think a councillor has breached the Code of Conduct, you should make your complaint to the Ethical Standards

Commissioner via her website, below. You will normally be asked to fill in an online form. This will ask you what parts of the Code you think have been breached. Before making the complaint, you should look at the wording of the Code itself, and the more detailed Guidance (links below).

11.2 The Ethical Standards Commissioner's staff will guide you through the next steps in the process. It is possible that one of the Ethical Standards Commissioner's investigators will interview you.

12. If my complaint is successful, what will happen?

12.1 Once the Ethical Standards Commissioner has passed the complaint to the Standards Commission, it will decide whether to hold a Hearing on the complaint. If so, you may be asked to attend and may give evidence. Hearings are usually held in public at the headquarters of the Council in question.

12.2 After hearing the evidence, the Standards Commission will decide whether there has been a breach of the Code. If so, the Standards Commission will decide whether to censure the councillor, suspend them from some or all of their duties for a period of time (for example, to suspend them from sitting on the planning committee for a number of months); or disqualify them from sitting as a councillor.

13. More Information

Ethical Standards Commissioner's website:

<https://www.ethicalstandards.org.uk/>

Councillors' Code of Conduct:

<https://www.standardscommissionscotland.org.uk/codes-of-conduct/councillors-code-of-conduct>

Guidance on the Code:

<https://www.standardscommissionscotland.org.uk/guidance/guidance-notes>.