



**CROFTING COMMISSION
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CROFTING COMMISSION MODEL CODE OF CONDUCT

VERSION 2

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SECTION 1: INTRODUCTION TO THE MODEL CODE OF CONDUCT

1.1 This Code has been issued by the Scottish Ministers, with the approval of the Scottish Parliament, as required by the [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(the “Act”\)](#).

1.2 The purpose of the Code is to set out the conduct expected of those who serve on the boards of public bodies in Scotland.

1.3 The Code has been developed in line with the nine key principles of public life in Scotland. The principles are listed in [Section 2](#) and set out how the provisions of the Code should be interpreted and applied in practice.

My Responsibilities

1.4 I understand that the public has a high expectation of those who serve on the boards of public bodies and the way in which they should conduct themselves in undertaking their duties. I will always seek to meet those expectations by ensuring that I conduct myself in accordance with the Code.

1.5 I will comply with the substantive provisions of this Code, being sections 3 to 6 inclusive, in all situations and at all times where I am acting as a board member of my public body, have referred to myself as a board member or could objectively be considered to be acting as a board member.

1.6 I will comply with the substantive provisions of this Code, being sections 3 to 6 inclusive, in all my dealings with the public, employees and fellow board members, whether formal or informal.

1.7 I understand that it is my personal responsibility to be familiar with the provisions of this Code and that I must also comply with the law and my public body’s rules, standing orders and regulations. I will also ensure that I am familiar with any guidance or advice notes issued by the Standards Commission for Scotland (“Standards Commission”) and my public body, and endeavour to take part in any training offered on the Code.

1.8 I will not, at any time, advocate or encourage any action contrary to this Code.

1.9 I understand that no written information, whether in the Code itself or the associated Guidance or Advice Notes issued by the Standards Commission, can provide for all circumstances. If I am uncertain about how the Code applies, I will seek advice from the Standards Officer of my public body, failing whom the Chair or Chief Executive of my public body. I note that I may also choose to seek external legal advice on how to interpret the provisions of the Code.

Enforcement

1.10 [Part 2 of the Act](#) sets out the provisions for dealing with alleged breaches of the Code, including the sanctions that can be applied if the Standards Commission finds that there has been a breach of the Code. More information on how complaints are dealt with and the sanctions available can be found at [Annex A](#).

SECTION 2: KEY PRINCIPLES OF THE MODEL CODE OF CONDUCT

2.1 The Code has been based on the following key principles of public life. I will behave in accordance with these principles and understand that they should be used for guidance and interpreting the provisions in the Code.

2.2 I note that a breach of one or more of the key principles does not in itself amount to a breach of the Code. I note that, for a breach of the Code to be found, there must also be a contravention of one or more of the provisions in sections 3 to 6 inclusive of the Code.

The key principles are:

Duty

I have a duty to uphold the law and act in accordance with the law and the public trust placed in me. I have a duty to act in the interests of the public body of which I am a member and in accordance with the core functions and duties of that body.

Selflessness

I have a duty to take decisions solely in terms of public interest. I must not act in order to gain financial or other material benefit for myself, family or friends.

Integrity

I must not place myself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence me in the performance of my duties.

Objectivity

I must make decisions solely on merit and in a way that is consistent with the functions of my public body when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

Accountability and Stewardship

I am accountable to the public for my decisions and actions. I have a duty to consider issues on their merits, taking account of the views of others and I must ensure that my public body uses its resources prudently and in accordance with the law.

Openness

I have a duty to be as open as possible about my decisions and actions, giving reasons for my decisions and restricting information only when the wider public interest clearly demands.

Honesty

I have a duty to act honestly. I must declare any private interests relating to my public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

I have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of my public body and its members in conducting public business.

Respect

I must respect all other board members and all employees of my public body and the role they play, treating them with courtesy at all times. Similarly, I must respect members of the public when performing my duties as a board member.

SECTION 3: GENERAL CONDUCT

Respect and Courtesy

3.1 I will treat everyone with courtesy and respect. This includes in person, in writing, at meetings, when I am online and when I am using social media.

3.2 I will not discriminate unlawfully on the basis of race, age, sex, sexual orientation, gender reassignment, disability, religion or belief, marital status or pregnancy/maternity; I will advance equality of opportunity and seek to foster good relations between different people.

3.3 I will not engage in any conduct that could amount to bullying or harassment (which includes sexual harassment). I accept that such conduct is completely unacceptable and will be considered to be a breach of this Code.

3.4 I accept that disrespect, bullying and harassment can be:

- a) a one-off incident,
- b) part of a cumulative course of conduct; or
- c) a pattern of behaviour.

3.5 I understand that how, and in what context, I exhibit certain behaviours can be as important as what I communicate, given that disrespect, bullying and harassment can be physical, verbal and non-verbal conduct.

3.6 I accept that it is my responsibility to understand what constitutes bullying and harassment and I will utilise resources, including the Standards Commission's guidance and advice notes, my public body's policies and training material (where appropriate) to ensure that my knowledge and understanding is up to date.

3.7 Except where it is written into my role as Board member, and / or at the invitation of the Chief Executive, I will not become involved in operational management of my public body. I acknowledge and understand that operational management is the responsibility of the Chief Executive and Executive Team.

3.8 I will not undermine any individual employee or group of employees, or raise concerns about their performance, conduct or capability in public. I will raise any concerns I have on such matters in private with senior management as appropriate.

3.9 I will not take, or seek to take, unfair advantage of my position in my dealings with employees of my public body or bring any undue influence to bear on employees to take a certain action. I will not ask or direct employees to do something which I know, or should reasonably know, could compromise them or prevent them from undertaking their duties properly and appropriately.

3.10 I will respect and comply with rulings from the Chair during meetings of:

- a) my public body, its committees; and
- b) any outside organisations that I have been appointed or nominated to by my public body or on which I represent my public body.

3.11 I will respect the principle of collective decision-making and corporate responsibility. This means that once the Board has made a decision, I will support that decision, even if I did not agree with it or vote for it.

Remuneration, Allowances and Expenses

3.12 I will comply with the rules, and the policies of my public body, on the payment of remuneration, allowances and expenses.

Gifts and Hospitality

3.13 I understand that I may be offered gifts (including money raised via crowdfunding or sponsorship), hospitality, material benefits or services (“gift or hospitality”) that may be reasonably regarded by a member of the public with knowledge of the relevant facts as placing me under an improper obligation or being capable of influencing my judgement.

3.14 I will never ask for or seek any gift or hospitality.

3.15 I will refuse any gift or hospitality, unless it is:

- a) a minor item or token of modest intrinsic value offered on an infrequent basis;
- b) a gift being offered to my public body;
- c) hospitality which would reasonably be associated with my duties as a board member; or
- d) hospitality which has been approved in advance by my public body.

3.16 I will consider whether there could be a reasonable perception that any gift or hospitality received by a person or body connected to me could or would influence my judgement.

3.17 I will not allow the promise of money or other financial advantage to induce me to act improperly in my role as a board member. I accept that the money or advantage (including any gift or hospitality) does not have to be given to me directly. The offer of monies or advantages to others, including community groups, may amount to bribery, if the intention is to induce me to improperly perform a function.

3.18 I will never accept any gift or hospitality from any individual or applicant who is awaiting a decision from, or seeking to do business with, my public body.

3.19 If I consider that declining an offer of a gift would cause offence, I will accept it and hand it over to my public body at the earliest possible opportunity and ask for it to be registered.

3.20 I will promptly advise my public body’s Standards Officer if I am offered (but refuse) any gift or hospitality of any significant value and / or if I am offered any gift or hospitality from the same source on a repeated basis, so that my public body can monitor this.

3.21 I will familiarise myself with the terms of the [Bribery Act 2010](#), which provides for offences of bribing another person and offences relating to being bribed.

Confidentiality

3.22 I will not disclose confidential information or information which should reasonably be regarded as being of a confidential or private nature, without the express consent of a person or body authorised to give such consent, or unless required to do so by law. I note that if I cannot obtain such express consent, I should assume it is not given.

3.23 I accept that confidential information can include discussions, documents, and information which is not yet public or never intended to be public, and information deemed confidential by statute.

3.24 I will only use confidential information to undertake my duties as a board member. I will not use it in any way for personal advantage or to discredit my public body (even if my personal view is that the information should be publicly available).

3.25 I note that these confidentiality requirements do not apply to protected whistleblowing disclosures made to the prescribed persons and bodies as identified in statute.

Use of Public Body Resources

3.26 I will only use my public body's resources, including employee assistance, facilities, stationery and IT equipment, for carrying out duties on behalf of the public body, in accordance with its relevant policies.

3.27 I will not use, or in any way enable others to use, my public body's resources:

- a) imprudently (without thinking about the implications or consequences);
- b) unlawfully;
- c) for any political activities or matters relating to these; or
- d) improperly.

Dealing with my Public Body and Preferential Treatment

3.28 I will not use, or attempt to use, my position or influence as a board member to:

- a) improperly confer on or secure for myself, or others, an advantage;
- b) avoid a disadvantage for myself, or create a disadvantage for others or
- c) improperly seek preferential treatment or access for myself or others.

3.29 I will avoid any action which could lead members of the public to believe that preferential treatment or access is being sought.

3.30 I will advise employees of any connection, as defined at [Section 5](#), I may have to a matter, when seeking information or advice or responding to a request for information or advice from them.

Appointments to Outside Organisations

3.31 If I am appointed, or nominated by my public body, as a member of another body or organisation, I will abide by the rules of conduct and will act in the best interests of that body or organisation while acting as a member of it. I will also continue to observe the rules of this Code when carrying out the duties of that body or organisation.

3.32 I accept that if I am a director or trustee (or equivalent) of a company or a charity, I will be responsible for identifying, and taking advice on, any conflicts of interest that may arise between the company or charity and my public body.

SECTION 4: REGISTRATION OF INTERESTS

4.1 The following paragraphs set out what I have to register when I am appointed and whenever my circumstances change. The register covers my current term of appointment.

4.2 I understand that regulations made by the Scottish Ministers describe the detail and timescale for registering interests; including a requirement that a board member must register their registrable interests within one month of becoming a board member, and register any changes to those interests within one month of those changes having occurred.

4.3 The interests which I am required to register are those set out in the following paragraphs. Other than as required by paragraph 4.23, I understand it is not necessary to register the interests of my spouse or cohabitee.

Category One: Remuneration

4.4 I will register any work for which I receive, or expect to receive, payment. I have a registrable interest where I receive remuneration by virtue of being:

- a) employed;
- b) self-employed;
- c) the holder of an office;
- d) a director of an undertaking;
- e) a partner in a firm;
- f) appointed or nominated by my public body to another body; or
- g) engaged in a trade, profession or vocation or any other work.

4.5 I understand that in relation to 4.4 above, the amount of remuneration does not require to be registered. I understand that any remuneration received as a board member of this specific public body does not have to be registered.

4.6 I understand that if a position is not remunerated it does not need to be registered under this category. However, unremunerated directorships may need to be registered under Category Two, "Other Roles".

4.7 I must register any allowances I receive in relation to membership of any organisation under Category One.

4.8 When registering employment as an employee, I must give the full name of the employer, the nature of its business, and the nature of the post I hold in the organisation.

4.9 When registering remuneration from the categories listed in paragraph 4.4 (b) to (g) above, I must provide the full name and give details of the nature of the business, organisation, undertaking, partnership or other body, as appropriate. I recognise that some other employments may be incompatible with my role as board member of my public body in terms of paragraph [6.7](#) of this Code. Where I otherwise undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and how often it is undertaken.

4.10 When registering a directorship, it is necessary to provide the registered name and registered number of the undertaking in which the directorship is held and provide information about the nature of its business.

4.11 I understand that registration of a pension is not required as this falls outside the scope of the category.

Category Two: Other Roles

4.12 I will register any unremunerated directorships where the body in question is a subsidiary or parent company of an undertaking in which I hold a remunerated directorship.

4.13 I will register the registered name and registered number of the subsidiary or parent company or other undertaking and the nature of its business, and its relationship to the company or other undertaking in which I am a director and from which I receive remuneration.

Category Three: Contracts

4.14 I have a registerable interest where I (or a firm in which I am a partner, or an undertaking in which I am a director or in which I have shares of a value as described in paragraph 4.20 below) have made a contract with my public body:

- a) under which goods or services are to be provided, or works are to be executed; and
- b) which has not been fully discharged.

4.15 I will register a description of the contract, including its duration, but excluding the value.

Category Four: Election Expenses

4.16 If I have been elected to my public body, then I will register a description of, and statement of, any assistance towards election expenses relating to election to my public body.

Category Five: Houses, Land and Buildings

4.17 I have a registrable interest where I own or have any other right or interest in houses, land and buildings, which may be significant to, of relevance to, or bear upon, the work and operation of my public body.

4.18 I accept that, when deciding whether or not I need to register any interest I have in houses, land or buildings, the test to be applied is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as being so significant that it could potentially affect my responsibilities to my public body and to the public, or could influence my actions, speeches or decision-making.

Category Six: Interest in Shares and Securities

4.19 I have a registerable interest where:

- a) I own or have an interest in more than 1% of the issued share capital of the company or other body; or
- b) Where, at the relevant date, the market value of any shares and securities (in any one specific company or body) that I own or have an interest in is greater than £25,000.

Category Seven: Gifts and Hospitality

4.20 I understand the requirements of paragraphs [3.13 to 3.21](#) regarding gifts and hospitality. As I will not accept any gifts or hospitality, other than under the limited circumstances allowed, I understand there is no longer the need to register any.

Category Eight: Non-Financial Interests

4.21 I may also have other interests and I understand it is equally important that relevant interests such as membership or holding office in other public bodies, companies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described. In this context, I understand non-financial interests are those which members of the public with knowledge of the relevant facts might reasonably think could influence my actions, speeches, votes or decision-making in my public body (this includes its Committees and memberships of other organisations to which I have been appointed or nominated by my public body).

Category Nine: Close Family Members

4.22 I will register the interests of any close family member who has transactions with my public body or is likely to have transactions or do business with it.

SECTION 5: DECLARATION OF INTERESTS

Stage 1: Connection

5.1 For each particular matter I am involved in as a board member, I will first consider whether I have a connection to that matter.

5.2 I understand that a connection is any link between the matter being considered and me, or a person or body I am associated with. This could be a family relationship or a social or professional contact.

5.3 A connection includes anything that I have registered as an interest.

5.4 A connection does not include being a member of a body to which I have been appointed or nominated by my public body as a representative of my public body, unless:

- a) The matter being considered by my public body is quasi-judicial or regulatory; or
- b) I have a personal conflict by reason of my actions, my connections or my legal obligations.

Stage 2: Interest

5.5 I understand my connection is an interest that requires to be declared where the objective test is met – that is where a member of the public with knowledge of the relevant facts would reasonably regard my connection to a particular matter as being so significant that it would be considered as being likely to influence the discussion or decision-making.

Stage 3: Participation

5.6 I will declare my interest as early as possible in meetings. I will not remain in the meeting nor participate in any way in those parts of meetings where I have declared an interest.

5.7 I will consider whether it is appropriate for transparency reasons to state publicly where I have a connection, which I do not consider amounts to an interest.

5.8 I note that I can apply to the Standards Commission and ask it to grant a dispensation to allow me to take part in the discussion and decision-making on a matter where I would otherwise have to declare an interest and withdraw (as a result of having a connection to the matter that would fall within the objective test). I note that such an application must be made in advance of any meetings where the dispensation is sought and that I cannot take part in any discussion or decision-making on the matter in question unless, and until, the application is granted.

5.9 I note that public confidence in a public body is damaged by the perception that decisions taken by that body are substantially influenced by factors other than the public interest. I will not accept a role or appointment if doing so means I will have to declare interests frequently at meetings in respect of my role as a board member. Similarly, if any appointment or nomination to another body would give rise to objective concern because of my existing personal involvement or affiliations, I will not accept the appointment or nomination.

SECTION 6: LOBBYING AND ACCESS

6.1 I understand that a wide range of people will seek access to me as a board member and will try to lobby me, including individuals, organisations and companies. I must distinguish between:

- a) any role I have in dealing with enquiries from the public;
- b) any community engagement where I am working with individuals and organisations to encourage their participation and involvement, and;
- c) lobbying, which is where I am approached by any individual or organisation who is seeking to influence me for financial gain or advantage, particularly those who are seeking to do business with my public body (for example contracts/procurement).

6.2 In deciding whether, and if so how, to respond to such lobbying, I will always have regard to the objective test, which is whether a member of the public, with knowledge of the relevant facts, would reasonably regard my conduct as being likely to influence my, or my public body's, decision-making role.

6.3 I will not, in relation to contact with any person or organisation that lobbies, do anything which contravenes this Code or any other relevant rule of my public body or any statutory provision.

6.4 I will not, in relation to contact with any person or organisation that lobbies, act in any way which could bring discredit upon my public body.

6.5 If I have concerns about the approach or methods used by any person or organisation in their contacts with me, I will seek the guidance of the Chair, Chief Executive or Standards Officer of my public body.

6.6 The public must be assured that no person or organisation will gain better access to, or treatment by, me as a result of employing a company or individual to lobby on a fee basis on their behalf. I will not, therefore, offer or accord any preferential access or treatment to those lobbying on a fee basis on behalf of clients compared with that which I accord any other person or organisation who lobbies or approaches me. I will ensure that those lobbying on a fee basis on behalf of clients are not given to understand that preferential access or treatment, compared to that accorded to any other person or organisation, might be forthcoming.

6.7 Before taking any action as a result of being lobbied, I will seek to satisfy myself about the identity of the person or organisation that is lobbying and the motive for lobbying. I understand I may choose to act in response to a person or organisation lobbying on a fee basis on behalf of clients but it is important that I understand the basis on which I am being lobbied in order to ensure that any action taken in connection with the lobbyist complies with the standards set out in this Code and the [Lobbying \(Scotland\) Act 2016](#).

6.8 I will not accept any paid work:

- a) which would involve me lobbying on behalf of any person or organisation or any clients of a person or organisation.
- b) to provide services as a strategist, adviser or consultant, for example, advising on how to influence my public body and its members. This does not prohibit me from being remunerated for activity which may arise because of, or relate to, membership of my public body, such as journalism or broadcasting, or involvement in representative or presentational work, such as participation in delegations, conferences or other events.

ANNEX A

BREACHES OF THE CODE

Introduction

1. [The Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#) (“the Act”) provided for a framework to encourage and, where necessary, enforce high ethical standards in public life.
2. The Act provided for the introduction of new codes of conduct for local authority councillors and members of relevant public bodies, imposing on councils and relevant public bodies a duty to help their members comply with the relevant code.
3. The Act and the subsequent Scottish Parliamentary Commissions and Commissioners etc. Act 2010 established the [Standards Commission for Scotland](#) (“Standards Commission”) and the post of [Commissioner for Ethical Standards in Public Life in Scotland](#) (“ESC”).
4. The Standards Commission and ESC are separate and independent, each with distinct functions. Complaints of breaches of a public body’s Code of Conduct are investigated by the ESC and adjudicated upon by the Standards Commission.
5. The first Model Code of Conduct came into force in 2002. The Code has since been reviewed and re-issued in 2014. The 2021 Code has been issued by the Scottish Ministers following consultation, and with the approval of the Scottish Parliament, as required by the Act.

Investigation of Complaints

6. The ESC is responsible for investigating complaints about members of devolved public bodies. It is not, however, mandatory to report a complaint about a potential breach of the Code to the ESC. It may be more appropriate in some circumstances for attempts to be made to resolve the matter informally at a local level.
7. On conclusion of the investigation, the ESC will send a report to the Standards Commission.

Hearings

8. On receipt of a report from the ESC, the Standards Commission can choose to:
 - Do nothing;
 - Direct the ESC to carry out further investigations; or
 - Hold a Hearing.
9. Hearings are held (usually in public) to determine whether the member concerned has breached their public body’s Code of Conduct. The Hearing Panel comprises of three members of the Standards Commission. The ESC will present evidence and/or make submissions at the Hearing about the investigation and any conclusions as to whether the member has contravened the Code. The member is entitled to attend or be represented at the Hearing and can also present evidence and make submissions.

Both parties can call witnesses. Once it has heard all the evidence and submissions, the Hearing Panel will make a determination about whether or not it is satisfied, on the balance of probabilities, that there has been a contravention of the Code by the member. If the Hearing Panel decides that a member has breached their public body's Code, it is obliged to impose a sanction.

Sanctions

10. The sanctions that can be imposed following a finding of a breach of the Code are as follows:
 - **Censure:** A censure is a formal record of the Standards Commission's severe and public disapproval of the member concerned.
 - **Suspension:** This can be a full or partial suspension (for up to one year). A full suspension means that the member is suspended from attending all meetings of the public body. Partial suspension means that the member is suspended from attending some of the meetings of the public body. The Commission can direct that any remuneration or allowance the member receives as a result of their membership of the public body be reduced or not paid during a period of suspension.
 - **Disqualification:** Disqualification means that the member is removed from membership of the body and disqualified (for a period not exceeding five years), from membership of the body. Where a member is also a member of another devolved public body (as defined in the Act), the Commission may also remove or disqualify that person in respect of that membership. Full details of the sanctions are set out in section 19 of the Act.

Interim Suspensions

11. Section 21 of the Act provides the Standards Commission with the power to impose an interim suspension on a member on receipt of an interim report from the ESC about an ongoing investigation. In making a decision about whether or not to impose an interim suspension, a Panel comprising of three Members of the Standards Commission will review the interim report and any representations received from the member and will consider whether it is satisfied:
 - That the further conduct of the ESC's investigation is likely to be prejudiced if such an action is not taken (for example if there are concerns that the member may try to interfere with evidence or witnesses); or
 - That it is otherwise in the public interest to take such a measure. A policy outlining how the Standards Commission makes any decision under Section 21 and the procedures it will follow in doing so, should any such a report be received from the ESC can be found [here](#).
12. The decision to impose an interim suspension is not, and should not be seen as, a finding on the merits of any complaint or the validity of any allegations against a member of a devolved public body, nor should it be viewed as a disciplinary measure.

ANNEX B

DEFINITIONS

"Bullying" is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted.

"Chair" includes Board Convener or any other individual discharging a similar function to that of a Chair or Convener under alternative decision-making structures.

"Code" is the code of conduct for members of your devolved public body, which is based on the Model Code of Conduct for members of devolved public bodies in Scotland.

"Cohabitee" includes any person who is living with you in a relationship similar to that of a partner, civil partner, or spouse.

"Confidential Information" includes:

- any information passed on to the public body by a Government department (even if it is not clearly marked as confidential) which does not allow the disclosure of that information to the public;
- information of which the law prohibits disclosure (under statute or by the order of a Court);
- any legal advice provided to the public body; or
- any other information which would reasonably be considered a breach of confidence should it be made public.

"Election expenses" means expenses incurred, whether before, during or after the election, on account of, or in respect of, the conduct or management of the election.

"Employee" includes individuals employed:

- directly by the public body;
- as contractors by the public body, or
- by a contractor to work on the public body's premises.

"Gifts" a gift can include any item or service received free of charge, or which may be offered or promised at a discounted rate or on terms not available to the general public. Gifts include benefits such as relief from indebtedness, loan concessions, or provision of property, services or facilities at a cost below that generally charged to members of the public. It can also include gifts received directly or gifts received by any company in which the recipient holds a controlling interest in, or by a partnership of which the recipient is a partner.

"Harassment" is any unwelcome behaviour or conduct which makes someone feel offended, humiliated, intimidated, frightened and / or uncomfortable. Harassment can be experienced directly or indirectly and can occur as an isolated incident or as a course of persistent behaviour.

"Hospitality" includes the offer or promise of food, drink, accommodation, entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public.

“Relevant Date” Where a board member had an interest in shares at the date on which the member was appointed as a member, the relevant date is – (a) that date; and (b) the 5th April immediately following that date and in each succeeding year, where the interest is retained on that 5th April.

“Public body” means a devolved public body listed in Schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, as amended.

“Remuneration” includes any salary, wage, share of profits, fee, other monetary benefit or benefit in kind.

“Securities” a security is a certificate or other financial instrument that has monetary value and can be traded. Securities includes equity and debt securities, such as stocks bonds and debentures.

“Undertaking” means:

- a) a body corporate or partnership; or
- b) an unincorporated association carrying on a trade or business, with or without a view to a profit

ANNEX C – SUMMARY ADVICE NOTE

THE APPLICATION OF ARTICLE 10 ECHR FOR MEMBERS OF DEVOLVED PUBLIC BODIES

1. Introduction

- 1.1 This Advice Note aims to provide a short summary of a member’s right to freedom of expression under Article 10 of the European Convention on Human Rights (Article 10). A more detailed Advice Note for Members on the Application of Article 10 can be found at:
<https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>
- 1.2 This Advice Note should be read in conjunction with the Model Code of Conduct (Model Code), which can be found on the Standards Commission’s website at:
<https://www.standardscommissionscotland.org.uk/codes-of-conduct>
- 1.3 The Standards Commission has also produced a general Guidance document on the Model Code, which can be found on the Standards Commission’s website at:
<https://www.standardscommissionscotland.org.uk/guidance/guidance-notes>

2. General Principles

- 2.1 An individual’s right to freedom of expression is protected by Article 10. Freedom of expression is a general term covering a person’s right to hold opinions, or to receive or share information or ideas.
- 2.2 The right to freedom of expression under by Article 10 is, however, qualified. Article 10(2) notes that public authorities, such as the Standards Commission, may restrict this right if they can show that their action is lawful, necessary and proportionate in certain circumstances. These include:
 - to protect the rights and reputations of other people (it may be necessary, for example, to protect employees from offensive and abusive verbal attacks that prevent them from performing their duties);
 - to prevent the disclosure of confidential information; and
 - if the views expressed encourage racial or religious hatred.
- 2.3 An example of a restriction would be a finding of a breach of a Code of Conduct and imposition of a sanction (being a censure, suspension, or disqualification).
- 2.4 There is little scope under Article 10(2) for restrictions on political speech or on debate on questions of public interest. In this context, a “degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive” that would not be acceptable outside that context, can be tolerated.
- 2.5 Public servants are subject to wider levels of acceptable criticism than other members of the public when matters of public concern are being discussed. However, the limits are not as wide as they are for elected politicians. It may be necessary, for example, to protect employees from offensive and abusive verbal attacks as it is in the public interest that employees are not subjected to unwarranted comments that prevent them from performing their duties.

3. The Standards Commission's Approach

3.1 The Standards Commission will consider whether Article 10 when might afford protection when deciding whether it is in the public interest and proportionate to hold a Hearing, in respect of any cases alleging a breach of the respect, courtesy, bullying and harassment or confidentiality provisions in the Code.

3.2 In determining at Hearings whether there has been a breach of the Code in such cases, the Standards Commission will take a three-stage approach (as outlined in the diagram below) and consider:

- 1) Whether, on the face of it, the Code has been breached.
- 2) If so, whether such a finding could be a breach of the Respondent's right to freedom of expression under Article 10.
- 3) If so, whether the restriction involved by the finding is justified by Article 10(2). It should be noted that a restriction may still be justified, even if the Respondent enjoys an enhanced right to freedom of expression.

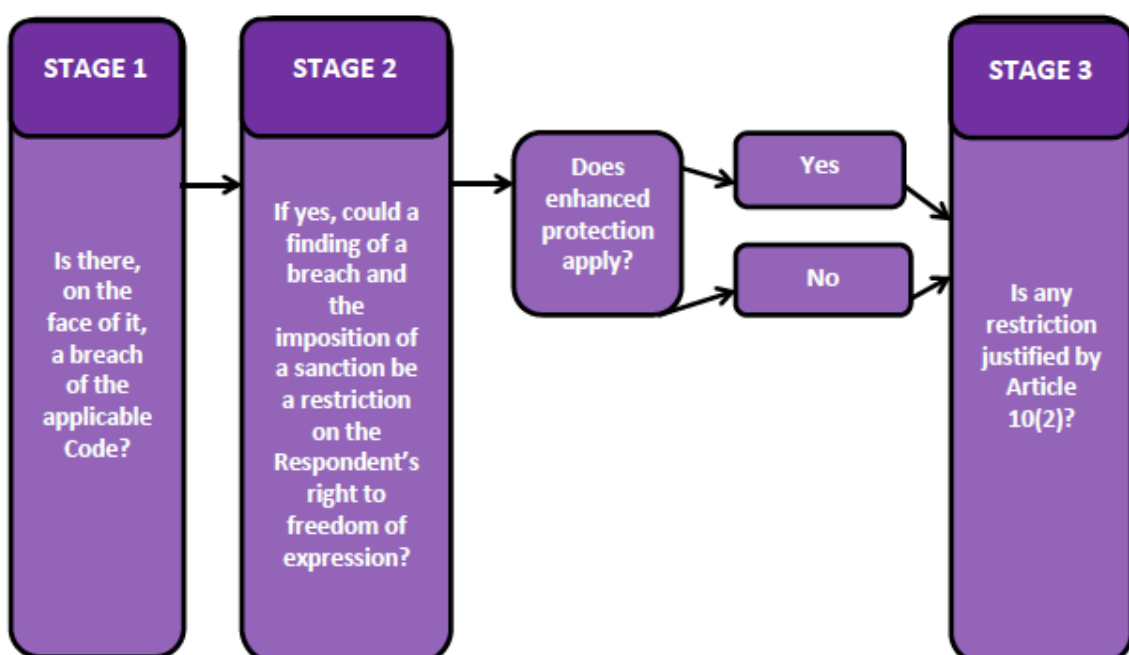
3.3 While all members enjoy the right to freedom of expression, they are required by their Code to behave with courtesy and respect at all times when they are acting as a member or when they could reasonably be regarded as acting as such. Members should, therefore, consider both what they are expressing and the way they are expressing it. They should be able to:

- undertake their scrutiny role;
- interact with any service users and stakeholders; and
- make their views known

in a respectful, courteous and appropriate manner, without resorting to personal attacks and without being offensive, abusive and / or unduly disruptive.

3.4 If a member is making a gratuitous personal comment and / or is simply indulging in offensive abuse, it is unlikely they will attract the protection of freedom of expression afforded under Article 10.

The Standards Commission's Approach at Hearings



ANNEX D – SUMMARY ADVICE NOTE

GIFTS AND HOSPITALITY FOR MEMBERS OF DEVOLVED PUBLIC BODIES

1. Introduction

- 1.1 This Advice Note, issued by the Standards Commission, aims to provide assistance to members of devolved public bodies to help them comply with the provisions concerning gifts and hospitality in their public body's Code of Conduct, which is based on the Model Code of Conduct for Members of Devolved Public Bodies (the Code). This Advice Note should be read in conjunction with the Code, which can be found on the Standards Commission's website at: <https://www.standardscommissionscotland.org.uk/codes-of-conduct/members-model-code-of-conduct>
- 1.2 The Standards Commission has also produced a general Guidance document on the Code, which can be found on the Standards Commission's website at: <https://www.standardscommissionscotland.org.uk/guidance/guidance-notes>

2. General Principles

- 2.1 The provisions in the Code on gifts and hospitality are designed to avoid any perception that members may be using their role to obtain access to benefits that members of the public would otherwise be expected to pay for, and also to prevent them from being influenced (inadvertently or otherwise) into making decisions for reasons other than the public interest. Any perception, whether justified or otherwise, that members are making decisions for their own personal interests or for those of their friends or family erodes public trust both in their role and the public body itself.
- 2.2 Paragraphs 3.13 to 3.21 of the Code concern gifts and hospitality. These paragraphs are reproduced below:

3.13 I understand that I may be offered gifts (including money raised via crowdfunding or sponsorship), hospitality, material benefits or services ("gift or hospitality") that may be reasonably regarded by a member of the public with knowledge of the relevant facts as placing me under an improper obligation or being capable of influencing my judgement.

3.14 I will never ask for or seek any gift or hospitality.

3.15 I will refuse any gift or hospitality, unless it is:

- a) a minor item or token of modest intrinsic value offered on an infrequent basis;
- b) a civic gift being offered to my public body;
- c) hospitality which would reasonably be associated with my duties as board member; or
- d) hospitality which has been approved in advance by my public body.

3.16 I will consider whether there could be a reasonable perception that any gift or hospitality received by a person or body connected to me could or would influence my judgement.

3.17	I will not allow the promise of money or other financial advantage to induce me to act improperly in my role as a board member. I accept that the money or advantage (including any gift or hospitality) does not have to be given to me directly. The offer of monies or advantages to others, including community groups, may amount to bribery, if the intention is to induce me to improperly perform a function.
3.18	I will never accept any gift or hospitality from any individual or applicant who is awaiting a decision from, or seeking to do business with, my public body.
3.19	If I consider that declining an offer of a gift would cause offence, I will accept it and hand it over to my public body at the earliest possible opportunity and ask for it to be registered.
3.20	I will promptly advise my public body's Standards Officer if I am offered (but refuse) any gift or hospitality of any significant value and / or if I am offered any gift or hospitality from the same source on a repeated basis, so that my public body can monitor this.
3.21	I will familiarise myself with the terms of the Bribery Act 2010, which provides for offences of bribing another person and offences relating to being bribed.

- 2.3 **Paragraph 3.14** of the Code prohibits you from seeking, or asking for, a gift or hospitality, in your role as a member. This is regardless of the circumstances or value of the gift or hospitality. The Code recognises, however, that you may be offered a gift or hospitality. It seeks to outline the limited circumstances in which such an offer can be accepted.
- 2.4 **Paragraph 3.13** of the Code makes it clear that the test is not whether the acceptance of any gift or hospitality could or would affect your decision-making as a member. Instead, the test for the acceptance of gifts or hospitality is an objective one. As a member, you should consider whether your acceptance of any gift or hospitality would lead an informed member of the public (i.e. someone who knows you are a member, the nature of the gift or hospitality, and who has offered it) to reasonably think it could influence your judgement, discussions or decision-making as a board member. As in all such considerations, you should think not just of your own perception as to whether it could do so, but the perception of others. You should always consider whether you would have been offered the gift or hospitality if you were not a member.
- 2.5 It should be noted that 'gifts' and 'hospitality' can come in many forms. Beyond the more obvious things like bottles of wine or offers of lunch, they can include:
- the provision of services at a price below that generally charged to the public;
 - the provision of a meal or drinks at a price below that generally charged to the public;
 - incurring personal debts or obligations on someone's behalf;
 - relief from indebtedness;
 - loan concessions; and / or
 - other financial inducements.
- 2.6 **Paragraph 3.18** of the Code provides that you must NOT accept any gift or hospitality from any individual or organisation who is awaiting a decision from, or seeking to do business with, your public body (for example, from an applicant for grant funding or from a company tendering for a contract).

Again, this applies regardless of how small in nature or value the offered gift or hospitality may be. The ban on accepting a gift or hospitality from any individual or organisation who is awaiting a decision from, or seeking to do business with, your public body under paragraph 3.18 is absolute, meaning it is not qualified by any objective test.

- 2.7 The prohibition under paragraph 3.18 on you accepting a gift or hospitality from someone who is awaiting a decision from, or seeking to do business with, your public body applies irrespective of whether you sit on a committee or panel with an influence on the outcome of such matters. This is because there could be a perception that you could still be in a position to influence colleagues into making the decision one way or another.
- 2.8 As you have a personal responsibility to comply with the Code, the onus is on you to ascertain whether the individual or organisation offering you gifts and / or hospitality is awaiting a decision from, or seeking to do business with, your public body. If you are in any doubt, you should ask employees to check. You should not accept the gift or hospitality until you have confirmed the position.
- 2.9 As noted above, it is accepted that you will be offered gifts and hospitality in your role as a member. It is further accepted that any person or organisation making such an offer may not necessarily be trying to influence you. You should be mindful, nevertheless, that this is a possibility. It is also a possibility that such an offer could give rise to a perception that influence is being sought. An example of a situation where acceptance of an offer could lead to the perception that you could influence a decision is outlined below:

Illustration

Situation: *Your public body has a major capital expenditure project underway. Phase one is nearing completion and one of the contractors, a major building firm, is coming to the end of its contract. The next contract for phase two is due to go out to tender at the end of the year. You and your fellow board members have been really impressed with the work that has been done so far. The building firm's Chief Executive has given a number of presentations to the board and you are satisfied that it has been delivered on time and on budget. During a chance meeting with him, you mention that you are the chair of the board of a separate charity that works with underprivileged children and which has plans to refurbish its small playpark. You ask if he can provide advice on suitable firms that might undertake such work. The building firm's Chief Executive explains his own background as an underprivileged child and how close that sort of work is to his heart. He tells you not to worry about looking for quotes as his firm will do the work for the charity "at cost".*

What you should do: *You should not accept the offer, regardless of whether you are involved directly in making a decision on the phase two tender. This is because the building firm is seeking to do business with your public body. While you will not benefit personally from the apparent provision of services at a price below that generally charged, accepting this offer on behalf of an organisation you are connected to could lead to a perception that it is a financial inducement. While you may not be involved in the decision-making on the tender, you could still be perceived as being in a position to influence colleagues or employees involved in the process.*

- 2.10 The Code makes it clear that the default position is you should refuse all offers of gifts and hospitality, except in the very limited circumstances listed at paragraph 3.15 of the Code. It should be noted that acceptance can include accepting the promise of a gift or hospitality (even if that gift or hospitality is not then provided).
- 2.11 Essentially, unless the gift or hospitality falls within one of the categories listed under paragraph 3.15, it should not be accepted. These categories are discussed in more detail under Section 3 below.
- 2.12 As a general rule, you should not accept gifts and hospitality that members of the public would otherwise have to pay for.

3. **Categories of gifts and hospitality that can be accepted, in terms of paragraph 3.15**

“A minor item or token of modest intrinsic value”

- 3.1 **Paragraph 3.15(a)** of the Code provides that you can accept minor gifts and hospitality of a modest intrinsic value. These would be items such as a pen or a notepad, or hospitality that a member would normally be expected to be offered in their everyday role – such as tea or coffee at a local event, or a sandwich or buffet lunch included as part of a daily rate charged and provided to all delegates at a training event or conference.
- 3.2 It is important to note that, unlike in previous versions of the Code, there is no financial limit of £50 in respect of gifts under the current version of the Code. Even gifts with a small monetary value, or limited hospitality, can create the impression that members are being influenced, and that there is a culture of ‘favouritism’ or ‘cronyism’ within public bodies. Such allegations are much easier to refute if no gifts or hospitality have been accepted.
- 3.3 It should also be noted that gifts and hospitality under this category can only be accepted if they are ones that are offered on an infrequent basis. While infrequent is not defined (as this would depend on the specific circumstances of each case), it is unlikely that weekly, or even monthly, offers of gifts and hospitality from the same source would fall within this category.

Illustrations

Situation: all members of your public body are invited to a tour of a newly-opened local attraction, and are offered a commemorative notepad.

What you should do: you can accept the notepad, because it is likely to fall within the definition of “a minor item or token of modest intrinsic value”.

Situation: you are offered free tickets to the Scottish Cup Final by a consultancy firm who are providing training to members of your public body.

What you should do: you should not accept the tickets. They would not be considered to be of a minor nature or of modest intrinsic value.

Situation: following your public body’s successful migration to a major new IT system, the IT contractor involved offers you tickets to the Open Championship being held at a nearby golf course.

What you should do: you should decline the ticket. They would not be considered to be of a minor nature or of modest intrinsic value.

Situation: you are offered a year's free membership to a new gym opening in the same building as your public body's headquarters.

What you should do: you should not accept the membership. A year's membership would not be considered to be of a minor nature or of modest intrinsic value.

“A gift being offered to my public body”

- 3.4 The Code recognises under paragraph 3.15(b) that there may be situations where, particularly if you are the Chair or Deputy Chair, you will be expected to accept gifts on your public body's behalf. Similarly, paragraph 3.19 of the Code recognises that there could be situations where refusing to accept a gift might cause embarrassment or offence. If you consider that may be the case, you can accept the gift on behalf of your public body. You should then pass the gift to the appropriate employee of your public body at the earliest opportunity.

Illustrations

Situation: you are offered a coffee-table book on local artists during a visit to a refurbished art gallery that your public body has-part funded.

What you should do: you should accept the gift and pass it on to employees, who may, for example, wish to display it in the public body's reception area.

Situation: members of a foreign delegation visiting your college present you, as the most senior representative of your organisation, with a ceremonial banner celebrating the visit.

What you should do: you should accept the gift, and pass it on to employees.

Situation: following the completion of a successful advertising campaign for your public body, an advertising agency offers you a framed and signed photograph of the celebrity who featured in the campaign.

What you should do: you should accept the gift and pass it to employees, who may, for example, wish to include it as a raffle prize when raising funds for the staff-nominated charity.

Situation: a board member of an analogous organisation from another country presents you with a hamper of food and drink from that country as a thank you for hosting a fact-finding visit.

What you should do: you should accept the gift and pass it on to employees (who may choose to donate it to a local charity).

“Hospitality which would reasonably be associated with my duties as a board member”

- 3.5 Paragraph 3.15(c) of the Code covers hospitality which would reasonably be associated with your duties as a member. Examples of this could be:

- tea or coffee at a local event for stakeholders;
- a sandwich or buffet lunch included as part of a daily rate charged and provided to all delegates at a training event or conference; or
- an invitation to a drink reception at the Scottish Parliament that was extended to all members of your public body.

Illustrations

Situation: as Chair of a Health Board, you and the Chief Executive are invited by a well-known national health charity to an evening event. The invitation includes dinner.

What you should do: you can accept both the invitation and the dinner.

Situation: as a College member, you are invited by a local school to a careers event. You are offered a cup of coffee and a piece of cake.

What you should do: you can accept both the invitation and hospitality.

“Hospitality which has been approved in advance by my public body”

- 3.6 Paragraph 3.15(d) of the Code covers hospitality which has been approved in advance by your public body. You should check your public body’s internal rules and policies on this, and, if in doubt, seek advice from your public body’s Standards Officer.
- 3.7 If you wish to accept any offer of hospitality that falls outwith that which can be accepted under paragraph 3.15(c) you should, in the first instance, confirm that it is not being offered by any individual or organisation who is awaiting a decision from, or seeking to do business with, your public body. You must then seek approval, from the public body’s Chief Executive or Standards Officer. In seeking approval, you should clearly state the name of the individual or organisation who has offered the hospitality and what it will entail (including the date and venue). You should always try to seek approval in writing.

Illustration

Situation: as a board member of a cultural organisation, you are invited to attend a drinks reception on the opening night of a new three-day arts festival.

What you should do: you should check that neither the person or organisation who has invited you, nor the organisers are awaiting a decision from (for example, in relation to an application for grant funding), or seeking to do business with, your public body. Having done so, you should write to your Chief Executive to ask for approval to attend. You should advise of the name of the individual or organisation who has invited you and the name of the individual or organisation who is hosting the event (if this is different). You should provide details about what you expect the reception to entail and the date and venue. You should not attend the event until approval has been granted.

4. Bribery

- 4.1 **Paragraph 3.17** of the Code provides that you must not allow the promise of money or other financial advantage (including any form of gift or hospitality) to induce you to act improperly (i.e. in a way that is dishonest or is against the law, a rule, the Code or a policy) in your role as a member. You should note that this includes any money or advantage (including any gift or hospitality) given to you both directly and indirectly (i.e. via a friend, family member or associate or to a club or group you are a member of). The offer of monies or advantages to others may amount to bribery if the intention is to induce you to improperly perform a function.
- 4.2 The Standards Commission’s Guidance on the Code makes the point that, aside from considerations of whether you have breached the Code or not, offers of such inducements can be a criminal offence for the person making the offer, the recipient, and the person being induced to act differently as a result of the offer:

4.3 You should note that, in terms of the Bribery Act 2010, the following cases are offences:

Case 1 is where:

P offers, promises or gives a financial or other advantage to another person, and intends the advantage to induce a person to perform improperly a relevant function or activity, or to reward a person for the improper performance of such a function or activity.

Case 2 is where:

P offers, promises or gives financial or other advantage to another person, and P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

4.4 An example of bribery might be where a windfarm operator promises to pay community benefit to an organisation in a councillor's ward if that councillor votes in favour of granting planning permission in circumstances where it would not otherwise be granted (i.e. if the proper statutory test of considering the provisions of the development plan and all material planning considerations was not applied or if community benefit was wrongly taken into account in determining a planning application).

4.5 You should, therefore, be aware that regardless of any of the provisions in the Code, a gift to someone else which induces you to improperly undertake a statutory duty, is still likely to fall foul of the provisions of the Bribery Act. This could result in a criminal prosecution against you.

4.6 If you are in any doubt about whether an offer either you, or another person has received might fall foul of the Bribery Act, you should seek legal advice immediately.

5. **Decision Making**

5.1 **Paragraph 3.18** of the Code provides that you must never accept any gift or hospitality from any individual or organisation who is awaiting a decision from, or is seeking to do business with, your public body.

5.2 Where anyone is awaiting a decision from, or seeking to do business with, your public body, you should not accept any form of gift or hospitality from them, no matter how small in nature or value. This is irrespective of whether you are on a committee or panel that is responsible for making the decision, as there could still be a perception that you might be in a position to influence colleagues making the decision one way or another. This is particularly the case if anyone offering a gift or hospitality has an outstanding quasi-judicial or regulatory application that is due to be considered by the public body.

5.3 You should never accept any offer of a gift or hospitality if you are in any doubt as to whether the individual or organisation making the offer is awaiting a decision from, or seeking to do business with, your Council.

5.4 In addition, the receipt of gifts and hospitality, where there is a specific objective that may be behind it, risks straying into the scope of the Bribery Act, as noted above. It may also lead to the decision itself being struck down subsequently.

Illustrations

Situation: you are contacted by an online learning provider. They propose a lunch meeting at their offices to demonstrate their services. Although you will not be directly involved in the decision-making around any future e-learning, you are aware that your public body is seeking tenders from various providers, including the company in question.

What you should do: you should refuse the offer of lunch. Accepting it could give rise to a perception that it could affect your public body's decision-making process.

Situation: as a Health Board member, you have been asked by a pharmaceutical company's agent to meet to discuss 'exciting new trial results' from a recent clinical trial. The agent also mentions in the phone call that she has spare tickets for the next rugby international, and wondered if you would like them?

What you should do: you should refuse the offer of tickets, perhaps suggesting they be donated to a local school or sports club instead. If you decide to meet to discuss the trials, you should arrange for the appropriate employee to be present, and check that there are no outstanding applications or business approaches from the same company.

Situation: your board is about to make a decision on a substantial investment in new equipment. One of the potential providers contacts you to complain that they have recently been unable to win any tenders because of 'the unfair way your public body assesses tenders.' They offer to discuss the issue in more detail over lunch at their offices.

What you should do: you should decline such an invitation. The purpose of the meeting is quite clearly to influence you ahead of the forthcoming tender decision. You could offer to meet them at another time of day, with a senior employee from your public body's procurement team, to discuss their concerns.

6. Advising Employees

- 6.1 **Paragraph 3.20** of the Code provides that you should advise your public body's Standards Officer promptly if you are offered (but refuse) any gift or hospitality of any significant value and / or if you are offered any gift or hospitality from the same source on a repeated basis.
- 6.2 The requirement for members to advise their public body's Standards Officer of any offers of any gifts or hospitality from the same source on a repeated basis is intended to ensure the public body can take action if it appears the same individual or organisation is attempting to influence its members and decision-making.
- 6.3 Public body employees may be better placed than an individual member to detect patterns of behaviour by organisations who are trying to influence the public body. Similarly, if employees are made aware of persistent attempts to offer hospitality to members, they are better placed to contact the organisation, point out the difficulties they are causing, and persuade them to desist.

7. **Registration; Transitional Arrangements**

7.1 The Code provides, at paragraph 4.21 that:

4.21 I understand the requirements of paragraphs 3.13 to 3.21 regarding gifts and hospitality. As I will not accept any gifts or hospitality, other than under the limited circumstances allowed, I understand there is no longer the need to register any.

7.2 As outlined above, the default position now is you should refuse to accept any gifts and hospitality, except in very limited circumstances. However, if you have accepted gifts and hospitality under previous versions of the Code (which allowed you to accept them), any entries to that effect should remain on your Register of Interests for the term of office.

8. **Further Sources of Information**

8.1 If you have any queries or concerns about this Advice Note or how to interpret or act in accordance with the provisions in the Code, you should seek assistance from your public body's Standards Officer.

8.2 The Scottish Government's publication "On Board: a guide for members of statutory boards" contains useful information and guidance for members of the boards of public bodies in Scotland, and can be found at:

<https://www.gov.scot/publications/board-guide-members-statutory-boards>

8.3 Further information can also be obtained from the Standards Commission using the contact details below.

Standards Commission for Scotland
Room T2.21, Scottish Parliament
Edinburgh, EH99 1SP
Tel: 0131 348 6666
Email: enquiries@standardscommission.org.uk

ANNEX E – SUMMARY ADVICE NOTE

THE USE OF SOCIAL MEDIA FOR MEMBERS OF DEVOLVED PUBLIC BODIES

1. Introduction

- 1.1 Section 3 of the Model Code of Conduct for Members of Devolved Public Bodies (the Code) concerns the general conduct expected in situations where an individual is acting as a member of a public body, have referred to themselves as a member, or could objectively be considered to be acting as a member.
- 1.2 In particular, paragraph 3.1 of the Code (emphasis added) states:
I will treat everyone with courtesy and respect. This includes in person, in writing, at meetings, when I am online and when I am using social media.
- 1.3 This Advice Note is intended to assist members in complying with the provisions of the Code when using social media. Several of the provisions within Section 3 of the Code can apply when a member is using social media. These include ones concerning respect, bullying and harassment, confidentiality and the use of the public body's facilities.
- 1.4 Social media continues to evolve and, as such, this Advice Note is not intended to be exhaustive or definitive. It is intended to be a guide to help members understand how issues relating to the use of social media can have an impact in terms of compliance with the Code.

2. General Advice

- 2.1 It is very important to note that the rules of good conduct set out in Section 3 of the Code must be observed in all situations where you are acting as a member or have identified yourself as acting as such. This includes when attending meetings of your public body and when representing it on official business. The Code also applies when you could objectively be considered to be acting as a member. You should be mindful that your perception of when you are carrying out official business and when you are acting privately may be different to that of a member of the public.
- 2.2 In considering whether you are acting as a member of your public body, or could objectively be considered to be acting as a member, factors to consider include whether:
 - you are representing or speaking on behalf of your body;
 - you are readily identifiable as a member of your body in the situation / circumstances (for example, if your social media page contains a biography that refers to your membership);
 - you mention your public body or its work or functions on any social media page or social media posting;
 - you are engaged in activity or commenting on matters that are within the scope of your public body's functions;
 - you are using IT equipment and / or an email account supplied by your public body; and / or

- your conduct could reasonably be regarded as bringing your position as a member, or your public body, into disrepute.

2.3 You should always try to think ahead. If you have any concerns about a potential problem or conflict of interest, you should speak to your public body's Chair, Standards Officer or Chief Executive so that advice can be sought and / or action can be taken before a situation becomes a serious problem or before a complaint is made about you.

3. **Conduct on Social Media**

3.1 The rules of good conduct may apply when you are engaging in media activity including the use of social media. As you will be aware, social media is a term used to describe online technologies, applications and practices that are used to share information, knowledge and opinions. The most well-known platforms include Facebook, Twitter, Instagram, YouTube, TikTok and LinkedIn. The term social media can include, but is not limited to, social networking sites, blogs, wikis, content sharing sites, photo sharing sites, video sharing sites and customer feedback sites.

3.2 The conduct expected of you in a digital medium is no different to the conduct you should employ in other methods of communication, such as face to face meetings and letters. Before commenting or posting, you should consider very carefully whether:

- you understand the immediate and permanent nature of any comment or post you are about to make, and that you will have no control over the extent to which it is shared, and by whom;
- you would make that comment or post in-person, face to face;
- you have such conviction in what you are about to share that you would be prepared to justify it if challenged at a later date; and
- you fully understand that even if you delete your post, it may have been captured by way of a screenshot or otherwise retained in some way (including being automatically cached online), and that fully deleting content once it has been shared online is almost impossible to achieve.

3.3 Other important factors to consider when using social media include whether:

- you are identifiable as a member by directly referring to yourself as such or indirectly as such by referring to your public body or its functions, or through information or images posted;
- the account you are using is "private" and whether you have set your privacy controls accordingly. You should bear in mind that anyone who is able to view your social media content will be able to screenshot and publicly share it, if they choose to do so;
- the number of 'followers' you have any and whether these individuals are following your account because you are a member of the public body;
- you have complied with any Social Media, General Media, IT or Communications policy your public body has produced;
- the information you are posting is confidential and you only have access to it because you are a member;

- you are demonstrating bias or pre-determination – you should avoid expressing an opinion on a matter your public body is yet to determine;
- you are using your public body's equipment or your own when accessing or posting on social media platforms; and
- you have complied with the law including defamation, copyright, data protection, employment and equalities or harassment provisions.

3.4 Even if you consider that you are using social media in a private capacity, you should be aware that anything you post or put on your profile is a representation of you. Therefore, you should not put anything online that you do not want to represent you. You should be mindful that the separation of public and private comments may be unclear to someone reading them, and where information about your status as a member of the public body may be readily available online or from different sources (including your council's website).

3.5 You may also wish to think about:

- whether you are treating others with respect and consideration;
- whether 'liking', re-posting and re-tweeting comments or posts, or publishing links to other sites could be reasonably regarded in the circumstances as endorsing the original opinion, comment or information, including information on other sites;
- you have read fully and understood properly any content that you are commenting on, 'liking', re-posting or re-tweeting;
- whether to allow disagreement on your social media pages;
- the fact that tone can be harder to convey online so consideration should be given to whether humour, irony and sarcasm will be perceived as such;
- whether anything you post could be considered obscene.

3.6 You should always consider whether you have to respond to a comment made about you or posted on your page and / or if it is appropriate or helpful to do so. Sometimes people will say nasty things and people in public life can be singled out for abuse. If people criticising you have the wrong information, by all means talk to them. But if they are being sarcastic or downright abusive you should consider whether there is any value in engaging.

3.7 It is almost impossible to entirely delete anything posted online. Even if you decided to delete something you have posted straightaway, there is always the possibility that someone has viewed or has taken a screenshot of the post in the meantime. What you post online will stay there and may potentially be shared with lots of other people, for both good and bad reasons.

4. Other Resources

4.1 Other guidance that may be of interest or assistance includes:

- The Scottish Government's Policy on social media:
www.gov.scot/About/Information/Social-Media-Policies;
- The UK Government's Guidance for civil servants:
www.gov.uk/government/publications/social-media-guidance-for-civil-servants/social-media-guidance-for-civil-servants;

- The Scottish Government's 'On Board' Guidance for Board Members of Public Bodies in Scotland: <https://www.gov.scot/publications/board-guide-members-statutory-boards/>

ANNEX F – SUMMARY ADVICE NOTE

FOR MEMBERS OF DEVOLVED PUBLIC BODIES ON BULLYING AND HARASSMENT

1. Introduction

- 1.1 Everybody has the right to be treated with dignity and respect and to work in an environment which is free from harassment, bullying, discrimination and victimisation. This right is supported by paragraph 3.3 of the Model Code of Conduct for Members of Devolved Public Bodies 2021, (the Code) which states:

I will not engage in any conduct that could amount to bullying or harassment (which includes sexual harassment). I accept that such conduct is completely unacceptable and will be considered to be a breach of [the] Code.

- 1.2 The Code also states (at paragraph 3.6):

I accept that it is my responsibility to understand what constitutes bullying and harassment and I will utilise resources, including the Standards Commission's guidance and advice notes, my public body's policies and training material (where appropriate) to ensure that my knowledge and understanding is up to date.

- 1.3 This Advice Note is intended to help members understand and adhere to the provisions in the Code outlined above, by providing further guidance as to what types of behaviour could constitute bullying and harassment. The Advice Note further aims to provide guidance to help members identify their responsibilities when they are in situations where such conduct could potentially occur.
- 1.4 Harassment, bullying, discrimination and victimisation (either directly or indirectly) are unacceptable and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on any wider organisation, such as the public body itself or any outside organisation, in terms of morale and operational effectiveness.
- 1.5 Members are responsible for their own behaviour and you must ensure that you are aware of, and comply with, the provision concerning bullying and harassment in the Code and also any policy your public body has on ensuring dignity in the workplace.

2. Harassment

- 2.1 Harassment is any unwelcome behaviour or conduct which makes someone feel offended, humiliated, intimidated, frightened and / or uncomfortable. Harassment can be experienced directly or indirectly (such as being in the room while unacceptable conduct is being displayed and being affected by it) and can occur as an isolated incident or as a course of persistent behaviour. Harassment has no legitimate workplace purpose.
- 2.2 It is important to note that even if behaviour is unintentional, it can still be classed as a form of harassment. Harassment is essentially about what the recipient deems to be offensive, not about what was intended. You should be aware, therefore, of the impact of your conduct on others and that what may seem harmless to you can be offensive to someone else.

- 2.3 Harassment can occur through verbal or written comments (including ones made online). The following list outlines some examples, but it is by no means exhaustive:
- unwelcome physical contact such as touching or invading 'personal space';
 - inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, misogynistic behaviour, and offensive jokes (such as ones of a racial, sexual or sectarian nature);
 - intrusive questioning, including the persistent discussion of a person's sexual practices, sexual orientation or religious beliefs (either directly or with others);
 - sending unwelcome emails, messages or notes; and
 - circulating or displaying explicit or inappropriate images.

3. **Bullying**

- 3.1 Bullying is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted. Again, it is the impact of any behaviour rather than the intent that is the key.
- 3.2 Bullying usually arises as a result of an individual misusing their power (usually derived from status or some other position of strength) and, again, can occur through all means of communication (including online posts).
- 3.3 Bullying tends to be a pattern of behaviour or course of conduct. It can also be a one-off serious incident that becomes objectionable or intimidating. The examples in the following list are, by no means, exhaustive:
- unwelcome physical, verbal or non-verbal conduct;
 - intimidatory behaviour including verbal abuse or the making of threats;
 - spreading malicious rumours;
 - making someone's working life difficult (either by your own individual conduct or when acting with others);
 - disparaging, ridiculing or mocking comments and remarks;
 - physical violence; and
 - deliberately excluding an individual from conversations, work or social activities, in which they have a right or legitimate expectation to participate. This can include speaking over someone or deliberately ignoring their input.

4. **Your Specific Responsibilities as a Member**

- 4.1 You should behave in accordance with the Code in all situations where you are acting as a member, have referred to yourself as a member or could objectively be considered to be acting as a member. This can include when you are on your public body's premises, representing your public body on official business and when using social media. You should be mindful therefore that the Code may apply even in situations where you perceive yourself to be acting privately.
- 4.2 You should ensure that you are familiar, and comply, with the terms of any policy your public body has issued on dignity in the workplace.
- 4.3 You must treat all individuals with courtesy and respect when carrying out your duties as a member. This includes employees of your public body, your fellow members and members of the public. You should not participate in, or condone, acts of harassment,

discrimination, victimisation or bullying. You should, at all times, act in accordance with the provisions of the [Equality Act 2010](#).

- 4.4 You should be aware of the inherent influence your role brings and ensure that you are demonstrating respect for others and encouraging colleagues to do the same.
- 4.5 You should be aware of the role that employees play and ensure you are not compromising this by behaving in a manner that could result in them feeling threatened or intimidated, which could prevent them from undertaking their duties properly and appropriately. You must not bring any undue influence to bear on an employee to take a certain action (either during a one-off incident or as part of a course of conduct), particularly if it is contrary to the law or your public body's policies and procedures.
- 4.6 You should note that your conduct, when taken together with that of colleagues, could amount to bullying or harassment. This can include using non-verbal physical signals, such as nodding to show agreement, or sharing disclosing personal information about an individual that they may not want disclosed. It can also include 'liking', commenting on or re-posting content on social media and forwarding or copying colleagues or the media into emails. You should always be mindful of the potential impact of the behaviour on others.
- 4.7 As someone in a position of trust you may be made aware of incidents that are brought to your attention by victims of this kind of behaviour, or other witnesses. You can assist by becoming familiar with what is meant by harassment, discrimination, victimisation and bullying and the impact these can have on individuals or groups.
- 4.8 If you are a witness to any acts of harassment, victimisation or bullying, you should encourage the victim to seek support and assistance. You should make it clear that you will offer them assistance and provide evidence if they decide to make an informal or formal complaint.
- 4.9 Where you have witnessed bullying or harassment you have a responsibility to speak out. You should challenge inappropriate behaviour as it happens and consider making a complaint (see paragraph 5.4 below).

5. Further Sources of Information and Assistance

- 5.1 The Standards Commission has published guidance and advice notes on how to interpret, and act in accordance with, the provisions in the Code, including those relating to relationships with employees. The guidance and advice can be found on the Standards Commission's website at: www.standardscommissionscotland.org.uk.
- 5.2 The Standards Commission also publishes written decisions of Hearings held on its website, which can be found at: www.standardscommissionscotland.org.uk/cases/case-list.
- 5.3 If you have any queries or concerns about how to interpret or act in accordance with the provisions in the Code, you should seek assistance from your public body's Standards Officer.
- Further information can also be obtained from the Standards Commission via email - enquiries@standardscommission.org.uk.
- 5.4 If you are experiencing any form of bullying or harassment or know anyone who is, you should refer to your public body's internal policy or procedure for information on how to report or deal with the matter. There are a number of organisations you can also contact for support, such as:

The National Bullying Helpline (provides practical help and advice for children and adults dealing with bullying at school or work) Contact: 0845 22 55 787;

www.nationalbullyinghelpline.co.uk/

ACAS (provide guidance for employers and employees on bullying and harassment at work). Contact: Helpline at 0300 123 1100; www.acas.org.uk

Scottish Women's Rights Centre legal helpline. Contact freephone 08088 010 789.

ANNEX G – SUMMARY ADVICE NOTE

RELATIONS BETWEEN MEMBERS AND EMPLOYEES OF DEVOLVED PUBLIC BODIES

1. Introduction

1.1 Section 3 of the Model Code of Conduct for Members of Devolved Public Bodies (the Code) concerns issues relating to the general conduct expected of members of devolved public bodies, including their relationships with other members and employees of the public body.

1.2 Some relevant paragraphs of the Code are highlighted below:

3.1 I will treat everyone with courtesy and respect. This includes in person, in writing, at meetings, when I am online and when I am using social media.

3.3 I will not engage in any conduct that could amount to bullying or harassment (which includes sexual harassment). I accept that such conduct is completely unacceptable and will be considered to be a breach of [the] Code.

3.7 Except where it is written into my role as Board member, and / or at the invitation of the Chief Executive, I will not become involved in operational management of my public body. I acknowledge and understand that operational management is the responsibility of the Chief Executive and Executive Team.

3.8 I will not undermine any individual employee or group of employees, or raise concerns about their performance, conduct or capability in public. I will raise any concerns I have on such matters in private with senior management as appropriate.

3.9 I will not take, or seek to take, unfair advantage of my position in my dealings with employees of my public body or bring any undue influence to bear on employees to take a certain action. I will not ask or direct employees to do something which I know, or should reasonably know, could compromise them or prevent them from undertaking their duties properly and appropriately.

1.3 This Advice Note is intended to assist members in complying with the provisions of the Code in their dealings with employees. However, given the variety of circumstances and situations which may arise, it is intended to be a starting point rather than an exhaustive or definitive guide.

1.4 It should be noted that for the purpose of the Code, the term ‘employees’ includes employees of contractors providing services to the public body; and employees of any other organisations where it might be reasonably perceived that the public body, and by implication the member, has an influence over that organisation.

2. Distinction between Roles of Members and Employees

2.1 Members should not be involved in the delivery of services supported or provided by the devolved public body – that is the role of employees. However, as an employer, a board also has a duty of care to its employees. It must abide by its employment responsibilities and ensure that the body has the right number of staff with the right skills to deliver its services.

2.2 Members are expected to:

- provide leadership, direction, and support to the body, agreeing its strategic aims and business priorities;
- promote commitment to the values and ethos of the organisation including equality and diversity;
- ensure satisfactory delivery of the body's performance and financial objectives;
- be accountable to and maintain the trust of key stakeholders;
- ensure identification and control of the main risks associated with the delivery of the body's responsibilities and business objectives;
- ensure employees have the appropriate skills, knowledge, culture and working environment; and
- scrutinise the body's performance and, when necessary, provide challenge to senior employees.

2.3 Employees are expected to deliver the body's performance and achieve the strategic objectives set by the board.

2.4 The Standards Commission has produced an Advice Note for Members on distinguishing between their strategic role and any operational work, which can be found at: <https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>. In general, if a duty is delegated to an employee, then it is likely to be operational in nature.

3. **General**

3.1 Members and employees should work in an atmosphere of mutual trust and respect, with neither party seeking to take unfair advantage of their position.

3.2 As the most common contacts between members and employees will be at Chief Executive or senior management level, this guidance mainly concerns those relationships. However, as members may also have contact with other employees, the principles of the guidance also apply to them. The particular position of employees who provide direct support services for members is dealt with separately at Section 5 of this Advice Note.

3.3 It is in the interests of both employees and board members to build a healthy relationship of mutual respect and understanding. While members are responsible for scrutinising the public body's performance and for holding employees to account for delivery of the organisation's objectives, they should also provide support, guidance and understanding. Members who are too close to staff or who just assume that everything is fine may be failing in their responsibilities. On the other hand, members who are too confrontational or too quick to doubt employees will not gain the best from the partnership.

3.4 In order to develop a constructive and professional partnership with employees, members may wish to take time to understand the roles of individual employees. Members should recognise and understand what constitutes a professional relationship and should endeavour to maintain this with employees.

4. Scrutiny Role

- 4.1 If a member has concerns about actions employees are taking or proposals they have made, they may wish to check, in the first instance, whether other members share these concerns. Employees take instruction from the board as a whole, not individual members.
- 4.2 Members will not have a full awareness of the priorities and workload of individual employees. As such, any issues about conflicting priorities, conduct or performance must be referred to the employee's line manager in accordance with the body's agreed procedures.
- 4.3 Members should make sure that the body has a strong performance management framework to measure both qualitative and quantitative achievements against planned objectives.
- 4.4 Members should ask for assurance and evidence that actions to mitigate risks to the body's business objectives are being taken and that any risks are being properly recorded and managed.
- 4.5 Members are entitled to seek information about specific matters, cases or a particular item of work, but they should be aware that employees may feel pressured by a member challenging their actions or appearing critical of some aspect of their work. This is particularly the case with junior employees, who may not be used to dealing directly with members. Any concerns about performance should be raised with the Chair who can then bring them to the attention of the Chief Executive or the employee's line manager, as appropriate.
- 4.6 Often the most effective ways to challenge employees is to simply ask for more information or to seek confirmation of the evidence behind a recommendation or action proposed. It may help if members explain why they are asking for such information. For example, saying "I note this report does not contain a risk assessment – I would be grateful if such an assessment could be provided so that we have confidence that we have identified actions we can take to mitigate against all relevant risk" would be respectful, whereas saying "as usual, your report is inadequate and poorly prepared as it does not contain a risk assessment" could be perceived as being personally critical of the report's author.
- 4.7 Members should ensure that the Board has procedures in place for keeping in touch with the opinions and experiences of all employees, not only the views passed on to them by senior staff.

5. Access and Support

- 5.1 Where bodies arrange for employees to support members directly in carrying out their duties, particular considerations should be applied. Such employees are normally involved in providing administrative and practical support to members. While they may operate to the requirements of individual members in their daily business, members should remember that the employees remain accountable to their line managers for their actions and activities.
- 5.2 Members are entitled to seek advice, support and information in respect of matters relating to the body. If a member is seeking assistance that is outwith an employee's normal duties, the request should be made to, and approved by, the employee's line manager. Employee support in these circumstances must not extend beyond providing information, assistance and advice in relation to matters directly concerning the body's business.

6. **Delegated Authority and Committees**

- 6.1 Members should be aware that where authority is delegated, the employee to whom it is delegated may consult them about the action they propose to take. However, the responsibility for the final decision remains with the employee who is accountable for the action or decision. Members should bear this in mind when discussing proposed action with employees.
- 6.2 The Chair of the Board or any committee will often be consulted on the preparation of agendas and reports. Employees will always be fully responsible for the contents of any report submitted in their name and have the right to submit reports to members on their areas of professional competence. While employees will wish to listen to the views of members, they must retain final responsibility for the content of reports.
- 6.3 It is important for there to be a close professional working relationship between the Chair of a committee and the director or senior manager of any service that reports to that committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an employee's ability to deal impartially with other members, and the ability of Chairs to deal impartially with other employees.

7. **Public Comment and Confidentiality**

- 7.1 Members should not raise matters relating to the conduct or capability of employees in public and must accord to employees the respect and courtesy due to them in their various roles. Any issues about the conduct, capability or performance of an employee should be raised in private and in accordance with the body's procedures. You may wish to discuss your concerns with the Chair in the first instance, to see if they are shared by other members. If you are raising concerns about an employee with senior management, you should try to be as objective and specific as possible. For example, it would be more helpful to say: "I am concerned about the way X spoke to me at the board meeting on Y date in that I found his remark to the effect that... to be rude and disparaging", rather than "X is rude towards board members".
- 7.2 Members should be careful not to make public statements which expressly, or by implication, criticise the actions (or inaction) of an individual employee or identifiable group of employees (where individuals in that group are, or could be, identifiable). Members should note that the concept of a public statement is wide and can cover a variety of scenarios such as the published minutes of a board meeting, a comment on social media, or being overheard in a public area, such as a corridor or tearoom.
- 7.3 Members must respect the confidentiality requirements of the Code. Members should note that confidentiality can sometimes be a matter of timing in that it may be that the public body intends to release the information into the public domain but wishes to ensure its employees are notified beforehand, for example, to avoid any unnecessary fear or alarm or to enable them to prepare public communications. Members must respect the requirement for confidentiality even if they do not agree with it or consider that the information should be released at an earlier stage.

8. **Respect, Bullying and Harassment**

- 8.1 Members should ensure that all communications with employees are professional, respectful and courteous both in tone and content. In return, members should expect to be treated with courtesy and respect by employees.
- 8.2 The Standards Commission has produced an Advice Note for Members on Bullying and Harassment. The Advice Note is available on the Standards Commission's website at: <https://www.standardscommissionscotland.org.uk/education-and->

[resources/professional-briefings](#). It should be noted that bullying and harassment (which includes sexual harassment) can be a course of behaviour or a one-off incident. Even if the behaviour is unintentional it can still be classed as a form of harassment. It is the impact of the behaviour, not the intent, that is the key.

8.3 Members should not participate in, or condone, acts of harassment, discrimination, victimisation or bullying towards employees. If a member is a witness to any acts of harassment, victimisation or bullying, they should encourage the victim to seek support and assistance. Members should make it clear that you will offer the victim assistance and provide evidence if they decide to make an informal or formal complaint.

9. **Unfair Advantage**

9.1 Members should be aware of the inherent influence their role brings. Members should ensure that they are not compromising employees or preventing them from undertaking their duties properly and appropriately, by behaving in a manner that could result in them feeling threatened or intimidated. Members must not bring any undue influence to bear on an employee to take a certain action (either during a one-off incident or as part of a course of conduct), particularly if it is contrary to the law or the public body's policies and procedures.

10. **Appointments**

10.1 Where members are involved in the appointment of employees they must act fairly and openly and judge candidates solely on merit.

11. **Social relationships**

11.1 The relationship between members and employees depends upon trust and this will be enhanced by the development of positive, professional relationships. Members and employees may find themselves in social situations within the community and they have a responsibility to project a positive image of the body. Members should be aware of the potential implications of social relationships with employees, including on whether they can undertake their governance and scrutiny role effectively and also on whether they are perceived to be doing so.

12. **Other Resources**

12.1 Other guidance that may be of interest includes:

- The Scottish Government's On Board Guidance for Board Members of Public Bodies in Scotland (April 2015), which can be found at www.gov.scot/Publications/2015/04/9736.

ANNEX H – SUMMARY ADVICE NOTE

CONDUCT DURING ONLINE MEETINGS FOR MEMBERS OF DEVOLVED PUBLIC BODIES

1. Introduction

1.1 Section 3 of the Model Code of Conduct for Members of Devolved Public Bodies (the Code) concerns the general conduct expected in situations where an individual is acting as a member of a public body, has referred to themselves as a member, or could objectively be considered to be acting as a member.

1.2 In particular, paragraph 3.1 of the Code (emphasis added) states:

I will treat everyone with courtesy and respect. This includes in person, in writing, at meetings, when I am online and when I am using social media.

1.3 This Advice Note is intended to assist members in complying with the provisions of the Code when attending meetings or other events (such as training seminars or conferences) online. It should be noted that several other provisions within Section 3 of the Code can apply when a member is attending an online meeting or event. These include the provisions concerning respect, bullying and harassment, confidentiality and the use of the public body's facilities.

1.4 This Advice Note is not intended to be exhaustive or definitive. It is intended to be a guide to help members understand how their conduct online can have an impact in terms of compliance with the Code.

2. General Advice

2.1 It is important to note that the rules of good conduct set out in Section 3 of the Code must be observed in all situations where you are acting as a member or have identified yourself as acting as such. This includes when attending meetings of your public body and when representing it on official business. The Code also applies when you could objectively be considered to be acting as a member. You should be mindful that your perception of when you are carrying out official business and when you are acting privately may be different to that of a member of the public.

2.2 In considering whether you are acting as a member of your public body, or could objectively be considered to be acting as a member, factors to consider include whether:

- you are attending a meeting of your public body (whether formal or informal, including meetings with any employees or committee meetings);
- you are attending an event organised by your public body;
- your public body has paid for and / or organised your attendance at the event you are attending;
- you are representing or speaking on behalf of your body;
- you are readily identifiable as a member of your body in the situation / circumstances (for example, if your public body is listed along with your name on any attendee list);
- you mention your public body or its work or functions when making a contribution to the discussion;

- you are using IT equipment and / or an email account supplied by your public body; and / or
- your conduct could reasonably be regarded as bringing your position as a member, or your public body, into disrepute.

2.3 You should always try to think ahead. If you have any concerns about a potential problem or conflict of interest, you should speak to your public body's Chair, Standards Officer or Chief Executive so that advice can be sought and / or action can be taken before a situation becomes a serious problem or before a complaint is made about you.

3. **Conduct Online**

3.1 The rules of good conduct apply equally when you are online as they would in-person. As such, the conduct expected of you online is no different to the conduct you should employ in other engagements, such as face to face meetings and training events.

3.2 You should, therefore, be respectful of other attendees, including colleagues, employees of the public body and the chair. You should ensure that you listen to the contributions made by others and follow any directions given by the chair or facilitator.

3.3 Boards benefit from diversity of thought as it improves decision-making, governance and enables public bodies to better meet the needs of the stakeholders, service users and communities they serve. As such, you should try not to talk over anyone else and, where appropriate, should encourage others to contribute.

3.4 You should refrain from engaging in any side conversations or using any 'chat' function, unless the meeting organiser or chair has invited you to do so. Doing so uninvited may feel disrespectful as it can give the impression you are not listening. Similarly, you should avoid engaging in private side conversations either by phone, email or message.

3.5 You should bear in mind that some individuals rely on watching your face or reading lips to understand the full context of what is being communicated, so being online can make it harder for them to understand what you are saying. As such, you should try to ensure you are speaking clearly and at an appropriate speed.

3.6 You should bear in mind that being respectful does not just apply to what you say, but also to how you communicate, including your tone and non-verbal signals such as your body language and facial expressions.

3.7 Other important factors to consider when online include whether:

- how your conduct could be perceived by an observer (such as a member of the public watching the meeting online);
- you are identifiable as a member by directly referring to yourself as such or indirectly by referring to your public body or its functions;
- you have complied with any Media, IT or Communications policy your public body has produced;
- any information you are sharing is confidential and you only have access to it because you are a member;
- you are demonstrating bias or pre-determination – you should avoid expressing an opinion on a matter your public body is yet to determine;
- you are using your public body's equipment or your own; and

- you have complied with the law including defamation, copyright, data protection, employment and equalities or harassment provisions.

3.8 Even if you consider that you are online in a private capacity, you should be aware that comments you make are a representation of you. You should not, therefore, say anything online that you would not say in person. You should be mindful that the separation of public and private comments may be unclear to others in attendance or observing, and where information about your status as a member of the public body may be readily available online or from different sources (including your public body's website).

3.9 You should always consider whether you have to respond if you feel someone else has been disrespectful. Sometimes people will say things in the heat of the moment. If people criticising you have the wrong information, by all means correct them. But try to do so calmly and politely. If someone is being sarcastic or downright abusive you should consider whether there is any value in engaging.

4. **Good Practice**

4.1 Good practice suggestions for preparing for an online meeting include:

- Ensuring you are well-prepared and have read any reports or papers to be considered in advance (if applicable);
- Have any documents you need during the meeting at hand and readily accessible, particularly if you intend to share content during the meeting;
- Ensuring you have downloaded and are familiar with the online platform being used (including how to mute, unmute and switch on your camera);
- Checking you have the joining details or link;
- Changing your background or applying a filter (to ensure your background is neutral and not distracting to others);
- Taking measures to prevent interruptions or distractions (for example, advising others in your household or office that you are about to go into a meeting, using headphones, asking if someone else can answer the door or phone, checking your mobile phone is on silent and pausing any other online notifications); and
- Logging on in time, or even slightly in advance, to check that there are no issues with connectivity.

4.2 Other good practice suggestions for conduct during an online meeting include:

- Having your camera and microphone on when you join, to help demonstrate you are engaged;
- Advising other attendees that you intend to turn your camera or microphone off if, for example, connectivity or bandwidth is a problem;
- Muting yourself when you are not speaking, particularly if there are more than 10 individuals in the meeting, if there is feedback, if there is noise in your background or if you are interrupted;
- Using the 'raise hand' function to get the chair's attention if you want to contribute;
- Trying to speak clearly and at an appropriate speed;
- Avoiding leaving the meeting without saying anything or mentioning in the chat why you have to go and when you will return (if applicable); and

- Resisting the urge to do other work, such as checking messages and emails.

4.3 As noted above, your conduct online should be no different to that if you were in person. As such, you should dress appropriately and should not eat and drink (other than during any breaks in proceedings).

4.4 If you are invited to use any chat function, you should take care to ensure both the tone and content of what you are posting is appropriate. Tone can be harder to convey online so consideration should be given to whether humour, irony and sarcasm will be perceived as such.

5. **Hybrid Events**

5.1 Good practice suggestions for conduct at hybrid events (i.e. ones that are being held both online and in-person) include:

- Ensuring you include remote callers in any informal pre-meeting conversations;
- Avoiding engaging in side-conversations with others in the room (as this can exclude anyone attending online);
- Speaking sufficiently clearly to be heard by all attendees, not just any individuals who are in the room with you;
- Allowing anyone attending online to contribute first, if you are both trying to speak at the same time; and
- Ensuring you include anyone attending online by directing questions at them or inviting their views.

6. **Other Resources**

6.1 Other guidance that may be of interest or assistance includes:

- The Standards Commission's Guidance on the Model Code of Conduct: <https://www.standardscommissionscotland.org.uk/codes-of-conduct/members-model-code-of-conduct>;
- The Standards Commission's Advice Notes for Members of Devolved Public Bodies on Bullying and Harassment and on Relations with Employees: <https://www.standardscommissionscotland.org.uk/education-and-resources/professional-briefings>
- The Scottish Government's 'On Board' Guidance for Board Members of Public Bodies in Scotland: <https://www.gov.scot/publications/board-guide-members-statutory-boards/>
- The Scottish Government's Governance Hub for Members of Devolved Public Bodies: <https://governancehub.scot/>