



INTEGRITY IN PUBLIC LIFE

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## MODEL CODE OF CONDUCT – ADVICE FOR MEMBERS OF THE PUBLIC

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### 1. What is the Model Code of Conduct and who does it cover?

- 1.1 Public bodies in Scotland are required to have a Code of Conduct for the individuals who serve on their boards. These individual Codes of Conduct are based on a Model Code of Conduct (Code), which is issued by the Scottish Ministers, with the approval of the Scottish Parliament.
- 1.2 The purpose of the Code is to set out the conduct expected of those individuals who serve on the boards of public bodies.
- 1.3 The categories of public bodies that are required to have a Code of Conduct for their board members, based on the Model Code of Conduct, are as follows:
  - National Health Service Boards, such as NHS Grampian;
  - Individual Public Bodies, such as the Crofting Commission, the Scottish Legal Aid Board, the Scottish Sports Council and Bòrd na Gàidhlig;
  - Further Education Colleges, such as Ayrshire College;
  - Regional Transport Partnerships, such as South East Scotland Transport Partnership; and
  - Health and Social Care Integration Joint Boards, such as Fife Health and Social Care Partnership.

### 2. Who is this advice for?

- 2.1 Members of the public, especially anyone thinking of making a complaint against a member of a public body.

### 3. What does this advice cover?

- 3.1 This advice covers:
  - The different sections of the Code and what they mean, in a user-friendly format;
  - What isn't covered by the Code and the complaints process;
  - Complaints about members breaching the Code; and
  - The Hearings process.

### 4. What does the Code cover?

- 4.1 The Code first came into effect in 2002. Since then, it has been updated, with the most recent version issued in 2021. There is 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/>.

- 4.2 Members of devolved public bodies have to follow the terms of the 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 member for a period of time; or
  - in serious cases, disqualify them from being a member of their public body and any other public body.
- 4.3 The Code has six sections:
- Introduction to the Code
  - Key Principles of the Code
  - General Conduct
  - Registration of Interests
  - Declaration of Interests
  - Lobbying and Access
- 4.4 This advice isn't intended to be a complete guide to Code. Instead, it sets out some of the most important points to bear in mind if you are concerned about how a member has behaved.

## 5. Section 1: Introduction to the Code

- 5.1 The introduction to the Code sets out the background to the Code and the law surrounding it. It also explains that members are only expected to abide by the Code when they are acting as, or could be seen to be acting as, a member. This means that it doesn't apply to a member's private life and their conduct or behaviour when they are acting in a purely private capacity.

## 6. Section 2: Key Principles of the Code

- 6.1 The Code is based on nine key principles that guide how members should behave. These are:
- Duty
  - Selflessness
  - Integrity
  - Objectivity
  - Accountability and Stewardship
  - Openness
  - Honesty
  - Leadership
  - Respect
- 6.2 These key principles are included for guidance and to help with the interpretation of the rest of the Code. However, the Standards Commission can't take action on a breach of a key principle alone, without a breach of a part of the rest of the Code.

## 7. Section 3: General Conduct

- 7.1 Members of public bodies are expected to behave respectfully towards other people. That includes fellow members, the public body's employees and members of the public. Bullying or harassment (including sexual harassment) would be a breach of the Code.
- 7.2 Members of public bodies can ask for information on a service user's behalf. They can let the public body's employees know the service user's views, or help the service user make their

views known to the relevant employee. However, they cannot pressure employees to overturn a public body's decision (for example, on the allocation of funds or the outcome of a complaint).

- 7.3 The Code only permits members of public bodies to accept gifts or hospitality in very limited circumstances. This is to stop people or organisations from giving them gifts or hospitality in secret to try to influence the decisions they make.
- 7.4 Employees of the public body often tell members things in confidence or give them information that is not to be made public at that time. The Code says that members should keep such information confidential - even if they think it should be made public.
- 7.5 Members can only use their public body's facilities to undertake their role as a member. This includes things like as IT equipment, email accounts and photocopying facilities. Members should not use such facilities for their own personal interests (unless their public body has allowed them to do so), or for political messages or campaigning.
- 7.6 Members are not allowed to take advantage or try to take advantage of their position or influence as a board member to obtain preferential treatment for themselves or their family or friends.
- 7.7 Members of public bodies are quite often on the board of more than one organisation. If a member is on the board of another organisation, they need to look out for and manage conflicts of interest between that organisation and the public body.

## 8. Section 4: Registration of Interests

- 8.1 Each public body has to maintain a Register of Interests for all its members. It's each member's responsibility to update the Register with any interests that might affect their role as a member. The public body publishes the Register, which is split into 9 sections:
  - Remuneration – what jobs they have, or any other sources of income.
  - Other Roles – this is where a member is a director of certain types of company.
  - Contracts – where a member, or a company they have a significant interest in, has a business relationship with the public body through a contract.
  - Election expenses – this only applies where a member has been elected (rather than appointed) to the public body. It covers donations of more than £50 to the member's election expenses.
  - Houses, Land and Buildings – a member's property interests in Scotland if these could be relevant to the work of the public body.
  - Interest in Shares and Securities – any investments the member holds, above a certain level.
  - Gifts and Hospitality – any gifts or hospitality the member has accepted under a previous version of the Code (as members are no longer allowed to accept gifts and hospitality, except in very limited circumstances, there is no longer a need for them to register any).
  - Non-financial interests – this covers things like membership of clubs, societies, or other organisations like trade unions.
  - Close Family Members – this covers close family members who might have business with the public body.

## 9. Section 5: Declaration of Interests

- 9.1 Members of public bodies, 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 member does not take part in discussing or making a decision on a matter where a personal interest they have could be seen to influence them.

9.2 The Code asks members to apply the ‘objective test’ to their situation when deciding whether or not they need to declare an interest. The test is: *whether a member of the public, with knowledge of the relevant facts, would reasonably regard [a member’s] connection to a particular matter as being so significant that it would be considered as being likely to influence the discussion or decision making.*

9.3 This is often a difficult decision for a member. The Code states that members should ask for advice from the public body’s employees if they’re unsure.

9.4 An example of an interest that would need to be declared is where a member has a financial stake in a decision being made by the public body, for instance, or where their spouse’s employment could be affected by the decision. In such situations, the member should declare an interest and withdraw from the meeting while the matter is discussed and any decision is being made.

## 10. Section 6: Lobbying and Access

10.1 Members of public bodies are expected 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 the work the public body is undertaking and funding applications.

10.2 However, members should not indicate whether they support the point of view being made to them or not, if they then want to take part in the decision that they are being lobbied on. They should only make up their minds on when they have heard all the arguments. That’s when they have all the facts presented to them at the board or committee meeting where the decision is made.

10.3 The fact that members should provide access to all does not mean that they always have to answer all correspondence or telephone calls from a service user, particularly if they are unable to help or have already directed the service user towards the appropriate public body employee who can help.

## 11. What isn’t covered by the Code and the complaints process

11.1 The Code does not require members to respond to all correspondence and does not restrict them from holding political views. The Code does not prevent members from making enquiries on behalf of a service about a service the public body has provided or a decision it has taken. It does not prevent members from helping service users make their views known to the relevant employee.

11.2 Certain matters are not covered by the complaint process, such as:

- complaints about decisions members have made (unless they have made the decision in an unfair way or not in accordance with their public body’s policy / rules);
- complaints about services provided by the public body;
- complaints about any decisions made by the public body (such as funding decisions);
- the performance of members, such as how many contributions they make at board meetings or how often they engage with service users;

- general complaints about the public body as a whole; and
- complaints about the public body's employees.

11.3 More information about how to complain about these matters can be found on the complaints section of the relevant public body's website.

## 12. Complaints about members breaching the Code

12.1 There are two bodies involved in dealing with complaints about breaches of the Code - the Ethical Standards Commissioner (ESC) and the Standards Commission.

12.2 Anyone can make a complaint to the ESC. If you think a member has breached the Code, you should make your complaint to the ESC via its website: <https://www.ethicalstandards.org.uk/>. You will be asked to identify which 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 Standards Commission's Guidance and Advice Notes <https://www.standardscommissionscotland.org.uk/>.

12.3 Upon receipt of a complaint, the ESC will investigate and gather evidence. The ESC's staff will guide you through the process. It is possible that one of the ESC's investigators will interview you.

## 13. The Hearings process

13.1 When the ESC has completed its investigation, it will pass an investigation report to the Standards Commission. It will then be for the Standards Commission to decide whether to hold a Hearing on the complaint.

13.2 If the Standards Commission decides to hold a Hearing, you may be asked to attend and may give evidence. Hearings are usually held in public.

13.3 The purpose of a Hearing is to determine whether the member has breached the Code. After hearing all relevant evidence, the Standards Commission will decide whether there has been a breach of the Code. If a breach of the Code is found, the Standards Commission will decide whether to censure the member, suspend them from some or all of their duties for a period of time, or disqualify them from sitting as a member.